

# Social Movement Lessons From the US Anti-Abortion Movement

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## Abstract

This report aims to assess (1) the extent to which the modern (1966-2019) anti-abortion movement in the United States can be said to have successfully achieved its goals, (2) what factors caused the various successes and failures of this movement, and (3) what these findings suggest about how modern social movements should strategize. The analysis highlights the farmed animal movement as an illustrative example of the strategic implications for a variety of movements. Key findings of this report include that encouraging legal change without popular support can provide momentum for a social movement's opponents; legislation and direct action may be effective at reducing supply through disruption and burdensome regulation, but direct effects on demand are smaller; and close alignment with political or religious groups may be tractable but risks longer-term stagnation.

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## Introduction

The US anti-abortion movement, also known as the pro-life or right-to-life movement, argues that human life begins at conception and that the human fetus has a right to life. Its advocates support, at least in part, an expansion of the moral circle to encompass unborn human fetuses. Although there are important differences between the US anti-abortion and farmed animal protection movements, there is a fundamental similarity between them: Advocates from both movements believe the entities they seek to protect are granted insufficient consideration, protection, or rights and that it is worth investing time and resources into securing more consideration, protection, or rights for them. Other features that affect the anti-abortion movement's comparability with the farmed animal movement are listed [below](#), but overall it seems we can glean some strategic insight from the anti-abortion movement suitable for effective animal advocacy—that is, information that can be used to understand how to maximize the impact of interventions used.<sup>1</sup>

Importantly, this report makes no attempt to evaluate the goals of either movement. This report is exclusively about the strategy of social movements, and while we will discuss goals insofar as they are relevant to strategic discussion, we deliberately avoid any moral assessment.

US farmed animal advocates tend to favor less restrictive abortion regulations, so we know that some might be hesitant to take seriously a report that looks for insight in the strategy of the anti-abortion movement. We think this is actually a strong reason to study this movement, because it is so different and therefore might have unusually interesting lessons to be gleaned. We hope readers will keep an open mind and attempt to examine the strategy of this movement, and other social movements, with an objective lens.

This report provides a condensed history of the US anti-abortion movement, from the 1960s to the present. After providing this history, the report draws tentative conclusions about which strategies seemed to be most effective for the anti-abortion movement and suggests potential implications for the farmed animal movement's strategy. The focus of this report is on strategic insights for the farmed animal movement, but some insights may be useful for other movements as well.

This report focuses on the US anti-abortion movement, rather than international efforts, for three reasons:

1. It seems that abortion issues have been highly salient in US politics and society since the late 1960s, and especially since around 1980, compared to other countries. This suggests that both the anti-abortion movement and abortion rights movements would both have been larger in the US than

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<sup>1</sup> For a list and summary of such questions, see “Summary of Evidence for Foundational Questions in Effective Animal Advocacy,” Sentience Institute, last updated June 21, 2018, <https://www.sentienceinstitute.org/foundational-questions-summaries>.

For discussion of the extent to which the farmed animal movement can learn from history, see Jamie Harris, “What can the farmed animal movement learn from history?” (May 2019), <https://www.sentienceinstitute.org/blog/what-can-the-farmed-animal-movement-learn-from-history>.

in other countries that could have been studied and that there would be more content worth evaluating.

2. Much activity and research of the effective animal advocacy community has focused on the US.<sup>2</sup> This concentration of resources is at least partially justified by the strategic importance of the US as a country with a large number of animals in factory farmed conditions and substantial social, political, and economic influence over the rest of the world. Given the research gaps in our understanding of effective animal advocacy in the US,<sup>3</sup> it also seems reasonable to focus on coming to stronger conclusions for the optimal movement strategy in that context, before seeking to test whether those conclusions hold in other contexts.
3. After initial research on the topic, it became clear that there was a plethora of surveys, social scientific research, and historical research on the topic of abortion in the US. Limiting the breadth of content to the US only reduced the resources required to complete this report, hopefully without a correspondingly large loss to the completeness and usefulness of the report.

This report was mainly undertaken as exploratory analysis, rather than being designed to test explicit hypotheses on strategic effectiveness, though the author initially suspected that the report would provide strategic insight into the question of whether a left-wing or nonpartisan focus is more desirable for the farmed animal movement, as well as other foundational questions in effective animal advocacy.<sup>4</sup> The author also believed that the anti-abortion movement had mostly failed at achieving its goals, and therefore the report would provide evidence that, on average, the tactics used by the anti-abortion movement should be avoided by the farmed animal movement. This is unlike most EAA case studies,<sup>5</sup> in which researchers have analyzed successful movements and therefore tend to take their use of a tactic as evidence of its effectiveness.

As with Sentience Institute's report on the British antislavery movement, *the farmed animal movement as this report describes it is weighted towards the US movement, so readers from other regions may see different similarities and differences between the US anti-abortion movement and their own region and movement, and should adjust the applicability of this report's conclusions to their own region's advocacy accordingly. This report assumes the reader has some knowledge of modern animal farming and animal advocacy.*<sup>6</sup>

<sup>2</sup> See, for example, “Why farmed animals?” Animal Charity Evaluators, last updated November, 2016, <https://animalcharityevaluators.org/donation-advice/why-farmed-animals/>, Linda Tyler, “Animal Tracker 2019: Methods & Overview” (June 12, 2019), <https://faunalytics.org/animal-tracker-2019-methods-overview/>, and Jacy Reese, “Survey of US Attitudes Towards Animal Farming and Animal-Free Food October 2017” (November 2017), <https://www.sentienceinstitute.org/animal-farming-attitudes-survey-2017#exploratory-demographic-analysis>.

<sup>3</sup> See, for example “Research Agenda,” Sentience Institute, last updated September 24, 2018, <https://www.sentienceinstitute.org/research-agenda>.

<sup>4</sup> For a summary of other evidence relating to this question, see the section “Left-wing vs. nonpartisan focus” of “Summary of Evidence for Foundational Questions in Effective Animal Advocacy,” Sentience Institute, last updated June 21, 2018, <https://www.sentienceinstitute.org/foundational-questions-summaries>. The author’s hypothesis was that, given what he believed to be the failure of the movement, this tactic had reduced the chances of success for the anti-abortion movement, and this would therefore provide evidence that the farmed animal movement should avoid developing a partisan focus.

<sup>5</sup> See, for example, “Social Movement Analysis,” Animal Charity Evaluators, accessed July 15, 2019, <https://animalcharityevaluators.org/research/social-movement-analysis/>.

<sup>6</sup> Kelly Witwicki, “Social Movement Lessons From the British Antislavery Movement: Focused on Applications to the Movement Against Animal Farming” (December 2017), <https://www.sentienceinstitute.org/british-antislavery>.

