



Spring 5-20-2023

The Politics of Abortion in France and the United States: A Case Study on the Laws, Legislation, Activism, and Advocacy that Determined Abortion Laws Today

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**The Politics of Abortion in France and the United States:
A Case Study on the Laws, Legislation, Activism, and Advocacy that
Determined Abortion Laws Today**

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Senior Thesis, Fall 2022

International Studies, Europe Track

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Abstract

Abortion is one of the most pertinent issues to women's health and reproductive rights. This paper aims first to provide the historical and legal context for abortion laws in both France and the United States, examining each country separately to understand the legal progression of abortion rights since the nineteenth century. This paper will then discuss the activism and advocacy for abortion and women's rights in each country from the nineteenth century on, demonstrating how this led to the passing of abortion rights legislation in each country. Lastly, this paper will focus on differences in politics, religion, women's rights, and women's health between the two countries to analyze how their perspectives differ and why abortion laws have become what they are today. Overall, this paper demonstrates that abortion is an essential right for women all over the world, and that through looking at these two countries it is clear why abortion must be free, safe, and legal rather than continuing to be restricted.

Introduction

I knew that Roe v. Wade was going to be overturned. I wish I had been wrong, but prior to June 24, 2022, I had a terrible feeling in my stomach about the future of women's rights in our country. I was still in disbelief when it happened. As a young child I was always interested in obstetrics, and as I got older I came to realize the weight that comes with the decision to have a child. I became aware of people around me, people I love, who have sought out abortion care. I have never once considered treating them differently for it, and I have always believed that women deserve to have the choice of what to do with their own bodies— especially when it becomes a question of whether to share them with someone else for approximately nine months. As an American woman, I was incredibly disappointed in this country for effectively showing women that their rights do not matter and will not be protected. I decided I would throw myself into researching what the state of abortion in our country had been historically to explain why it is even still a question whether abortion is essential healthcare.

The central question guiding the research for this project pertains to why abortion is so controversial in some countries, and such a simple concern in others. While the United States enjoyed accessible, safe abortion for almost fifty years, why was there a level of flexibility which allowed this right to be taken away? Who is it that should have the power to dictate rules imposed on a woman's body? How can the United States learn from France, and how has France benefitted from understanding abortion rights as they exist in the United States, with both countries being major world powers?

Organizations such as Amnesty International and Human Rights Watch promote the obligation of nations to provide pregnant individuals with safe abortion care, stating that the

United States is defying international human rights law and women's rights by taking away the right of their citizens to access safe and legal abortion.

France and the United States are two particularly interesting countries to evaluate together, as France has reached a point where they are sure of the efficacy of their abortion laws whereas the United States has peaked and is now regressing, with abortion remaining controversial in politics, public life, and medicine.

This thesis evaluates the history and current state of abortion laws in France and the United States, with both countries used as case studies to investigate the social and legal effects of free access to abortion. Both countries are investigated through two lenses: first, that of abortion history and law, which provides context for women's and reproductive rights as well as their legal protections or preventions, and second, that of abortion activism and the modern state of abortion in each country. This second lens allows for a closer look at the manifestation of liberal or conservative abortion laws while also explaining the views of French and American citizens today based on the historical evolution of those laws. Here, groups and individuals who have fought for or against abortion are studied to explain how France and the United States were led to where they stand on the issue today.

Methodology

While I had originally intended to look at three or four countries together, the choice to simplify came from my interest in French culture and politics, which has been cultivated through French courses I have taken throughout my college career.

Dr. Lise Schreier's courses, "France: Literature, History, and Civilization" and "Women on the Margins" have provided me with the necessary social and historical context to understand how French society functions and the foundation to research deeper into legal history and activism. The first course was truly my first exposure to France's history, while the second focused significantly more on the history of the treatment of women, roles and perceptions of women, and women's health in nineteenth century France. The second course provided a starting point that otherwise would have been difficult to pinpoint prior to beginning my research.

In order to begin the research, I focused on the legal history of abortion in France while also educating myself on how abortion was viewed publicly. To follow, I studied the activism that led to change for women's rights in France and connected this to the modern-day state of abortion laws. I used the same method to research the United States, also seeking out sources that discussed the two countries together so as to further understand where they overlap and where they completely oppose each other on the issue. It was essential to me to demonstrate in my writing a comprehension of the legal and political side in both countries, but also of what the effects of the laws were for the everyday citizen— specifically, the everyday woman. In mirroring the research and the structure of each case study, it became easier to draw comparisons between the countries.

Prior to researching these aspects in both France and the United States, it was apparent that it was a heavy undertaking to evaluate the United States given that federal and state laws regulate abortion differently. However, rather than discussing each individual state through history I drew general conclusions based on context of the time period, occasionally referring to specific states when needed to provide more specific legal context.

Through evaluating several United States Supreme Court cases and elaborating my knowledge on French court cases and laws, I was able to see the differences in the French and American legal systems and further understand why each country operates the way it does. I can only hope that the United States arrives at a point where they aim to enshrine abortion laws in the Constitution as France has agreed to do in the wake of the fight for women's rights.

Abortion in France

History of Abortion Law and Legislation in France

French laws reflect the common opinion that abortion is a woman's right. However, this has not always been the case, and there has been controversy surrounding the passing of lenient abortion laws for centuries. In fact, abortion in France has been criminalized dating back to the eighth century¹, but despite this, women have continued to seek abortion care and other essential reproductive healthcare. Through those times, French women risked their lives to terminate unwanted, unsustainable, or unhealthy pregnancies when their country did not advocate for their bodily autonomy. While current laws reflect the necessity for accessible and safe abortion, the path to achieving this was not straightforward.

The oppression of women in post-Revolution France was dictated by the Napoleonic Code. This code ensured that women remained under the control of their husbands or fathers and served to promote the power of the patriarchy. "A number of scholars have pointed to the fact that the Napoleonic Code of 1804 stripped French women of their rights to act in an interdependent manner without attaining the consent of their husbands or fathers and were reflective of the depth of patriarchal values."² In a world where women owned nothing, had no rights, and were nothing without their male counterparts, abortion and reproductive healthcare were not considered to be in the woman's control. However, those who received punishments for a woman's abortion included the woman herself and the abortionist:

The text of article 317 of the 1810 Napoleonic Penal Code reads: "Whosoever, by food, drink, medicine, violence, or by any other means has procured an abortion of a pregnant

¹ Stetson, Dorothy M. "Abortion Law Reform in France." *Journal of Comparative Family Studies*, vol. 17, no. 3, 1986, p. 278.

² Helton, Crystal Denise. "Discourses of Disappointment: The Betrayal of Women's Emancipation Following the French and Russian Revolutions." *Marshall University*, Marshall University Libraries, 2003, p. 33.

woman, whether or not with her consent, will be punished with imprisonment. The same punishment will be given to a woman who procures her own abortion, or who had consented to the use of means administered for that purpose, if abortion follows. Doctors, surgeons, and other health officers, as well as pharmacists who have given advice to the appropriate means, will be condemned to hard labor in the case where abortion has taken place.³

These strict punishments for abortion procedures continued to stand, especially as the political state of France began to change. The Napoleonic Code began a revolution in France, as it limited the rights of women in legal, social, and married life. “The success of the French *Code civil* was not without a downside: the shameful status of women in French conjugal and matrimonial law, which may be interpreted as a patriarchal reaction to the wide-ranging rights of liberty and equality won during the Revolution, as well as to women’s demands for equality.”⁴ Women began to demand democratic participation, social equality, and voting rights so that they could take on a greater role in French society.

Following the 1870 defeat of the French by the Prussians, concerns for depopulation rose⁵ which only worsened after World War I. The poor economy at the time meant that there were not enough married couples in adequately stable financial positions to bring children into the world. Birth control was becoming more widely used, but even the number of children being born post-War did not come close to restoring the population of France to what it once was.