The anti-abortion movement is called a variety of names, including “pro-life,” “right to life,” and “anti-choice.” In comparison, the abortion rights movement is called “pro-choice,” “pro-abortion,” or “pro-death.”<sup>7</sup> In this report, the terms “anti-abortion” and “abortion rights” respectively for consistency. These terms are used to refer to the US movements specifically, rather than international movements. Given the US context, the term “liberal” when referring to abortion laws or attitudes implies greater support for abortion rights. What this report refers to as “crisis pregnancy centers” have been called a variety of names, including “Birthright and Emergency Pregnancy Services (EPS),” “Problem Pregnancy Centers (PPCs),” “Pregnancy Resource Centers (PRCs),” “A Woman’s Concern Health Centers,” and “Life Choices Medical Clinics.”<sup>8</sup> Although the term is avoided here due to its imprecision, other authors sometimes use the term “therapeutic abortions,” which refers to abortions performed to protect the health (sometimes including mental health) or life of the mother. Abortions performed for other reasons are sometimes referred to as “elective abortions.”<sup>9</sup> The term “fetus” is used throughout this report.<sup>10</sup>

Finally, this report borrows much of the methodology and framing of Sentience Institute’s 2017 report on the British antislavery movement.<sup>11</sup>

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<sup>7</sup> See, for example, the section on “Terminology” in the “Abortion debate” Wikipedia page, [https://en.wikipedia.org/wiki/Abortion\\_debate#Terminology](https://en.wikipedia.org/wiki/Abortion_debate#Terminology).

<sup>8</sup> Margaret (Peggy) Hartshorn, “Putting It All Together,” in Teresa R. Wagner (ed.) *Back to the Drawing Board: The Future of the Pro-Life Movement* (South Bend, Indiana: St. Augustine’s Press, 2003), 106.

<sup>9</sup> See, for example, “Abortion (Termination Of Pregnancy),” Harvard Health Publishing (January 2019), <https://www.health.harvard.edu/medical-tests-and-procedures/abortion-termination-of-pregnancy-a-to-z>.

<sup>10</sup> This term is also used by psychology researchers in papers on moral expansiveness, which sets a relevant precedent for Sentience Institute’s research, given our focus on moral circle expansion. See, for example:

Nick Haslam, Brock Bastian, Simon Laham, and Stephen Loughnan, “Humanness, dehumanization, and moral psychology,” *The social psychology of morality: Exploring the causes of good and evil* (2012), 203-18,

Takuya Sawaoka, Anna-Kaisa Newheiser, and John F. Dovidio, “Group-based biases in moral judgment: The role of shifting moral standards,” *Social Cognition* 32, no. 4 (2014), 360-380.

Daniel Crimston, Paul G. Bain, Matthew J. Hornsey, and Brock Bastian, “Moral expansiveness: Examining variability in the extension of the moral world,” *Journal of Personality and Social Psychology* 111, no. 4 (2016), 636.

<sup>11</sup> Kelly Witwicki, “Social Movement Lessons From the British Antislavery Movement: Focused on Applications to the Movement Against Animal Farming” (December 2017), <https://www.sentienceinstitute.org/british-antislavery>.

## Summary of Key Implications

A single historical case study does not provide strong evidence for any particular claim; the value of these case studies comes from providing insight into a large number of important questions.<sup>12</sup> This section lists a number of strategic claims supported by the evidence in this report:

- Political parties are more willing than expected to modify their stance on controversial issues, even in a direction that seems contrary to the views of their existing supporter base.
- Even if the theology of a particular religion has unclear implications for the moral issues of interest to social movements, a strong moral stance can still become normalized within a religious community that is highly influential in society at large.
- Disruptive and confrontational tactics seem likely to be effective at reducing the supply of targeted products or services, but direct effects on demand are smaller. They may also increase issue salience among policymakers and the public. Activists using such tactics should strive to minimize possible negative effects, such as legal restrictions and damage to the credibility and reputation of the movement. Violent tactics seem generally unproductive but some disruptive tactics could be worth the associated risks as measured by activist goals.
- Legislation that restricts access to abortions seems to have successfully reduced the number of abortions. Though the effect may be small, it is possible that it would be higher on products or services for which the demand is more elastic, such as animal products. This legislation does not seem to have substantially reduced the public's support for further incremental legislation.
- For securing desired legislative outcomes at both the state and national levels, securing the support of politicians seems more important than favorable public opinion. A favorable legal environment (e.g. supportive judges) also seems important.
- Expending substantial resources on encouraging legal change without popular support for the proposed measures seems inadvisable. Highly salient legal changes may provide momentum to opposition groups. Legal rulings seem to have little, if any, positive effect on public opinion regarding controversial issues, though they may consolidate support for issues that were already widely accepted. There is also some evidence that such changes may polarize opinion on controversial issues, although other analyses dispute this.
- Close association with controversial interest groups may reduce the credibility and durability of a movement, and may lead to increased factionalism and polarization on relevant issues.

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<sup>12</sup> For a summary of the pros and cons of different sources of evidence, see the section “Social movements vs. EAA randomized controlled trials (RCTs) vs. intuition/speculation/anecdotes vs. external findings” of “Summary of Evidence for Foundational Questions in Effective Animal Advocacy,” Sentience Institute, last updated June 21, 2018, <https://www.sentienceinstitute.org/foundational-questions-summaries>.

For a more detailed discussion of the value of individual historical case studies as a form of evidence, see Jamie Harris, “What can the farmed animal movement learn from history?” (May 2019), <https://www.sentienceinstitute.org/blog/what-can-the-farmed-animal-movement-learn-from-history>.

- Stronger alignment with a major political party might temporarily speed up progress by increasing the rate at which legislation is proposed but may also increase the chances of longer-term stagnation by encouraging political deadlock on an issue that could otherwise have transcended party politics.
- High issue salience may contribute to political polarization and, more tentatively, to stagnation. Advocates should only focus on increasing issue salience if the timing is beneficial.
- Boycotts of specific companies across their entire product range may be a more promising tactic for disrupting the supply of a product than boycotts of a specific product type across all companies. Additionally, companies trying to bring a new product to market can protect against boycotts by remaining narrowly focused, and avoiding merging with or being acquired by larger companies with more diverse product types.
- There is indirect evidence that proactive, often confrontational, face-to-face “counseling” outreach causes a backfire effect, making individuals less supportive of a movement’s goals.

## A Condensed Chronological History of the Anti-Abortion Movement

This condensed history of the US anti-abortion movement is not intended to imply causal relationships between listed events, unless stated explicitly. For example, if a sentence referring to a change in the legal context is followed by a sentence about changes in abortion rates, the two should not be assumed to be connected. Causation is discussed more explicitly in the section on “[Strategic Implications](#).<sup>13</sup>” This section of the report is not intended to present a comprehensive narrative; it condenses the history into events and processes that have strategic implications for modern social movements.<sup>14</sup> There are slight deviations from chronological order used for clarity.

### Early History of the Movement

When the US was declared independent from Great Britain, English common law forbade abortion after “quicken,”<sup>15</sup> the start of fetal movements.<sup>14</sup> Some states began to make abortion at any stage of pregnancy illegal in the 19th century, and by the 1960s abortion was a felony in most states, except for when the mother’s life was in danger.<sup>16</sup> This early anti-abortion movement operated in very different circumstances to

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<sup>13</sup> As noted in the section on “Format” in Jamie Harris, “How is SI research different from existing social movement literature and relevant historical works?” (May 17, 2019), <https://www.sentienceinstitute.org/blog/how-is-SI-research-different#format>, “many historians emphasize the importance of rich description and evocative narrative in good historical writing, but this is generally unhelpful or even harmful to effectiveness-focused advocates reading a research report, who need the precise and concise documentation of relevant evidence. In general, since... the aims of the research of historians and sociologists are different to those of SI, the formats of these publications vary to meet their differing goals.”

<sup>14</sup> Keith Cassidy, “The Road to Roe: Cultural Change and the Growth of Acceptance of Abortion Prior to 1973,” *Life and Learning* 7 (1998), 1-16.

<sup>15</sup> Henceforth “abortion” without qualification will refer to abortion at any stage of pregnancy from conception to birth.

<sup>16</sup> Raymond Tatalovich and Byron W. Daynes, *The Politics of Abortion: A Study of Community Conflict in Public Policymaking* (New York: Praeger, 1981), 18 lists the number of states passing anti-abortion enactments before 1966. In the 1820s, 2 states passed such enactments. In the 1830s, 4; 1840s, 12; 1850s, 5; 1860s, 12; 1870s, 3; 1880s, 4; 1890s, 1; 1900-1965, 7.

the movement from the 1960s onwards, and the causes of its success are probably different to the factors affecting the successes and failure of the more modern movement.<sup>17</sup>

On pages 23-4, they summarize the legislative situation for abortion in US states before 1966; describing the 14 states that reformed their abortion laws in 1966-72, they note that “[t]he original laws of these states were similar in intent” they prohibited abortions except when the life of the woman was endangered.”

Rosemary Nossiff, *Before Roe: Abortion Policy in the States* (Philadelphia: Temple University Press, 2001), 1 notes that “It was only in the 1850s that the American Medical Association sponsored an antiabortion campaign in a bid to professionalize medical practice. By 1900, the AMA had succeeded in passing laws that made abortion illegal, except when the woman’s life was endangered, in almost every state and territory.

James W. Reed, “The Birth Control Movement Before *Roe v. Wade*,” in Donald T. Critchlow (ed.) *The Politics of Abortion and Birth Control in Historical Perspective* (University Park, Pennsylvania: Pennsylvania State University Press, 1996; first published 1995), 26 summarizes that “The culmination of the campaigns against abortion in state legislatures coincided with the passage of the Comstock Act (1873), a strengthened national obscenity law, in which no distinctions were made between smut, abortifacients, or contraceptives—all were prohibited.”

Doan, *Opposition & Intimidation*, 51 adds that, “[w]ithin two decades the medical community’s campaign against abortion was successful. Several more laws, referred to as the ‘little Comstock laws,’ followed the original. Some states passed more restrictive laws than found in the original Comstock Act. Over the next decade and a half, forty anti-abortion statutes were passed in the United States; by 1910 nearly every state had anti-abortion laws. Most of the laws contained a clause authorizing licensed physicians to perform therapeutic abortions, which finally provided the medical community with a monopoly over the issue. Following the passage of these laws, abortion faded from the public and political front, becoming a nonissue from the early 1900s to the 1950s.”

<sup>17</sup> Nossiff, *Before Roe*, 30-3 summarizes that “By the mid-1840s abortion was commonplace, and it probably would have remained so had it not been for the establishment of the American Medical Association in 1847... Why many physicians supported restrictive abortion laws can be traced to a variety of moral, medical, and economic reasons. Some doctors active in the antiabortion campaign believed that life was sacred. Others questioned the morality of abortion by citing the Hippocratic Oath... others became active in the campaign against abortion chiefly to restrict midwives, their main competitors, from providing health care to women.” Citing Richard W. Wertz and Dorothy C. Wertz, *Lying-In: A History of Childbirth in America* (New Haven: Yale University Press), 55, Nossiff adds: “As Wertz writes, ‘Doctors worried that, if midwives were allowed to deliver the upper classes, women would turn to them for treatment of other illnesses and male doctors would lose half their clientele...’ Nativist concerns also prompted some physicians to oppose abortion.”

On page 33, Nossiff adds that “One reason for the success of the physicians’ antiabortion campaign was the absence of opposing groups. Although the nineteenth-century women’s movement was organized by the 1860s, the majority of feminists were primarily concerned with securing the vote for women. Like the antiabortion physicians, many of them considered abortions to be a degrading procedure that exploited women, and they supported the AMA’s attempts to criminalize it.” On page 34, Nossiff adds that “The timing of the physicians’ campaign coincided with the wave of professionalization in public policy that followed the Civil War.”

The social climate may also have been very different. Marvin Olasky, *The Press and Abortion, 1838-1988* (Hillsdale, New Jersey: Lawrence Erlbaum, 1988), page xii summarizes that “19th century press coverage showed clear concern for the life of the unborn child as well as the health of the mother.” While Olasky argues that the abortion “struggle” began in 1838, he summarizes that “From 1838 to 1962 press information concerning abortion is a trickle... In 1962 the trickle became a torrent.” This provides further evidence to suggest that a focus on the 1960s is the best use of time for research on this question. On pages 92-3, Olasky argues that “In three ways 1962 was the year of the great leap forward for pro-abortion forces. First, in that year pro-abortion books and broadcasts designed for the general public, rather than elite audiences of doctors, lawyers, and liberal theologians, began to emerge... Second, the summer of 1962 brought with it a story of a double abortion murder,” and third, the case of Sherri Finkbine.

In 1923, the Birth Control Clinical Research Bureau and the American Birth Control League were established. These organizations, initially focused on birth control, later merged to become Planned Parenthood Federation of America.<sup>18</sup>

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In a subsequent book, *Abortion Rites: A Social History of Abortion in America* (Wheaton, Illinois: Crossway Books, 1992), however, Olasky summarizes on page 283 that “pro-life forces have been wrong to assume that abortion was rare in the nineteenth century, that tough laws virtually ended the practice, that doctors and ministers led the way, and that the anti-abortion consensus remained philosophically intact until the 1960s. Pro-abortion groups have been wrong, however, in their typical assertion that abortion was widely accepted before this century, that abortion was infused throughout the population, that abortion became illegal because regular doctors sought to drive out competitors, and that abortion rates generally are unaffected by illegality or the development of alternatives.”

His very speculative estimate on page 290 is that “in 1860 there were roughly one hundred and sixty thousand American abortions, in a non-slave population of twenty-seven million. (There is very little accurate information about what was going on among slaves.) Roughly one hundred thousand of those one hundred and sixty thousand abortions were undergone by prostitutes.” On page 291 he notes that he would be surprised if there were fewer than 100,000 abortions in 1860, given the evidence. 160,000 abortions works out as just under 6 abortions per 1,000 people (or just under 3 per 1,000 females, which the author of this report guesses should be approximately halved again to show approximate 1.5 abortions per 1,000 women aged 15-44 years.