As Neo-Malthusianism, or the promotion of sex education and contraceptive use, began to rise in France after World War I, information was distributed about birth control,

³ Knoppers, Bertha Maria, et al. “Abortion Law in Francophone Countries.” *The American Journal of Comparative Law*, vol. 38, no. 4, 1990, p. 894

⁴ Gerhard, Ute, et al. “Civil Law and Gender in Nineteenth-Century Europe.” *Clio. Women, Gender, History*, no. 43, 2016, p. 256.

⁵ Pavard, Bibia. “The Right to Know? The Politics of Information About Contraception in France (1950s-80s).” *Medical History*, vol. 63, no. 2, 2019.

contraceptives, and abortion⁶— but this was put to a stop in 1920. Fifty years after concerns began to arise regarding depopulation, a law was passed in France “designed to combat charlatanism, silence the Neo-Malthusian activists, and ensure population growth.”⁷ This law became known as the 1920 law, which also further prohibited abortion, contraceptives, and anti-conception propaganda.⁸ However, the 1920 law did not prevent abortion; the average number of abortions in France in the 1920s and 30s was 400,000.⁹ This came after abortion was outlawed in France in 1923.

Despite the fact that abortion was under strict penalty at the time, many women who underwent abortion procedures were not actually penalized. As Watson notes, “abortion was so generally accepted as justified and the penalties considered so ridiculously harsh, that offenders were frequently acquitted.”¹⁰ As stricter abortion laws came into effect there was greater monitoring surrounding abortion rates, population growth, and birth control resulting in more convictions of abortionists and abortees, with punishments ranging from fines to imprisonment. These punishments were enforced by the *Code de la Famille*, which further restricted abortion after the 1920 law and was extended in 1940: “a woman could be punished for attempting abortion on herself even if her manipulation were unsuccessful, because the intention was to abort... By its ruling of 16 April 1940 the Court of Poitiers declared that a second offense

⁶ Olszynko-Gryn, Jesse, and Caroline Rusterholz. “Reproductive Politics in Twentieth-Century France and Britain.” *Medical History*, vol. 63, no. 2, 2019.

⁷ Pavard (2019).

⁸ Ibid.

⁹ Stetson (1986). p. 278

¹⁰ Watson, C. “Birth Control and Abortion in France since 1939.” *Population Studies*, vol. 5, no. 3, 1952, p. 265.

constituted a ‘habit’... thus making all recidivists liable to the more severe penalties.”¹¹ Further, in 1942, abortion became a crime against the unborn child as well as the state and society, warranting even more severe punishment and likening the crime of abortion to those of sabotage and treason.¹² At the time, these were seen as positive changes as they ensured that the French population would not rapidly decrease and that the economy would see an upward trend. This change, known as the Three Hundred Law, however, did not remain in effect for long as a 1947 decree allowed therapeutic abortion (purposeful ending of a pregnancy before viability for health reasons) under certain circumstances.¹³

France failed to respond to the struggles of the feminine experience; this fueled the feminist movement in the mid-twentieth century and led to the reform of the Napoleonic Code. Yet, women only regained control of their fertility in the latter half of the twentieth century.

By the 1950s, women were still not seen as equal to men— but societal change was in full effect with feminist movements on the rise to help women achieve autonomy. The role of women had pivoted to view motherhood as a choice rather than an obligation. This ultimately led to the ending of the prohibition of birth control and allowed feminist groups to begin to move towards the legalization of abortion.¹⁴ Groups such as the Humbert Group and Happy Motherhood (*Maternité Heureuse*) fought against strict laws prohibiting and/or criminalizing certain reproductive rights, including abortion, in favor of promoting the legitimacy of birth

¹¹ *Ibid.*, p. 267.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Cardona, Cynthia. “Abortion in France: Private Struggles and Public Debates, 1920-1980.” *University of California, Irvine*, University of California, 2015, p. 33.

control and family planning.¹⁵ Pavard explains that organizations such as the International Planned Parenthood Federation (1952) were established to spread information about contraception and abortion as well as reassurance that they would not lead to depopulation in France.¹⁶ Activism increased, laws began to change, and birth control was portrayed in a positive light as a tool to help couples choose when to start a family. As a result, unwanted pregnancies that ended in abortion did not occur as often.

In 1965, presidential candidate François Mitterand announced that, if elected, he planned to legalize contraception. However, with the re-election of Charles de Gaulle, contraception remained illegal.¹⁷ Fortunately, a Member of Parliament named Lucien Neuwirth proposed the legalization of contraception upon re-evaluating the country's birth rate and formally recognizing the positive effects of contraception: "The main arguments put forward in support of free contraception were pragmatic (reducing backstreet abortions, acknowledging a wide public demand for change and reducing France's scientific lag) and ethical (promoting freedom of choice and equality between upper- and lower-class couples)."¹⁸ While the proposal did not encourage the use of contraception, the Neuwirth law passed in 1967 ultimately legalized contraception for French citizens in a landmark moment for reproductive rights at the time. As a result, abortion sentences dramatically decreased in the early 1970s.

Without a doubt the greatest victory for French feminism in the late twentieth century was the passing of *la loi Veil* (Veil law) of 1975, which finally legalized abortion. After a long

¹⁵ Pavard (2019).

¹⁶ Pavard (2019).

¹⁷ Ibid.

¹⁸ Ibid.

political fight, the Veil law achieved the goals of feminist groups and put their success beyond the permission of contraception. Barthold and Corvellec explain that “The passing of the Veil law legalizing abortion in 1974 would have been impossible without the struggle of the French Feminists of the 1960s and 1970s for the legalization of contraception and the depenalization of abortion.”¹⁹ Abortion was made legal for the following cases: protection of the mother’s health, if the fetus was deformed, if the pregnancy was a result of rape, or if financial barriers prevented the family from caring for the child. Women were given the right to decide, for themselves, whether they would carry a pregnancy to term and take on the responsibility of caring for a child. However, it is important to note that Simone Veil aimed “to depenalize a last-resort solution for unwanted pregnancy”²⁰ rather than to make abortion a right for the sake of it. After fighting arguments made against her proposal, “the text was adopted, 284 to 189, with a short majority among conservative and liberal votes, and all but one vote from the Socialist Party and the Communist Party. Once passed at the Senate, the law was promulgated on January 17, 1975.”²¹ This was again a landmark moment in France ensuring the prioritization of women’s health in pregnancy and demonstrating the value of the legal battle which it followed.

Laws only continued to progress in favor of abortion access, with *la loi Veil* being amended in 1979 to allow abortion up to 12 weeks of pregnancy. Morning after pills became free of charge for women under 18, and in 2014 a law was passed to authorize women to obtain abortions without providing a reason for doing so:

¹⁹ Barthold, Charles, and Hervé Corvellec. “ « For the Women » - In Memoriam Simone Veil (1927-2017).” *Gender, Work, and Organization*, vol. 25, no. 6, 2018, p. 4.

²⁰ *Ibid.*, p. 6.

²¹ *Ibid.*, p. 7.

In France, in 2014, 2015, and 2016, the 1975 Veil law was reformed to increase access to abortion and reduce barriers. Women no longer have to be in a ‘state of distress’ in France either, but need only request an abortion. The required seven-day “reflection period” between the request for an abortion and the abortion itself was also dropped. Most recently, midwives are now permitted to provide medical abortion, and the costs for all abortions are now reimbursed.²²

The ease with which women can obtain abortion care in France, along with the fact that it is completely free of charge, demonstrate that the laws and legislation that have historically determined abortion access have succeeded in achieving their ultimate goal.

Especially since the COVID-19 pandemic, access to abortion has needed to be as open as possible. France extended legal timeframes for abortion to the fourteenth week of pregnancy and made it easier to obtain medication abortion as an alternative to surgical abortion.²³ Rather than requiring visits to medical offices and waiting periods before obtaining an abortion, women are now able to take charge of their bodies and receive safe care from the comfort and safety of their own home if they so desire. France continues to demonstrate support and progress for women’s rights, especially through taking into consideration situations in other countries which demonstrate exactly why abortion rights are essential to the health and safety of pregnant individuals everywhere.