By comparison, Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel; Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, “Abortion Surveillance — United States, 2015,” *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, no. SS13 (2018), 1-45 notes that in 2015, “A total of 638,169 abortions for 2015 were reported to CDC from 49 reporting areas. Among these 49 reporting areas, the abortion rate for 2015 was 11.8 abortions per 1,000 women aged 15–44 years, and the abortion ratio was 188 abortions per 1,000 live births.” These estimates compared would suggest that there were far fewer abortions per person in 1860 than in 2015, but the difference is less than an order of magnitude. Olasky quotes very different figures for 1992, claiming on pages 291-2 that there were “1.6 million abortions in a population close to two hundred and sixty million.”

Doan, *Opposition & Intimidation*, 51 notes that “Women who had access to necessary resources like money, transportation, and time continued to have abortions at approximately the same rate as they did before abortion was criminalized.... Many government officials and agencies did not actively enforce the anti-abortion laws. The barriers for women wanting abortion services were frequently demographic, not legal. Posner (1992) has estimated that 70 percent of the abortions occurring today would have occurred prior to the legalization of abortion.”

<sup>18</sup> “Our History,” Planned Parenthood, accessed October 3, 2019,

<https://www.plannedparenthood.org/about-us/who-we-are/our-history>. This site uses the term “opened” for the former organization and “incorporated” for the latter organization. Kathryn Cullen-DuPont, *Encyclopedia of Women's History in America* (New York: Infobase Publishing, May 2014; first published 1996), 202 claims that the American Birth Control League was founded in November 1921. The different dates may just reflect different stages of the formal process of establishing the organizations.

Although there was little discussion of or campaigning on abortion in the US in the early and mid 20th century,<sup>19</sup> laws that increased abortion rights were passed in several countries in Eastern Europe and Scandinavia.<sup>20</sup>

Joseph Fletcher's *Medicine and Morals* and Harold Rosen's edited volume, *Therapeutic Abortion: Medical, Psychiatric, Legal, Anthropological, and Religious Considerations*, published in 1954, considered circumstances in which abortion might be permissible or preferable.<sup>21</sup>

From January 1955 until January 1981, the Democrats held a majority in both the Senate and the House of Representatives.<sup>22</sup>

In 1955, Mary Calderone, the director of Planned Parenthood, convened a secret conference on abortion,<sup>23</sup> the attendees of which were predominantly medical and psychiatric professionals, though public health officials and researchers also attended.<sup>24</sup> In 1958, Planned Parenthood published *Abortion in the United States*, a written record of the conference.<sup>25</sup> The introduction to the book frames abortion as both a medical and social

<sup>19</sup> There seems to have been less activism in the first half of the 20th century than in the 1950s onwards, though there were exceptions. Daniel K. Williams, *Defenders of the Unborn: The Pro-Life Movement Before Roe v. Wade* (New York, Oxford University Press, 2016), 10-38 describes many such exceptions in detail. For example, page 10 begins by noting that, “[t]he Catholic doctors who gathered in Atlantic City in 1937 for the annual meeting of the National Federation of Catholic Physicians' Guilds were worried about what they saw as an unprecedented societal assault on the value of unborn human life. The American Medical Association had just issued a statement in favor of birth control, which was bad enough, but some doctors were even beginning to argue for the acceptability of abortion... ‘Abortion,’ the Federation declared, was, along with contraception, sterilization, and euthanasia, one of the ‘pagan and irrational philosophies’ based on ‘modern creeds of unlimited sex indulgence’... The Catholic physicians therefore pledged that they would never cooperate with those who would ‘make the medical practitioner the grave-digger of the nation.’”

<sup>20</sup> Tatalovich and Daynes, *The Politics of Abortion*.

<sup>21</sup> Kerry N. Jacoby, *Souls, Bodies, Spirits: The Drive to Abolish Abortion Since 1973* (Westport, Connecticut: Praeger, 1998), 3.

<sup>22</sup> “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019),

<https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59. From 1955 to 1957, the number of Democratic senators (48) was greater than the number of Republican senators (47), though technically there was no Democratic majority, since one senator is listed under the column for “Other Parties.”

<sup>23</sup> Kathryn Cullen-DuPont, *Encyclopedia of Women's History in America* (New York: Infobase Publishing, May 2014; first published 1996), 202.

<sup>24</sup> “Participants” in Mary Steichen Calderone (ed.), *Abortion in the United States: A Conference Sponsored by the Planned Parenthood Federation of America* (New York: Hoeber-Harper, 1958), 9-13. 44 participants are listed. Fowler V. Harper, review of *Abortion in the United States* by Mary Calderone, *Yale Law Journal* 68, no. 2 (1958), 395-8 noted that at this time, “The usual law in this country permits a therapeutic abortion only to save the life of the mother. A half dozen states add ‘or that of her unborn child.’ Only two or three jurisdictions legalize the termination of pregnancy to preserve the mother’s health.”

<sup>25</sup> Mary Steichen Calderone (ed.) *Abortion in the United States: A Conference Sponsored by the Planned Parenthood Federation of America* (New York: Hoeber-Harper, 1958). The topics discussed have a predominantly medical focus, as well discussing information on the prevalence and consequences of abortion, both legal and illegal. Some comparison was made to the more liberal legal situation in Scandinavia. The relationship between contraception and abortion was also considered. See Fowler V. Harper, review of *Abortion in the United States* by Mary Calderone, *Yale Law Journal* 68, no. 2 (1958), 395-8.

problem, expressing concern for the suffering of women,<sup>26</sup> though not all contributions were quite as sympathetic.<sup>27</sup> According to political scientists Raymond Tatalovich and Byron W. Daynes, this book, like the write-up of a 1942 conference on abortion, “was given little critical review.”<sup>28</sup> However, historian David Garrow argues that, “[d]espite its own timidity, the Calderone volume nonetheless occasioned book reviews that gave voice to nascent liberalization sentiments.”<sup>29</sup> These books and four other books published before 1960 on the topic of abortion were written by a mixture of medical, psychiatric, and legal professionals.<sup>30</sup> Alan Guttmacher, an obstetrician/gynecologist, later to become president of Planned Parenthood, was publicly advocating for abortion reform at this time, though his views were controversial even among medical professionals and he was known to be an outspoken liberal.<sup>31</sup>

In October 1958, a member of the standing committee of the American Civil Liberties Union’s board of directors argued to her ACLU colleagues that “there was an important individual right that should be given weight. A woman should have the right to determine whether or not she should bear a child.” This was the

<sup>26</sup> M. F. Ashley Montagu, “Introduction,” in Mary Steichen Calderone (ed.) *Abortion in the United States: A Conference Sponsored by the Planned Parenthood Federation of America* (New York: Hoeber-Harper, 1958), 4 notes that “Abortion is not solely a medical and a legal problem. It is a social and human problem... [Our society] abandons the woman in her greatest need to the abortionist.... The amount of human suffering and misery thus entailed is enormous. The illnesses, injuries and deaths resulting from such illegal abortions add substantially to the increase of that suffering and constitute a wholly unnecessary loss to society. The socioeconomic cost of illegal abortion is incalculably great.”