²² Berer, Marge. “Abortion Law and Policy Around the World: In Search of Decriminalization.” *Health and Human Rights*, vol. 19, no. 1, 2017.

²³ Margolis, Hilary. “France Expands Abortion Access in Two Key Moves.” *Human Rights Watch*, 1 Mar. 2022.

The Politics of Abortion in France

Feminist movements began with the French Revolution in 1789, during which women were entirely disregarded as France moved towards reformation. “For those of us who still struggle to defend the positive message of the French Revolution, the defection of the feminists is the unkindest cut of all, for we have always counted on support from that quarter. To our perhaps simplistic minds the Revolution stood for human freedom; women are human beings, and therefore the Revolution stood for the freedom of women.”²⁴ However, as Rose goes on to explain, women were not rewarded during the Revolution— masculine power continued to take hold and women were expected to remain in the home and manage all domestic tasks.

Women took extreme measures to survive under the Old Regime in France. As Rose explains in discussion of the French Revolution, motherhood was difficult, and some women even resorted to “...large doses of alcohol, [sulfurous] purgative and the rusty handle of a kitchen ladle’ to end unwanted pregnancies.”²⁵ Family life slowly began to be conceptualized differently, as having a large family became less desirable and the advantages of women taking on a larger role in society became more evident. Despite this, men were still in control of family fertility, although speculation suggests that women may have convinced them to use birth control.²⁶ “The fact remains that one of the lasting legacies of the French Revolution... would regard [fewer pregnancies and smaller families] as a major if unexpected improvement in women’s conditions of existence. Ironically, it was one of the very last things that the men of the

²⁴ Rose, R.B. “Feminism, Women, and the French Revolution.” *Historical Reflections/Réflexions Historiques*, vol. 21, no. 1, 1995, p. 191.

²⁵ *Ibid.* p. 195.

²⁶ *Ibid.* p. 205.

Revolutionary generation publicly advocated, planned, or anticipated.”²⁷ But, with women remaining in such subordinate roles as the patriarchy remained in power, feminist activism did not see an increase for several decades.

As Koven and Michel discuss, women were to be placed in charge of one societal task: maternal and child welfare.²⁸ Given that women dominated in this area, it became clear that to leverage their power they should demonstrate the importance of the mother and how to support her. “During the years 1880 to 1920, when state welfare structures and bureaucracies were still rudimentary and fluid, women, individually and through organizations, exerted a powerful influence on state definitions of the needs of mothers and children and the designs of institutions and programs to address.”²⁹ These organizations saw a rise beginning in the early nineteenth century, although they operated under the preconceived notion that women were subordinate to men.³⁰ One such organization was *La Ligue Patriotique des Femmes Françaises* which advocated for maternal and child welfare and used their role as women to define their importance to French society. In practice, this organization and others like it promoted women’s rights for equality to men by demonstrating that they could serve society just as much. While some of these groups did not originally advocate for abortion rights, the advocacy that they began for women’s rights was key to opening the door to further reproductive rights later on.

²⁷ Ibid.

²⁸ Koven, Seth, and Sonya Michel. “Womanly Duties: Maternalist Politics and the Origins of Welfare States in France, Germany, Great Britain, and the United States, 1880-1920.” *The American Historical Review*, vol. 95, no. 4, 1990, p. 1077.

²⁹ Ibid.

³⁰ Ibid. p. 1089.

True attention was not given to feminist movements advocating for women's control over reproductive rights until the late 20th century. These movements were popularized with the advocacy for legalization of contraception. The *Mouvement Français pour le planning familial* (MFPF) started such campaigns in 1956, fighting against the 1920 law and aiming to show the value of allowing the use of contraceptives for family planning to reduce the abortion rate.³¹ Further, "After the 1967 contraceptive law, Dr. Marie-Andrée Weill-Hallé, founder of MFPF, formed a new campaign or organization to focus on liberalization of the abortion law."³² Gynecologist Weill-Hallé, accompanied by other feminists of the twentieth century, argued that family planning was beneficial to France's future in order to push for the passing of laws legalizing contraception and abortion.

Feminist movements in France were notably changed with the *Mouvement de Libération des Femmes* (MLF) in 1970. This group advocated for the liberation of women in all senses, with a major goal being to advocate for the legalization of abortion. The *Mouvement pour la liberté de l'avortement* (MLA, later MLAC), the *Ligue du droit des femmes*, and the MLF consistently worked towards gaining access to free abortion and emancipating women. However, *Choisir* was the best known group in terms of advocacy for abortion reform, led by Gisèle Halimi and Simone de Beauvoir. "Its sole purpose was to legalise abortion, to obtain for women the guaranteed right to abortion paid for by Social Security health services."³³ Through bills drafted by lawyer Halimi, family planning centers were instituted with contraceptives and abortion on demand and limited restrictions to obtain both. "In 1973 the MLAC proposed a complete repeal

³¹ Stetson (1986) p. 279.

³² Ibid.

³³ Ibid.

of the 1920 law rendering abortion a private medical matter, reimbursed by the Social Security.”³⁴ This bill infuriated pro-life groups.

Laissez-les vivre was the most popular right-to-life organization, established in 1971. “They used modern genetics to argue that human life begins at conception. To them, abortion was murder and could not be legal without dire moral and social consequences.”³⁵ Anti-abortion activists argued to demonstrate that innocent unborn children did not deserve to be killed; yet, these arguments lacked comprehension of the difficulty of the abortion procedure as a whole. The various groups advocating for saving the lives of unborn children using false information created yet another barrier for feminist abortion activists.

In the same way that the United States has its revolutionary court case fighting for abortion access (*Roe v. Wade*), France had a case of its own demonstrating why the 1920 law was no longer applicable in more modern times. The case of Marie-Claire Chevalier and her trial at Bobigny was revolutionary in advocating for abortion access as it gave a clear example of why the country could not continue to operate under the rules and regulations imposed by the 1920 law. In 1972, Marie-Claire, who was just seventeen years old at the time, became pregnant after being raped and obtained an abortion; as a result, she and her mother were arrested, along with two other women who assisted in the process, for violating the 1920 law.³⁶ “Halimi and Marie-Claire’s family collaborated to make their trial at Bobigny a ‘political’ trial... Doctors, biologists, and prominent public figures such as de Beauvoir and Dr. Paul Milliez put the law itself on trial,

³⁴ Ibid.

³⁵ Ibid.

³⁶ Ibid., p. 281

testifying for the need for change.”³⁷ After the story was published by *Choisir*, abortion became a much more socially acceptable subject and the public could understand how the 1920 law only continued to harm women.

In 1974, Valéry Giscard d’Estaing was elected President of France. Simone Veil became his Minister of Health, “the first woman to hold a regular cabinet-level post in the Fifth Republic.”³⁸ She was a pioneer for women’s rights and abortion rights and, ultimately, the person who made abortion become legal in France. A Jewish woman and survivor of the Holocaust, Veil had many enemies. Knowing these parts of her identity, anti-abortion activists attempted to attack her personally to gain unfair advantage and shoot down her proposals. “Simone Veil herself received the brunt of the attacks along with Myriam Exratty (jurist) and Colette Mème (conseillère d’État), both female civil servants who directed the project but were not National Assembly deputies.”³⁹ Nonetheless, Veil stood her ground and maintained her connections with voters, ensuring that the eponymous law would be established since her personal identity was unrelated to the passing of the law.

After the passing of the law, many members of feminist organizations felt that it was no longer necessary to play an active role.⁴⁰ “However, it did not mark the end of feminist organizations like MLAC, Choisir, or MFPP. In fact these organizations continued to play an important part in defining how the law would be applied in practice, as well as lobbying for the

³⁷ Ibid.

³⁸ Ibid. p. 284

³⁹ Cardona (2015) p. 140.

⁴⁰ Cardona (2015) p. 145

law's renewal in 1979.”⁴¹ The new struggle came in when some doctors refused to perform abortion procedures for women in need based on personal moral views. Those who took issue with the law found loopholes through which to refuse abortion access.

Simone Veil continued to fight to clarify the law, and went to court several times to rule on the disagreements between women in need of abortion care and doctors who were supposed to provide it.⁴² “In addition, public hospitals and private clinics had to figure out how to comply with the new law without alienating their medical conservative and religious personnel or the communities they served.”⁴³ Given these developments, abortions continued to be provided by MFPP and MLAC.⁴⁴ So, while the loi Veil was revolutionary for women's reproductive rights in France, there was still much work left to be done by those feminist organizations that protested and demanded for abortion to become accessible for women throughout the country. “For the militant men and women who had engaged in these struggles, the legalization of abortion acted as a spur to continue their struggle and as an incentive to fight for women's rights more generally.”⁴⁵ The continuation of the fight for women's rights in general demonstrates the importance of fighting to promote women's equality, despite the fact that abortion is now a protected right in France.

As a result of the progress made by women's rights activists, constant uprising specifically for reproductive rights is no longer as necessary in France. However, it still occurs to

⁴¹ Ibid.

⁴² Ibid. pp. 145-146.

⁴³ Ibid. p. 145.

⁴⁴ Ibid. p. 146.

⁴⁵ Ibid. p. 152.

show that progress can always be made and that women will fight for the rights they deserve to the extent that they deserve them. Through the COVID-19 pandemic, rallies continued so that women could defend their right to abortion, leading France to extend legal timeframes for abortion and to allow easier access to medication abortion for those who preferred it over the surgical procedure.⁴⁶ This demonstrates that France continues to make progress towards making abortion procedures, by any method, easier to access and free for all of its citizens, setting forth an exceptional example of the value of free, safe, legal, and accessible abortion.

⁴⁶ Margolis (2022).

Abortion in the United States

History of Abortion Law and Legislation in the United States

Abortion is a heavily political issue in the United States, centered around whether abortion should be treated as a medical issue or a moral one. It is, and has always been, an extremely controversial topic; it is even more difficult to consider since the United States comprises fifty states with individual legal authority over abortion ruling. However, this politicization of abortion in the United States is problematic considering that abortion is not an inherently political issue. Current legal perspectives on abortion in the United States are so strong that they have overshadowed legislation and determinations on reproductive care in the past. As in France, abortion in the United States has always been necessary. Regardless of separate state legislation, women in need of abortion care would go to all lengths to receive it. Yet, the United States has consistently suggested that abortion care is not valuable with fragile legislation determining the reproductive future of American women.

Abortion was not widely discussed in the United States prior to the early nineteenth century. For women who fell pregnant and wished to obtain an abortion, the process was relatively easy as there was common knowledge surrounding which herbs could be taken to induce a period or who would be able to perform the procedure. However, most women who fell pregnant were married and wanted to follow through with their pregnancies, allowing a blind eye to be turned towards abortion. Sauer explains that, in the United States, “Abortion seems to have been particularly little practised by married women... estimates of the crude birth rate early in the nineteenth century show it to be in the upper 40s and 50s, which... indicates that the average woman bore about seven children in her lifetime.”⁴⁷ Large families were a value for American

⁴⁷ Sauer, R. “Attitudes to Abortion in America, 1800-1973.” *Population Studies*, vol. 28, no. 1, 1974, p. 53

women of the time, who understood that their role was to remain in the home to take care of their husbands and children. However, for women who came to the conclusion that a large family, or being pregnant, was not a feasible option for them, abortion was not restricted; in this time period, abortion was not seen as a crime prior to first feelings of fetal movement, making it reasonably easy to obtain an abortion prior to this point.⁴⁸

As times changed, the outlook on large families did as well. Rather than being the default or the ultimate desire, birth rates declined as having numerous children became something to be avoided. “Statistically illustrating this change of attitude was the rapid decline of the crude birth rate in the last three quarters of the century. In Thompson and Whelpton’s estimate, it was 52-8 in 1820; in 1850 it was 43-3, and in 1890 it was 31-5.”⁴⁹ These numbers indicate the total births per year and the total population. At the same time, abortion was becoming more prevalent among married and single women alike, being called a “widespread resort” in 1846 by Ralph Glover, a doctor at the time.⁵⁰

In 1858, “the American Medical Association launched a successful campaign to criminalize abortion at all stages of pregnancy,” leading every state to pass laws against abortion by 1890.⁵¹ At this point, abortion was only legal to save the woman’s life, with imprisonment as punishment for abortion ranging from misdemeanor to manslaughter sentences depending on how far along the woman was in her pregnancy.⁵² Women who provided information on how to

⁴⁸ Ibid. p. 54

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Beisel, Nicola, and Tamara Kay. “Abortion, Race, and Gender in Nineteenth-Century America.” *American Sociological Review*, vol. 69, no. 4, 2004, p. 498.

⁵² Mackert, Kristen. “To Bear or Not to Bear: Abortion in Victorian America.” *Georgetown Law Library*, 1990.

obtain abortions would be arrested as well, and those who provided abortion care were punished just as harshly as those receiving it. However, abortion continued to be necessary and women would go to any extent to obtain one in any facility that would provide the care.

In large cities especially, it was easy to seek out abortion care after abortion became criminalized. Particularly in northeastern states, abortion rates rose and became “most common in New England, Pennsylvania, and New York,”⁵³ with as many as “400 [abortion facilities] in New York City alone.”⁵⁴ With abortion most accessible for high-status women, it is now easy to note disparities in class, race, wealth, and religion. Controversy rose regarding the necessity of abortion and the women who chose to make use of it as the values of society changed.

America was becoming a more industrial society, and children were seen as burdens for women who were ready to enter the workforce. “In the minds of some, the emerging women’s rights movement was also associated with the desire for fewer children and consequently a greater need for abortion.”⁵⁵ With birth control not actively advocated for or widely used in the late nineteenth century, it is not surprising that abortion continued to be in high demand; strikingly, doctors were one group, among religious leaders and other medical associations, who were strongly against abortion. The American birth control movement supported the opposition to abortion by explaining that it was unacceptable to use abortion as a tool for limiting fertility, using the argument that “contraception would minimize the use of abortion... widespread contraceptive use would lead to the virtual disappearance of what [was] considered a revolting

⁵³ Sauer (1974) p. 55.

⁵⁴ Ibid. p. 54.

⁵⁵ Ibid. p. 56.

crime.”⁵⁶ Additionally, despite the strong commitment by these groups to emphasizing how sinful the practice of abortion was, the public did not see abortion this way. “...Storer and Heard declared that public opinion did not regard abortion as a crime, and Rose reported that ‘there is a crime of the foulest order that is regarded without horror by a large number of the community.’”⁵⁷ Even still, those who performed and those who received abortions were able to continue their daily lives without grave consequences for their choices.

Through the nineteenth century, states passed laws outlawing abortion altogether, with abortion only permitted in several states when a pregnancy put a woman’s life in danger.⁵⁸ “Continuing the common law’s view of foetal development, at least one-third of the initial State laws distinguished between a quickened and an unquickened foetus, the punishment for the abortion of a quickened foetus being harsher than for the abortion of an unquickened one.”⁵⁹ Quickening was typically the point at which a fetus was considered a human being, referring to the first feelings of fetal movement by the mother. Lawmakers had begun to reevaluate pregnancy and fetal development, changing overall opinions of the time that abortion was not criminal up to a certain point. Common belief stated that abortion was permitted prior to quickening, but this thinking did not remain. Rather, legislation began to reflect opinions that abortion was criminal and move towards even further restriction of abortion so that women could only have them if their own lives were at risk. In both cases, one being where the woman wanted an abortion and the other being that her life was in danger, doctors continued to perform the

⁵⁶ Ibid.