<sup>27</sup> Mary Steichen Calderone (ed.) *Abortion in the United States: A Conference Sponsored by the Planned Parenthood Federation of America* (Oakland, CA: The University of California, 1958), 119 records that Iago Galdston (a psychiatrist) suggested that “if and when a so-called adult woman, a responsible female, seeks an abortion, unless the warrant for it is overwhelming—as say in the case of rape or incest—we are in effect confronted both with a sick person and a sick situation.”

<sup>28</sup> Tatalovich and Daynes, *The Politics of Abortion*, 39. The 1942 conference was chaired by Dr. Howard Taylor, Jr., “under the auspices of the National Committee on Maternal Health at the New York Academy of Medicine. He subsequently edited the proceedings as *The Abortion Problem*, but due to the war effort it received little attention in the news media.” Citing Garrett Hardin, *Population, Evolution, and Birth Control: A Collage of Controversial Ideas* (San Francisco: Freeman, 1969), 279, they note that “some have argued that this kind of neglect was typical of the few books on abortion issued before 1960.”

David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: MacMillan, 1994), 273-76 partly echoes this account of the reception to books on abortion at this time other than Calderone’s. Garrow emphasizes that books such as William J. Robinson’s 1933 book *The Law Against Abortion* cautiously advocated for legalization of abortion up to the third month of pregnancy for elective reasons, and up to any point for therapeutic reasons. Robinson and Abraham J. Rongy, author of another book on abortion, were both doctors. “Neither Rongy’s nor Robinson’s book was widely distributed, but, unlike Browne, their statements were at least cited by other writers considering the subject.”

<sup>29</sup> Garrow, *Liberty and Sexuality*, 276. Garrow adds that “A prominent commentary in *Scientific American* termed existing abortion laws ‘fanatically narrow and backward.’” On pages 275-6, Garrow writes that “with the exception of Alan Guttmacher, the medical contributors to the book were a seemingly timid group, and the conclusory statement signed by the conference participants represented only the most modest and limited endorsement of liberalization.

<sup>30</sup> Tatalovich and Daynes, *The Politics of Abortion*, 39. Though these books considered social implications of abortion, such as the proportion of pregnancies that ended in abortion, and in the case of the 1955 book, *The Sanctity of Life and the Criminal Law*, “the extent to which human life, actual or potential, is or ought to be protected under the criminal law of the English-speaking peoples,” Tatalovich and Daynes conclude on page 40 that “much research in abortion during the first half of [the 20th] century was aimed at professional audiences, not the general public.”

<sup>31</sup> Garrow, *Liberty and Sexuality*, 277-9.

second time she had raised the issue in two years.<sup>32</sup> There is other evidence that concern for women's autonomy in situations including, but not being limited to, conception resulting from rape motivated support for reform in these early years of abortion rights advocacy.<sup>33</sup>

In 1959, the American Medical Association endorsed the availability of birth control<sup>34</sup> and the American Law Institute (ALI) advocated for abortion to be made legal in situations of rape, incest, fetal deformity, or if the pregnancy risked the mother's physical or mental health.<sup>35</sup> Garrow claims that “[a] number of law reviews also published articles endorsing the ALI therapeutic reform proposal, but the *Georgetown Law Journal* published a two-part, 220-page attack on the burgeoning liberalization drive.”<sup>36</sup> A variety of arguments have been

<sup>32</sup> Ibid, 276.

<sup>33</sup> Garrow, *Liberty and Sexuality*, 282-3 notes that, “[o]n April 12, 1961, a newly elected member of the California Assembly, John T. Knox of Contra Costa County, introduced an [American Law Institute]-style therapeutic reform bill in the state legislature. Knox had never forgotten a story he had seen several years earlier about a Colorado woman who had been unable to get an abortion for a pregnancy that was the result of a rape, and an attorney friend in state government who had seen the Packer and Gampell study had reinforced Knox's interest in the issue. The rape story had ‘made a very deep impression on me,’ Knox recalled twenty years later, and although no immediate action was taken on his measure, his initiative was nonetheless notable and unique.”

“Soon after Knox's move the Saturday Evening Post published a major, three-part series of articles on abortion by well-known journalist John Bartlow Martin. Two of the three pieces focused upon the medical horror stories of women who suffered death or serious injury as a result of illegal abortions, and repeated the estimate of perhaps five thousand fatalities nationwide each year... ‘No one,’ Martin added, ‘has proposed to repeal the abortion laws outright, though feminist movements assert the right of a woman to decide whether to continue a pregnancy.’”

On page 293-5, Garrow adds that Garrett Hardin, a “forty-eight-year-old University of California at Santa Barbara biologist” argued for women’s rights to abortion in several public speeches. In 1963, Hardin gave a speech, “now titled ‘Abortion and Human Dignity,’ to a sizable audience at the University of California in Berkeley. He reiterated that ‘any woman, at any time, should be able to procure a legal abortion without even giving a reason,’ and that such a practice—what he memorably called ‘a policy of abortion on demand’—was ‘the only morally defensible arrangement.’ The ‘underlying justification for all birth control practices,’ Hardin emphasized, was simple and undeniable: ‘to free women from a now needless form of slavery, to make a woman the master of her own body. The emancipation of women is not complete until women are free to avoid the pregnancies they do not want.’”

Garrow’s book contains many direct quotes from early advocates of abortion reform which clearly show that they had a mixture of feminist and conservative medical motivations.

<sup>34</sup> Kathryn Cullen-DuPont, *Encyclopedia of Women's History in America* (New York: Infobase Publishing, May 2014; first published 1996), 202.

<sup>35</sup> Robert N. Karrer, “The National Right to Life Committee: Its Founding, its History, and the Emergence of the Pro-Life Movement Prior to *Roe v. Wade*,” *The Catholic Historical Review* 97, no. 3 (July, 2011), 529.

Nossiff, *Before Roe*, 35 adds that the 1957 Planned Parenthood conference “passed a resolution requesting that the American Law Institute (ALI) and the Council of State Governments conduct studies to create a model law that could be used to update state laws on abortion. Two years later, the ALI drafted the following model penal code, which defined justifiable abortions: ‘A licensed physician is justified in terminating a pregnancy if he believes that there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother or that the child would be born with grave physical or mental defect, or the pregnancy resulted from rape, incest, or other felonious intercourse.’”

<sup>36</sup> Garrow, *Liberty and Sexuality*, 281. The author of this report has no reason to doubt Garrow’s claim, though no citation is provided.

advanced for the growth in support for abortion rights at this time.<sup>37</sup> However, advocacy for reforms to abortion law seems to have continued to be primarily the preserve of medical and legal professionals.<sup>38</sup> For

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<sup>37</sup> Kristin Luker, *Abortion and the Politics of Motherhood* (Berkeley: University of California Press, 1984), 56-9 notes several factors “that helped transform the emerging medical differences of opinion into a social problem.” From the 1950s, “therapeutic abortion boards” were set up in hospitals. These boards decided which abortions could be conducted. Luker argues that “when there is no consensus about how to assess the criteria—as there increasingly was not in the 1950 and undoubtedly would not be today—there is an almost irresistible pull to degrade the system, to convert it into some other kind of system... As they degenerated from criteria systems into systems based on quotas and markets, their legitimacy became increasingly problematic both inside and outside the medical profession. This failure of legitimacy began to give rise to new feelings of discontent. As therapeutic abortion boards became perceived as more and more unworkable and unfair, physicians began to cast about for other resolutions of the dilemma. And the search for new resolutions was hampered by at least two important social developments: the changing locale of medical practice and the emergence of an institutionalized ‘strict constructionist’ view of abortion.” Many of these claims are uncited. Luker explains on page 46 that the term “strict constructionists” means “those who accepted abortion only to preserve the physical life of the woman.”