⁵⁷ Ibid., pp. 56-57.

⁵⁸ Ibid., p. 57.

⁵⁹ Ibid.

procedures or women would be referred by their friends to secret locations or people that would assist them in finding abortion care.

One factor with the greatest impact on the banning and/or criminalization of abortion was whether or not fetuses were viewed as human beings. In the late nineteenth century, as abortion was only permissible in situations to save the woman's life, significance was placed upon the life of the unborn child with harsh terms such as "infant murder" perpetuating the idea that, in certain situations, the future life of fetuses should be valued higher than the lives of the women carrying them.⁶⁰ "One can infer from an analysis of nineteenth-century laws that the safety of the foetus was a major concern of many State legislatures. A law which has maternal health as its sole or main consideration is not likely to be worded in such a way that the human status of the foetus is recognized, since [that would] require that the foetus be given human rights protected by law."⁶¹ Laws tended to be worded in such a way that they placed heavy value on the fetus, suggesting that it was unacceptable to place the fetus in danger at one's will. The church and its officials enforced these ideas, suggesting that life began at conception and that any request by a woman to abort an unborn child was a threat to the Anglo-Saxon race.⁶² The concern here was centered mainly on married women, as physicians believed that they obtained abortions most, but abortion laws would ultimately affect all women.

Abortion continued to be widely used in the early twentieth century, with an estimation in 1936 suggesting that the ratio of abortions to births was 1:3, accounting for spontaneous

⁶⁰ Ibid., p. 58.

⁶¹ Ibid.

⁶² Beisel and Kay (2004) p. 499.

abortions, or miscarriages, as well.⁶³ Although most Americans seemed indifferent to abortion, some individuals presented the benefit of permitting abortion: “In a 1911 address to the Eastern Medical Society Robinson justified abortion in some pre-marital pregnancies, and thereby apparently became the first American publicly to voice the opinion that abortion might be permissible in an instance other than to save the life of a pregnant woman.”⁶⁴ Finally, in the 1930s, citizens began to question the traditional restriction of abortion and to encourage legalization.

As the twentieth century progressed, public indifference to abortion remained strong. “Anti-abortion laws were difficult to enforce, in part because of public indifference to abortion, yet very few publicly advocated the repeal of all restrictions upon access to abortion.”⁶⁵ Change was occurring slowly but surely, and finally in 1959 “The [American Law Institute] proposed legalizing abortion in cases when pregnancy resulted from rape or incest, when a pregnancy threatened the physical or mental health of the mother, and when a child was likely to be born with serious physical or mental defects.”⁶⁶ The perspective of the Church remained that abortion, under any and all circumstances, was murder. Despite this, states began to liberalize abortion laws in the 1960s, with Colorado first passing a “moderately liberal statute, permitting abortion along the lines recommended earlier by the American Law Institute”⁶⁷ in 1967. Abortion was still heavily restricted, but this first move towards liberalization encouraged states to pass laws

⁶³ Sauer (1974) p. 60.

⁶⁴ Ibid. p. 61.

⁶⁵ Ibid. p. 62.

⁶⁶ Ibid. p. 63.

⁶⁷ Ibid. p. 64.

permitting abortion on request in Hawaii, Alaska, New York, and Washington in the early 1970s.⁶⁸

Without a doubt the most groundbreaking case in abortion history in the United States is that of *Roe v. Wade*. This case declared that the right to abortion was a constitutional right under the fourteenth amendment, which guarantees privacy. “In *Roe v. Wade* a pregnant single woman brought a class action against the Texas criminal abortion statute which only allowed abortions ‘for the purpose of saving the life of the mother.’”⁶⁹ Jane Roe’s approach was to suggest that the woman’s choice to have children was protected by the ninth and fourteenth amendments. The Supreme Court ultimately ruled that the right of privacy was broad enough to include a woman’s decision to terminate her pregnancy.⁷⁰ This presented moral conflict for a traditionally religious state like Texas, but the Supreme Court ruled that the question of whether life begins at conception had no place in this decision as the issue was medical, and therefore limited to a woman and her doctor.⁷¹ “Because this right of privacy is fundamental, the Court held that only a compelling state interest and a narrowly drawn statute would justify its regulation.”⁷² *Roe v. Wade* was ultimately passed on January 22, 1973, establishing the constitutional right to abortion.

In 1992, *Roe v. Wade* was revisited with *Planned Parenthood of Southern Pa. v. Casey*, which reinforced the constitutional protection of abortion. However, Supreme Court Justices

⁶⁸ Ibid.

⁶⁹ “Abortion: *Roe V. Wade*, 410 U.S. 113 (1973), *Doe v. Bolton*, 410 U.S. 179 (1973).” *Journal of Criminal Law and Criminology*, vol. 64, no. 4, 1974, p. 393.

⁷⁰ Ibid., p. 395.

⁷¹ Ibid.

⁷² Ibid.

were divided on the issue: “Two Justices expressed no desire to change *Roe* in any way. Four others wanted to overrule the decision in its entirety. And the three remaining Justices who jointly signed the controlling opinion, took a third position... *stare decisis*... a State may not constitutionally protect fetal life before ‘viability’— even if that holding was wrong.”⁷³ As a result of this case, states became able to make their own decisions regarding abortion restrictions and, therefore, to make it more difficult for women to freely obtain abortions. This worsened with legislation introduced in 2007 to criminalize abortion, under which Congress banned second-trimester abortions.⁷⁴

Today, abortion laws are regressing. In 2021, Texas proposed and implemented a law banning abortions past the six week mark in pregnancy. While laws like this one, known as heartbeat bills, are popular and reasonably easy to enforce, specifically in southern states, they are dangerous as most women are not even aware of their pregnancy until after this point. Further, on June 24, 2022, *Roe v. Wade* was overturned by the Supreme Court, taking away the constitutional right to abortion. This disproportionately affects Black and Hispanic and poor women around the country, with abortion remaining accessible for richer, whiter women and becoming virtually impossible to acquire for other women. Women losing their right to decide what they want to do with their own bodies is not only heartbreaking, but racist, sexist, and controlling. “While the Supreme Court’s decision mainly benefits individuals, organizations, and companies who promote, manufacture, distribute, and/or sell contraceptive drugs and technologies via globalized supply chains it is a gross reproductive injustice that is not only

⁷³ “Supreme Court of the United States: Dobbs, State Health Officer of the Mississippi Department of Health, et al. v. Jackson Women’s Health Organization et al.” *Supreme Court of the United States*, 2021, p. 3.

⁷⁴ “Supreme Court of the United States: Gonzales, Attorney General, v. Carhart et al.” *Supreme Court of the United States*, 2006.

gendered but is also racialized.”⁷⁵ With advocacy continuing to spread awareness about the importance of creating law and legislation to protect this right, we are reminded of the importance of women’s control over their own reproductive freedom and the way that we have progressed and regressed to reach the point we find ourselves at today.

⁷⁵ Coen-Sanchez, Karine, et al. “Repercussions of Overturning Roe v. Wade for Women across Systems and Beyond Borders.” *Reproductive Health*, vol. 19, no. 1, 2022.

The Politics of Abortion in the United States

Society continued to reinforce traditional gender roles in the nineteenth century, meaning that women stayed in the home to take care of children while men worked jobs to support their families. However, feminist ideas had begun to spread and the desire for large families decreased, also resulting in a change in the meaning of sex. Rather than solely functioning for procreation, sex was becoming more commonly conceptualized for the pleasure of men although the risk of pregnancy still loomed overhead.

For married couples, this was not a problem as views of the time suggested that starting a family was the logical step following marriage. However, the choice of a woman to become a mother still remained controversial as it involved the implication that, if a woman did not want a child, she had the right to say no to her husband. “To women today, the nineteenth-century feminist prescription for prevention of conception— abstinence except when conception is desired— seems impracticable. It makes sense only when one remembers that their priority was women’s right to say no to men.”⁷⁶ The question of motherhood, contraceptives, and conception remained one connected to feminist rights at the time, with traditional ways of life creating obstacles for changes that would provide women with more reproductive freedom.

Indeed, sex remained in the minds of individuals in the nineteenth century just as it does today. However, conflicting opinions arose when considering sex for procreation— the conception of a new life— specifically regarding when life begins. Most of the public did not have a strong opinion against abortion before quickening, and the public understood that women

⁷⁶ Gordon, Linda. “Nineteenth-Century Women’s Rights Advocates on Abortion: Comment on Tracy Thomas’s Misappropriating Women’s History in the Law and Politics of Abortion.” *36 U.L. Seattle U. Rev. Supra* 27, 2013, p. 28.

who had abortions did not particularly *want* them but instead recognized that it was the correct choice for their circumstances. This idea lent itself to feminist ideology which explained the necessity of abortion so that women could be the best mothers possible to their existing children and the best wives to their husbands. “Most nineteenth-century feminists were intensely *pro*-motherhood and used the importance of good mothering as a prime reason that women needed civil and political rights.”⁷⁷ The awareness of what it takes societally to be a good mother relied, and still does, on the rights of the woman, but their duties as a mother remained at the forefront of their value. A women’s rights movement therefore began in the mid-nineteenth century in order to ensure that women had the rights to allow them to fulfill their duties.

Linda Gordon, writing on abortion advocacy in the nineteenth century, explains that the women’s rights movement originated in connection with the right against slavery; feminists of the time drew comparisons between abusive treatment and lack of rights of slave women and the free white woman’s lack of reproductive rights.⁷⁸ Furthermore, on the opposing side anti-abortionists suggested “that women have no right to this kind of freedom because their duty is always and eternally motherhood and that to defy that duty is self-indulgent and self-centered; the duty of women is, in other words, to sacrifice themselves always to motherhood... when prevention fail[s]... mercy and help, not prosecution, is the better response.”⁷⁹ The women’s rights movement was born out of necessity to take a stand against male authority, reinforcing that reproductive rights are a woman’s rights alone and that she is the only individual qualified (along with a doctor) to make decisions about her own body.

⁷⁷ Ibid.

⁷⁸ Ibid., p. 29.

⁷⁹ Ibid., pp. 29-30.

One of the earliest threats to the freedom of abortion rights in the United States was the American Medical Association (AMA), founded in 1847. While the goal of the AMA was to further regulate medicine and ensure that it was practiced correctly, one of their first goals was to criminalize abortion: “Many AMA-recognized physicians did not perform abortions because they believed it violated the Hippocratic Oath... In effect, by not performing abortions, physicians forced their patients to seek the procedure from amateurs or the medically untrained.”⁸⁰ This left women who were in need of abortion care in dangerously vulnerable positions medically and socially. In addition, it was the beginning of attacks on abortion rights in the United States. Men were given the ultimate power to decide what women should be permitted to do with their bodies, even though medical knowledge at the time was not extensive enough to have declared anyone fully educated on the subject.

As a result, illegal abortion activity rose and women seeking abortions died. This lasted through the legal battles that led to *Roe v. Wade*, turning abortion into a heavily political issue in the United States and leading to strong activism from both pro-and anti-abortion protest groups. “Feminists were relative latecomers to the movement, and abortion did not become a major political issue until after the *Roe v. Wade* decision by the Supreme Court. Most social scientists began to study public attitudes towards abortion, which have been relatively stable since that 1973 decision, only after the Supreme Court Ruling...”⁸¹ Therefore, abortion activism is relatively new to the United States in contrast to European countries like France, as American women’s rights movements in general tend to fall behind other timelines. Doctors became the

⁸⁰ Johnson, Ryan. “A Movement for Change: Horacio Robinson Storer and Physicians’ Crusade Against Abortion.” *James Madison Undergraduate Research Journal*, vol. 4, no. 1, 2017, p. 17.

⁸¹ Rossi, Alice S., and Bhavani Sitaraman. “Abortion in Context: Historical Trends and Future Changes.” *Family Planning Perspectives*, vol. 20, no. 6, 1988, p. 273.

council following the decision of a woman to obtain an abortion, providing medical advice and care once requested rather than having the power to dictate what medical procedures a woman should be allowed to undergo based on their personal beliefs.

However, early activism for abortion was overshadowed by general activism for women's and minority rights. "Professional concern for women's health among lawyers and physicians contributed to a growing pressure for liberalization of the grounds for legal abortion, but this was a quiet, inconspicuous movement compared with the highly vocal campaigns for the human rights of women, blacks, the elderly, handicapped, and even children."⁸² Yet, these social movements occurring simultaneously were just what the abortion rights movement needed to take hold. Given the politicization of abortion in the United States when abortion is not an inherently political issue, it comes as no surprise that the battle to protect the constitutionalization of abortion rights had been fought from so early on.

Campaigns to provide women with safe, accessible reproductive and abortion care rose in the latter half of the twentieth century, as abortion began to receive more media attention and become more heavily politicized. The Association for the Study of Abortion (ASA), created in 1964, "advocated for the reform of abortion laws to allow women to access medically necessary abortions. ASA was also joined in their cause by Planned Parenthood, which advocated for women's reproductive rights."⁸³ While these organizations assisted in spreading information about the importance of abortion rights, they started small with the approach to allow for *medically necessary* abortions rather than the legalization of abortion in general. Therefore, the

⁸² Ibid., p. 274

⁸³ Bernhardt, Arielle. "U.S. Groups Campaign to Legalize Abortion, 1969-1973." *Global Nonviolent Action Database*, 2010.

National Association for the Repeal of Abortion Laws (NARAL) was created in 1969 following the First National Conference on Abortion Laws to campaign for the legalization of abortion in the United States.⁸⁴

This group quickly became supported by the women's liberation movement and women's movement groups to lobby, rally, and attend press conferences to advocate for the abortion cause.⁸⁵ The approach included "speak-outs," advocacy for abortion resources, and sexual education in order to raise awareness on the importance of abortion and gain publicity for the movement while countering tactics from anti-abortion activists. This was extremely effective in demonstrating that abortion is essential healthcare and should be accessible under all circumstances: "During these years, the campaign was also slowly able to make headway through legal means, winning abortion law repeal in a few states at a time."⁸⁶ It was organizations like these, prior to the Supreme Court decision on *Roe v. Wade*, that were central to the abortion rights movement and achieving rights for women throughout the United States.

This information suggests that abortion activism changed with the *Roe v. Wade* decision of 1973. It was during this time period where politics began to particularly reflect the public's interest in and opinion on abortion, as it became clear that patterns could be seen between an individual's view on abortion and the way that they voted or acted politically:

In the aftermath of the Supreme Court decision in 1973, right-to-life organizations and the Moral Majority became extremely active and highly visible in American politics. As the abortion controversy became increasingly polarized, social scientists began to report on the new politics of abortion, including the effect of abortion views upon voting

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

behaviour, the political actions of antiabortion advocates against abortion facilities and more detailed ethnographic portraits of the leaders on both sides of the issue.⁸⁷

Furthermore, in the late 1970s the issue of abortion became much more prominent in politics as evangelical Protestants began to involve themselves in antiabortion activism. The problem of abortion, among others, was viewed as one tearing America apart, and the Republican Party perpetuated these ideas to their advantage, even into the 1980s.⁸⁸ “[Ronald Reagan’s] 1980 campaign for the presidency found him running on a plank in the Republican Party platform that called for the appointment of judges who would respect human life and traditional family values.”⁸⁹ This new political role of abortion allowed the Republican Party to appeal to the American public while creating connections with Protestant evangelicals and Catholics to create a politicized movement against abortion and gain voters. This polarization of the issue skewed the social significance of discussion of abortion and how it reflected in the political identities of American voters, and this is still obvious today.