Keith Cassidy, “The Road to Roe: Cultural Change and the Growth of Acceptance of Abortion Prior to 1973,” *Life and Learning* 7 (1998), 9 notes previous arguments (which he regards as “inadequate” explanations) that “structural changes in women’s lives and employment, the acceptance of birth-control and of the sense that control of fertility was a right, population anxieties, the civil-rights and anti-war movements, the youth culture of the 1960’s, able leaders and particular events (such as the Finkbine case)” contributed to “the rapid and complete success of the call for an unlimited right to abortion.”

Instead, on pages 10-11 Cassidy ascribes a greater causal role to philosophical and intellectual shifts that “made much less plausible the assertion that even in its early stages a fetus was fully human, whatever its appearance, and was entitled to the same absolute protection as any other human” and to greater absolute rights, including for a woman’s privacy over abortion.

Nossiff, *Before Roe*, 34 notes that “The AMA’s control over abortion remained unchallenged until the 1950s... A study released in 1951, however, showed that a surprisingly high number of therapeutic abortions were still being performed by physicians, though most of the reasons they gave did not, strictly speaking, constitute legal grounds for the procedure. This situation eventually led to a split within the medical profession.”

Marvin Olasky, *The Press and Abortion, 1838-1988* (Hillsdale, New Jersey: Lawrence Erlbaum, 1988), page xii has argued that there was a change in news coverage on abortion. Olasky summarizes on page xii that “19th century press coverage showed clear concern for the life of the unborn child as well as the health of the mother” but that “Newspapers from [the mid 20th century] on both set a pro-abortion agenda and were used by those setting agendas.”

Several of the contributions in Donald T. Critchlow (ed.) *The Politics of Abortion and Birth Control in Historical Perspective* (University Park, Pennsylvania: Pennsylvania State University Press, 1996; first published 1995) draw attention to increasing population pressure in postwar America and this may have led to further support for contraception, and possibly abortion by extension. John Sharpless notes on page 87, for example, that “The period from 1967 to 1974 might be described as the ‘era of unrestrained enthusiasm’ of government-sponsored family planning.”

<sup>38</sup> C. E. Joffe, T. A. Weitz, and C. L. Stacey, “Uneasy Allies: Pro-Choice Physicians, Feminist Health Activists and the Struggle for Abortion Rights” *Sociology of Health and Illness* 26, no. 6 (September 2004), 775-96 note, for example, that “Abortion reform was framed as a desire to give expanded discretion to the medical profession. This initial physician interest in abortion law reform, rather than outright repeal of existing law, would shortly put them at odds with 1960s feminist activists.”

Luker, *Abortion and the Politics of Motherhood*, 71, writing about reform efforts in California in 1959-61, argues that “abortion was taken up as an issue [in California] primarily by people who were members of professional elites. Packer was on the faculty of the Stanford Law School and Gampell was a specialist in forensic medicine; and the persons who

example, a study of hospital practices in California was published in 1959, with the authors arguing that abortion should be decided by medical professionals and not by criminal law.<sup>39</sup>

In 1960, a bill was introduced in California following the ALI's guidelines, but it was tabled when representatives of the Catholic Church announced their intention to oppose the bill.<sup>40</sup> In 1961, the New Hampshire Medical Society prepared and sponsored legislation to make abortion to save a mother's life legal before the fifth month of pregnancy, extending the existing legislation which made such abortions possible at subsequent points in the pregnancy.<sup>41</sup> This prompted resistance from Catholics and conservatives, and although the state's legislature approved the bill, it was vetoed by the governor.<sup>42</sup> Other proposals for legal relaxations of the restrictions on abortion began to be made at around this time.<sup>43</sup> For example, in November 1958, an article in *America* magazine condemned recent support for moves towards abortion liberalization as

first brought the issue to the attention of Assemblyman Knox and then Assemblyman Beilenson were professionals affiliated with the state attorney general's office.”

On page 78, Luker quotes from an interview with a physician: “When we'd consult [our lawyers] and say, ‘We think this patient should be aborted, but we don't know if this is life-threatening or not,’ they'd say, ‘Well, you might be sued’... And so we would go ahead on the basis that it was a life-threatening disease or situation... But there was always the implication in the background that the district attorney, if he decided to make an issue of this, it could be a legal problem because even the district attorney couldn't interpret the law.” From this, Luker infers that, “the early physician-activists were primarily interested in securing legal backing for what they were already doing... they wanted their decision-making rights explicitly written into law, just to be on the safe side.”

<sup>39</sup> Tatalovich and Daynes, *The Politics of Abortion*, 43.

<sup>40</sup> Williams, *Defenders of the Unborn*, 41. Williams claims that, “[i]n the pre-Vatican-II era, when politicians believed that the Church hierarchy could still deliver the votes of its parishioners, [the threat of Catholic opposition] frightened many legislators.” Williams adds on page 50 that Alan Guttmacher despaired in 1963 that, “[t]he Catholic Church is so well mobilized and makes up such a large percentage of the population that changing the law of any state in the Northeast of the U.S.A. is a virtual impossibility at least for the next several decades.”

<sup>41</sup> Tatalovich and Daynes, *The Politics of Abortion*, 43.

<sup>42</sup> Tatalovich and Daynes, *The Politics of Abortion*, 42-3 explain that “[o]rganized medicine viewed this matter as essentially a medical problem, but as Lawrence Lader observed, it precipitated ‘a religious and political war.’ In a state with a 40 percent Catholic population, serious opposition to the proposal was mounted by the Most Reverend Ernest Primeau, bishop of Manchester. Moreover, the ultraconservative Manchester Union Leader strongly denounced the proposed changes in the law. Its publisher was a close ally of New Hampshire’s Governor Wesley Powell. Opponents repeatedly made the argument that any abortion is murder. In reaction, Protestant denominations, through the auspices of the Manchester Ministerial Association and the executive committee of the New Hampshire Council of Churches, supported the legislation as both moral and necessary.”

Karrer, “The National Right to Life Committee,” 529 adds that the “anti-abortion leader,” Roy Heffernan of Tufts Medical College, said in opposition to the bill that “Anyone who performs a therapeutic abortion is either ignorant of modern medical methods or is unwilling to take the time and effort to apply them.”

<sup>43</sup> Karrer, “The National Right to Life Committee,” 529 notes that “During the early 1960s minimal changes in abortion laws concentrated on granting hospitals the authority to use in-house committees to approve or disapprove of therapeutic procedures... In early 1963 California state representative Anthony C. Beilenson (D-59th District) introduced a modest bill to enlarge the scope for therapeutic abortions, although it would have legalized only 5 percent of current demand for the procedure. The bill died in committee.”