Roe v. Wade was overturned on June 24, 2022. Rather than being a right under the United States Constitution, the legalization and permission of abortion is again left up to individual states. Several states already had trigger laws in place in preparation of the overturn. “Within days after the decision was released, at least 16 states banned nearly all abortions. Although some bans have been blocked by lower courts, such draconian action is clearly a reality— not

⁸⁷ Rossi and Sitaraman (1988) p. 277.

⁸⁸ Greenhouse, Linda, and Reva B. Siegel. “Before (and After) *Roe v. Wade*: New Questions About Backlash.” *The Yale Law Journal*, vol. 120, no. 8, 2011, p. 2065.

⁸⁹ *Ibid.*, p. 2067.

mere catastrophizing by abortion supporters.”⁹⁰ Such a decision has placed thousands of women nationwide in grave danger now that a non-viable or unwanted pregnancy cannot be terminated.

The overturning of *Roe v. Wade* is a threat felt by people everywhere, leading to protest and marches to plead with the Supreme Court to reconsider the importance of constitutional protection of abortion rights. The reality is that it is now necessary to question whether the nation will return to the state it was in prior to *Roe v. Wade*, in which case women will no longer have bodily autonomy and will have to subject themselves to illegal, unsafe procedures to terminate a pregnancy.

Advocates and activists continue to share resources and promote organizations that will provide women with safe abortion care as well as remind them that they are not alone in a country that refuses to allow basic human rights for their safety. Abortion is necessary for a variety of situations and should continue to be accessible for American citizens:

Americans... have relied on the availability of safe and legal abortion for nearly 50 years as a backstop for situations in which contraception fails or is unavailable, sex was not consensual, or a planned pregnancy takes a tragic or dangerous turn... if myriad constitutional rights once considered fundamental for Americans are made subject to popular vote, we will be living in a society where many aspects of basic health care are threatened and the law tries to turn clinicians into adversaries of their patients.⁹¹

The permission of this basic health care procedure cannot be left to individuals who do not understand its value for women’s health. With laws on women’s side, the United States can progress to protect these rights and ensure that abortion is safe, legal, accessible, and free.

⁹⁰ Lazzarini, Zita. “The End of *Roe v. Wade* — States’ Power over Health and Well-Being.” *New England Journal of Medicine*, vol. 387, no. 5, 2022.

⁹¹ *Ibid.*

Analysis

The previous case studies of abortion history and activism in France and the United States demonstrate how the perspectives on abortion differ in the two countries. In turn, this accounts for both why abortion rights stand where they do today in each country and how perspectives on abortion rights have and will continue to change through time. Providing the history of women's and reproductive rights in each country lays the foundation for understanding the development of the issue, while understanding activism through the legal history explains why abortion is such a deep-seated controversy, although it should not be, that must remain at the forefront of the minds of people everywhere.

Differences in Politics

One essential distinction between the perspective on abortion rights between the two countries is that the United States views abortion as a deeply political issue. Abortion has become entirely separated from the public health sector and has instead found itself to be a point of contention in political debates and elections. This comes as it becomes more apparent that public opinions on abortion are split rather than a significant portion of the American population viewing abortion in a negative light, as may be popular belief.

The issue has also become one characterized by geographical location and stereotype drawn from political parties or certain demographics. "Sentiment regarding abortion is roughly evenly split among the general public, yet fundamental debate about abortion is largely absent in the public health community, which is predominantly supportive of its wide availability. Absence of substantive debate on abortion separates the public health community from the public we

serve, jeopardizing the trust placed in us.”⁹² While arguments continue to be drawn in the fight against abortion today, the public health perspective remains that abortion is a public health issue rather than one that should be dictated by anyone but the woman in the situation herself. This provides a drastic contrast with the perspective on abortion in France, which suggests that abortion is, in fact, a health issue and therefore does not have any interest or interactions with politics.

Truthfully, there is not much information readily available surrounding the discussion of modern opinion on abortion in France. This is because France has all of the things that the United States should desire when it comes to reproductive rights— abortion has been reimbursed by Social Security since 1982, gestational limit for abortion was extended in 2001, and medical abortion has been legal in private practices since 2004 and family-planning centers since 2009.⁹³ These social structures put in place allow women to have wider access to safe and inexpensive abortion and demonstrate that, in France, abortion is not a political or social issue— rather, it is an issue of health as it is something necessary to ensure that women stay healthy and safe.

This is further demonstrated by the way that punishment for abortion occurred prior to *Roe v. Wade* or the loi Veil. As previously discussed, punishments prior to the establishment of the loi Veil were not typically enforced and were not taken as serious consequences for abortion, nor as threat enough for women to avoid obtaining one. “When these laws fall into disuse, the practice continues to be considered a crime, but it is increasingly tolerated socially.”⁹⁴ As social

⁹² McCurdy, Stephen A. “Abortion and Public Health: Time for Another Look.” *The Linacre Quarterly*, vol. 83, no. 1, 2016.

⁹³ Guillaume, Agnès, and Clementine Rossier. “Abortion around the World. An Overview of Legislation, Measures, Trends, and Consequences.” *Cairn International Edition*, Translated by Paul Reeve, vol. 73, no. 2, 2018.

⁹⁴ *Ibid.*

tolerance increases, laws and legislation begin to change to reflect this increase, but this is also seen the other way around.

Differences in Religion

Another key difference between the perspectives on abortion between the United States and France comes in with the intersection of religion, politics, and public life. In the United States, politics and religion are deeply intertwined given the Protestant identity of the country and its reflection in the country's founding principles.

Although the separation of Church and State is also reflected in those founding principles, the connection remains: "The current deep division in contemporary American political and social life tracks the deep ideological divide between white conservative Christians and others (both white and nonwhite) so closely that is it almost impossible to intellectually suggest there is no relationship between the two."⁹⁵ As much as the United States attempts to claim that the combination of religion and politics is separated from public life, it in fact dictates the actions and autonomy of Americans every day.

By contrast, the French principle of *laïcité* dictates the absolute secularization of the state and the lack of influence of religion in public life or politics. This is an essential principle to French society, further enforcing the importance of allowing religious issues to remain religious issues while public life, health, and politics remain separate from any outside influence:

⁹⁵ Glass, Jennifer. "Why Aren't We Paying Attention? Religion and Politics in Everyday Life." *Sociology of Religion*, vol. 80, no. 1, 2018.

For most of the twentieth century, *laïcité* as a legal principle had essentially been understood to generate obligations for public authorities only— and, conversely, rights for private individuals. This understanding translated into legal rules requiring public authorities to stick to strict religious neutrality, whereas private individuals were guaranteed freedom of conscience as well as freedom of religion.⁹⁶

The ease with which France determines that private life and the public sphere should be separated accounts for the country's view on abortion. Therefore, the principle of *laïcité* is important to comprehend to understand French society and why the abortion issue is so simple.

Differences in Women's Rights

Nonetheless, the two countries seem to agree in that abortion, or the choice to have one, is a woman's issue. Feminist and women's movements in both countries are, or have been, dedicated to framing abortion as a woman's *right*, and in a similar manner groups against abortion have chosen to attack women for electing to have one while also directing anti-abortion propaganda specifically at women. "Women's movements in various countries, whether the feminist movements of the 1960s (notably in France) or women's groups at the international level in the 1990s, have demanded the rights to abortion and contraception. They have argued that childbearing should be individually desired and chosen, and no longer held as a woman's duty and a biological inevitability."⁹⁷ In both countries, women's roles changed resulting in a reevaluation of the choice to start a family or become a mother. From this, it is clear that both countries began to comprehend the importance of holding abortion as a right in order to protect women through pregnancy as much as possible.

⁹⁶ Hennette Vauchez, Stéphanie. "Is French Laïcité Still Liberal? The Republican Project Under Pressure (2004-15)." *Human Rights Law Review*, vol. 17, no. 2, 2017.

⁹⁷ Guillaume and Rossier (2018).

Anti-abortion rhetoric in the United States tends to attempt to prove the innocence of the fetus or the importance of its potential life rather than focusing on the life, presumably in jeopardy, of the pregnant woman. This rhetoric justifies restrictions on abortion and the criminalization of the procedure: “The traditional belief that women should accept ‘all the children God gives,’ the recent glorification of the fetus as having more value than the woman it is dependent on, and male-dominated culture are all used extremely effectively to justify criminal restrictions.”⁹⁸ This is true of countries around the world, but France itself has worked to demonstrate that criminal restrictions placed on abortion are ineffective. Abortion being legally, safely, and widely available in France demonstrates that, in spite of anti-abortion rhetoric designed to make women feel guilty about wanting or needing an abortion, meaning should be placed primarily on the lives of self-sufficient living individuals rather than fetuses.

It is also important to consider the abortion rates between both countries and on a global scale. “Globally, 25% of pregnancies ended in induced abortion in 2010-2014, including in countries with high rates of contraceptive prevalence. Increasingly, thanks to years of effective campaigning, more and more women are defending the need for abortion, as well as the *right* to a safe abortion—and access to it if and when they need it.”⁹⁹ Abortion rates have stabilized in recent decades, signifying that making abortion accessible in France and in certain areas of the United States has been effective. “In 2016, 14 of every 1,000 women aged 15-49 years in metropolitan France had an abortion. Rates vary by a factor of two between regions, with the highest rates in Île-de-France and the South... The abortion rate in French overseas territories

⁹⁸ Berer, Marge. “Abortion Law and Policy Around the World: In Search of Decriminalization.” *Health and Human Rights*, vol. 19, no. 1, 2017.

⁹⁹ *Ibid.*

was 25 per 1,000.”¹⁰⁰ In the United States, “the abortion rate for 2016 was 11.6 abortions per 1,000 women aged 15-44 years, and the abortion ratio was 186 abortions per 1,000 live births. In 2016, [the number of reported abortions, the abortion ratio, and the abortion rate] reached their lowest level for the entire period of analysis (2007-2016).”¹⁰¹ Both countries have comparable abortion rates, providing an interesting point of comparison as the United States’ legal standing remains so clearly against freely allowing access to abortion in many states.

The differentiation in abortion opinion in the United States is fascinating in consideration of the geographical aspect. According to the Pew Research Center:

Opposition to legal abortion is highest in parts of the South— including Texas, which recently passed sweeping new abortion restrictions. The South central region is the only one in which opposition to legal abortion has significantly increased since the mid-1990s. By contrast, support for legal abortion remains highest in New England... just over half of all Americans (54%) say that abortion should be legal in all or most cases.¹⁰²

This research demonstrates that Americans as a whole are not necessarily as anti-abortion as might be believed, providing a potential opening for pro-abortion activism and explanations to expose lawmakers to a truer understanding of the importance of abortion access. Again, this is something that feminist groups continue to work towards, especially in the wake of the overturning of *Roe v. Wade*.

¹⁰⁰ Guillaume and Rossier (2018).

¹⁰¹ Jatlaoui, Tara C., et al. “Abortion Surveillance— United States, 2016.” *MMWR, Surveillance Summaries*, vol. 68, no. 11, 2019.

¹⁰² “Widening Regional Divide over Abortion Laws.” *Pew Research Center - U.S. Politics & Policy*, Pew Research Center, 2020.

Differences in Women's Health

Another factor to account for in studying these two countries and their abortion laws is the general understanding of women's health. France, like many other countries several hundred years ago, did not have an accurate understanding of women's health in general, nor reproductive healthcare more specifically. The reproductive system and its organs were seen as the core of the woman, dictating her every move and every impulse, and therefore being the telltale sign of any kind of health problem in her body. Today, medicine has come significantly further and sexual and reproductive health are represented much more accurately in the medical world. Women are also given autonomy over their bodies, contrasting with France's medical past in a positive way but also accounting for the liberalization of abortion law and lack of necessity for modern abortion activism. "The French health system... proposes to ensure women's autonomy... in the French context, the termination of pregnancy is legal, which promotes certain dialogue about its existence."¹⁰³ France, as a nation, recognizes that abortion will exist regardless of whether it is legal or regulated. As a result, they have made the choice to protect this right.

On the other hand, the United States' legislation reflects the belief that if abortion is no longer permitted, it will go away. While again many medical advancements have been made in the last centuries in the United States as in France, the disparities in women's sexual healthcare remain evident. Women's health requires a comprehension of biological, physical, and social aspects that differ from those in men.¹⁰⁴ Yet, an alarming number of women continue to

¹⁰³ Silva, Simone Santana, et al. "The Feminine Condition and Women's Sexual and Reproductive Health in Brazil and France." *Frontiers in Psychology*, vol. 13, 2022.

¹⁰⁴ Edwards, Lorece V., et al. "The WHISK (Women's Health: Increasing the Awareness of Science and Knowledge) Pilot Project: Recognizing Sex and Gender Differences in Women's Health and Wellness." *Global Advances in Health and Medicine*, vol. 2, no. 5, 2013.

experience reproductive healthcare that places value on the woman's unborn child over herself, potentially even guilted her into making a decision based on the imposed views of others. These ideas are deeply integrated into American society, perpetuating harmful biases, misinformation, and ideas.

The intersection in healthcare between the two countries speaks to a larger issue. Abortion is generally recognized worldwide as a human right. As mentioned throughout this piece, there are undeniable reasons why abortion is necessary healthcare and must be protected by being declared as an international human right. According to international human rights law, all humans have the right to life and the right to health, among other rights, and at minimum these two laws suggest that, in the event of an unsafe or unhealthy pregnancy, women should have the right to terminate for their own health and, potentially, to save their life. Additionally, it is now a known fact that criminalizing abortion does not lessen unwanted pregnancy rates. With the knowledge that women can face potentially deadly effects from pregnancy for a multitude of reasons, the acknowledgment of international human rights law must become more regulated to protect women, as has been seen in France. "Moreover, a growing number of governments, in both the Global North and more recently the Global South, have begun to acknowledge that preventing unsafe abortions is part of their commitment to reducing avoidable maternal deaths and their obligations under human rights law."¹⁰⁵ This has the potential to lead to essential change in reproductive rights and medicine, as providing safe and protected abortion will keep women safe, healthy, and alive.

¹⁰⁵ Berer (2017).

Conclusion

The French and American publics' similar contemporary perspectives on abortion in their respective countries are particularly intriguing given the factors that play a role in their determination. France has reached a point where abortion activism is no longer necessary, as public opinion and legislation on abortion recognizes a comprehension by the population of its essential role in women's health and reproductive medicine. The overall goal has been accomplished and, if changes are made, they will be to further ensure access to abortion care and protect pregnant individuals. On the other hand, the United States has now regressed after years of fighting for abortion access. With a government that does not reflect the interests of the portion of the population that is not white and male, activism continues to be necessary to cause uprising and demonstrate the way that a nation can flourish by considering what is essential to take care of all of its people.

As such, these two countries provide a fascinating example of the ebb and flow of abortion history, laws, and legislation and how even similar paths can result in completely different end destinations.

Through investigating the legal histories, ramifications, and implications of abortion in both France and the United States, this thesis establishes a greater picture of the historical context of the permission of abortion and the reasons why it is conceptualized the way that it is today. Furthermore, through exploring activism for and against abortion, greater emphasis is placed on public opinions of abortion in each country and the way that it is valued or rejected by feminist groups, women, and other citizens. Since France and the United States both moved towards liberalization of abortion rights in the same way and at the same time, it is particularly

interesting to evaluate these countries together to determine how they have arrived at nearly opposite points. The sentiments surrounding abortion in France and the United States are also applicable to countries around the world, allowing these case studies to provide sufficient context on abortion laws and rights and to demonstrate how easily rights can be created and taken away.

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