Luker, *Abortion and the Politics of Motherhood*, 67-72 describes consideration of a reform bill in California in 1961 that was similar to the American Law Institute’s model. There, aiding abortion was illegal (and the criminal was liable to imprisonment for two to five years) unless it was “necessary to preserve [the mother’s] life.”

advocating “a regression to barbarism.”<sup>44</sup> Of course, resistance can take many forms; there was likely a degree of resistance wherever liberalized laws were considered, such as opposition from some legislators and public condemnation by the Catholic clergy.<sup>45</sup>

The 1962 case of Sherri Finkbine, who travelled to Sweden to get an abortion after taking thalidomide and the 1964 outbreak of rubella brought the question of the legitimacy of abortions for medical reasons to greater prominence.<sup>46</sup> From 1962 on, the number of articles on abortion in popular magazines, newspapers,

<sup>44</sup> Karrer, “The National Right to Life Committee,” 529 notes that “A 1955 abortion conference, although most Americans were unaware of it, called for substantial changes in abortion laws. A few sympathetic law journal articles that decade added weight to the cause, as did the efforts of a small cadre of physicians. In 1958 America magazine entered the fray, attacking the conclusions of a New York panel that favored liberalization for economic and psychological reasons. The editors warned that... ‘Deliberate abortion, like its twin, euthanasia... is the ugly offspring of the moral positivism that grounds all distinctions of right and wrong in the lawmaking power of the state.’”

<sup>45</sup> Luker, *Abortion and the Politics of Motherhood*, 69-70 includes a quote from an interview with Democratic Californian assemblyman, John Knox: “I was a freshman legislator in January of 1961, when [my friend] talked to me about getting an abortion reform bill introduced... I’d read an article in Collier’s about a woman who had been raped by a mentally defective person who had escaped from some institution, and was being forced to bear the child. And I just thought that was outrageous. It made a very deep impression on me at the time. So when [my friend] asked me to do this... I thought about it, and really decided without talking to anyone, particularly my normal advisers, and decided to go ahead with it. I did remember mentioning it to Senator George Miller. He was kind of my mentor at the time—he was on the Rules Committee of the senate, he’s a very devout Catholic. I mentioned to George that I was thinking of introducing an abortion reform bill. He said, ‘Have you ever met Cardinal MacIntyre?’ And I said no. He said, ‘You’re about to.’” Luker adds that “As a result of his sponsorship of the bill in 1961, Knox ‘took a lot of heat.’” Quoting him again: “I was preached against in the 1962 election from virtually every Catholic pulpit in town and received some very angry letters from priests... The next year, 1963, the decision had to be made, well, what are we going to do now? And I had some reluctance, not that I was personally afraid of it, but I just didn’t like [offending] some very close friends of mine including Senator Miller, who were literally hurt by the thing. I mean, physically, they were very upset.”

Williams, *Defenders of the Unborn*, 53-7 describes Catholic resistance to moves towards abortion liberalization in California. For example, “Catholic diocesan papers brought the anti-abortion message directly into Catholic homes. They trumpeted the arguments of the church’s attorneys, charging that the legalization of therapeutic abortion would constitute an unprecedented attack on the nation’s constitutional foundation and the promise of the Declaration of Independence.”

<sup>46</sup> Nossiff, *Before Roe*, 36. On page 42 Nossiff notes that “In 1966, the California State Board of Medical Examiners charged several prominent physicians with performing illegal abortions though all the abortions had been for pregnant women exposed to rubella. As a result, thousands of physicians who had been previously inactive joined the reform campaign.” Pages 56-76 emphasize the importance of “competing ideas about the meaning of womanhood,” structural changes leading to emergent “political identity” for women, and their political mobilization. Tatalovich and Daynes, *The Politics of Abortion*, 44-7 and Suzanne Staggenborg, *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict* (New York: Oxford University Press, 1991), 14-5 present similar narratives of the importance of the Finkbine case and the rubella outbreak.

C. E. Joffe, T. A. Weitz, and C. L. Stacey, “Uneasy allies: pro-choice physicians, feminist health activists and the struggle for abortion rights” *Sociology of Health and Illness* 26, no. 6 (September 2004), 775-96 add that “the case of the ‘San Francisco Nine’—occurred in 1966 and involved nine San Francisco obstetrician/gynecologists who were abruptly threatened by the California Board of Medical Examiners with the loss of their medical licenses because they had been performing abortions in local hospitals on women who had been exposed to rubella (German measles), which was also associated with birth defects. The case, however, had an unintended effect, in that it galvanized the members of the medical community, both in San Francisco and nationally, to defend their colleagues. This defense of the accused physicians can be explained by their professional stature (all held positions in prestigious local medical institutions) – unlike the infamous back alley abortionists of the day who did not receive medicine’s support when they faced criminal

and social science journals increased. For example, one index of periodical publications includes 19 references to the abortion issue in 1962, compared to 6 in each of the previous 3 years. The number of published periodical references to abortion in the years 1966 to 1981 was more than six times the number in the years 1950 to 1965.<sup>47</sup>

At some point between 1962 and 1965, one of the first abortion rights organizations, the Society for Humane Abortion (SHA), was formed. They distributed copies of talks by the biologist Garrett Hardin; Hardin and SHA activists argued for abortion liberalization on feminist grounds, urging that women be granted bodily autonomy.<sup>48</sup> In 1964, the Committee for a Humane Abortion Law (soon renamed the Association for the Study of Abortion) was founded in New York by a mixture of physicians and those outside the medical profession; it elected a physician as leader, with one committee member explaining to Alan Guttmacher that “the future of the organization can best be served by a physician in the role of chairman.”<sup>49</sup>

In 1963, a British lawyer published a book called *The Right to Life*, which discussed the point at which life begins and the sanctity of human life. The book discussed abortion alongside euthanasia, the death penalty, and war.<sup>50</sup>

charges. Leading figures from the medical community, joined by prominent citizens in law and other fields, formed a defense committee to pay their legal expenses. Most noteworthy, over two hundred physicians from across the country, including the deans of 128 medical schools, signed an amicus brief that was filed on their behalf.”

<sup>47</sup> Tatalovich and Daynes, *The Politics of Abortion*, 40-2 note that The Readers’ Guide to Periodic Literature focuses more on popular magazines, whereas the Social Sciences and Humanities Index is more scholarly in thrust. There is little overlap between them, so this rough index represents a substantial body of the periodic literature. Since 1966, the total number of articles in both indexes was more than six times the number published from 1950 to 1965. The first real increase in the number of citations occurred during 1962.” In 1962, there were 14 publications listed by the Readers’ Guide and 5 in the Social Science Index compared to an average of 5 and 1 respectively in each of the previous three years. On page 42, they note that “A more scientific study of this media phenomenon is provided by Nguyenphuc Buutap, and it confirms these observations. Using content analysis, Buutap studied the news coverage given abortion by the New York Times from 1947 to 1977. During the 15-year period from 1947-61, the Times published 117 items on this subject. Its coverage increased markedly during the three subsequent periods of analysis: 392 items from 1962 to 1969, 584 items from 1970 to 1972, and 788 from 1973 to 1977.”

<sup>48</sup> Garrow, *Liberty and Sexuality*, 301 dates its formation to some time in 1963-4. “Society for Humane Abortion,” Social Networks and Archival Context, accessed July 29, 2019, <https://snaccooperative.org/ark:/99166/w6f53p00> also refers to the group as the Society for Humane Abortion” but dates its formation to 1962. Doan, *Opposition & Intimidation*, 58 refers to the group as the Society for Human Abortions and cites its start date as 1963. Melody Rose, *Abortion: A Documentary and Reference Guide: A Documentary and Reference Guide* (Westport Connecticut: Greenwood Press, 2008), page xiii claims that the “Society for Human Abortions” was formed on February 13, 1965. The author of this report has not checked the references in many of these claims, although Garrow cites an unpublished 1965 paper. Presumably, all these claims refer to the same group.

On Garrett Hardin’s talks, see footnote 33. Luker, *Abortion and the Politics of Motherhood*, 97 quotes an interview with an SHA activist: “When we talk about women’s rights, we can get all the rights in the world—the right to vote, the right to go to school—and none of them means a doggone thing if we don’t own the flesh we stand in, if we can’t control what happens to us, if the whole course of our lives can be changed by somebody else that can get us pregnant by accident, or deceit, or by force.”

<sup>49</sup> Garrow, *Liberty and Sexuality*, 296-7.

<sup>50</sup> Karrer, “The National Right to Life Committee,” 530, citing Norman St. John-Stevas, *The Right to Life* (London: Hodder and Stoughton, 1963).

Between 1962 and 1966, five states rejected legislation similar to the moderate reforms suggested by the American Law Institute.<sup>51</sup> Further reforms continued thereafter,<sup>52</sup> though anti-abortion resistance was successful in some states.<sup>53</sup>

In 1965, the Supreme Court decision in *Griswold v. Connecticut* invalidated the last remaining anticontraceptive state laws in Connecticut and Massachusetts.<sup>54</sup> Importantly for subsequent legal decisions regarding abortion, as Rosemary Nossiff summarizes, “the Court held that a Connecticut law that prohibited the sale of contraceptives to married couples was unconstitutional because it violated the individual’s right to be left alone, as guaranteed by the First, Fourth, Fifth, and Ninth Amendments.”<sup>55</sup> The later case of *Eisenstadt v. Baird* (1972) extended this ruling to unmarried relationships,<sup>56</sup> meaning that the use of contraceptives was now legal in all 50 states for adults.

In the 1960s and 1970s in various parts of the world, legislation permitting abortion was passed, either in specific circumstances or whenever it was sought.<sup>58</sup> Laws in most US states permitted abortion only if the life of the mother was endangered. In 1966, Mississippi reformed its laws to also permit abortion for survivors of

<sup>51</sup> Staggenborg, *The Pro-Choice Movement*, 34.

<sup>52</sup> Williams, *Defenders of the Unborn*, 84 notes, for example, that North Carolina passed an “ALI-style abortion liberalization bill” in 1967.

<sup>53</sup> Williams, *Defenders of the Unborn*, 85 notes that anti-abortion advocates had “a few major victories in the spring of 1967. All came in heavily Catholic states.” Williams lists rejections of reform in Connecticut, Maryland, and New York.

<sup>54</sup> Kathryn Cullen-DuPont, *Encyclopedia of Women's History in America* (New York: Infobase Publishing, May 2014; first published 1996), 202.

<sup>55</sup> Nossiff, *Before Roe*, 2, citing *Griswold v. Connecticut*, 381 US 479 (1965). On pages 40-1, Nossiff adds that “Since the early 1960s, activists in California had been organizing to liberalize the state’s abortion law. Initially, *Griswold*’s main effect was to induce other states to join the campaign. *Griswold* situated the debate over abortion policy precisely because the case specifically addressed birth control... The ruling enabled pro-abortion forces to make the argument that if access to contraception was part of marital privacy and was protected from State interference, abortion should be included on those grounds as well.”

<sup>56</sup> “*Eisenstadt v. Baird*,” US Supreme Court (March 1972), <https://caselaw.findlaw.com/us-supreme-court/405/438.html>. The judgement notes that “The Court of Appeals vacated the dismissal, holding that the statute is a prohibition on contraception per se and conflicts ‘with fundamental human rights’ under *Griswold v. Connecticut*... By providing dissimilar treatment for married and unmarried persons who are similarly situated, the statute violates the Equal Protection Clause of the Fourteenth Amendment.”

<sup>57</sup> Bridgette Dunlap, “*Eisenstadt v. Baird*: The 41st Anniversary of Legal Contraception for Single People,” (March 22, 2013),

<https://rewire.news/article/2013/03/22/today-marks-the-41st-anniversary-of-legal-contraception-for-single-people/>.

<sup>58</sup> Tatalovich and Daynes, *The Politics of Abortion*, 9-10 note that “Further liberalization came to Sweden in 1946 and 1963, and to Denmark during legal revisions in 1956, 1970, and 1973. Finland’s liberalized policy of 1950 was revised in 1970 to include abortion on demand for women under age 17 and those over 40. Norway’s 1960 reformed statute codified what had been common medical practice for years. All these countries permitted abortions for a wide range of therapeutic reasons. Before their latest revisions, for example, Denmark and Finland authorized the operation for the following: physical or mental illness that threatens the mother; rape or incest to women under a certain age; fetal abnormality; and a sociomedical provision that considered existing or potential physical and mental health problems caused by the mother’s living conditions. In 1970 both Denmark and Finland allowed abortion on demand for certain categories of women, and in 1973 Denmark fully legalized abortion on demand.”

For other examples, see the section on “Case law” in the “Abortion law” Wikipedia page,  
[https://en.wikipedia.org/wiki/Abortion\\_law#Case\\_law](https://en.wikipedia.org/wiki/Abortion_law#Case_law).

rape. Unlike subsequent more liberal reforms, this law did not include reference to the mother's physical or mental health.<sup>59</sup>

## 1966-73: Legalization of abortion in some states and initial anti-abortion resistance

From around 1966, media coverage of abortion issues increased.<sup>60</sup>

In 1966, Edward Golden of New York formed a small group to resist proposed changes to liberalize the state's abortion laws.<sup>61</sup> This seems to have been some of the first anti-abortion mobilization beyond resistance to reform from Catholic clergy and state legislators.<sup>62</sup> In December of the same year, a Cardinal in California organized the first meeting of the Right to Life League.<sup>63</sup> The Virginia Society for Human Life was founded in 1967 as the first formal state-level anti-abortion organization in the US.<sup>64</sup> Over the course of the next few years, anti-abortion activists and groups in other locations also began fighting further legislative changes at the state level.<sup>65</sup>

<sup>59</sup> Tatalovich and Daynes, *The Politics of Abortion*, 23-5.

<sup>60</sup> See footnote 47.

<sup>61</sup> Keith Cassidy, "The Right to Life Movement: Sources, Development, and Strategies," in Donald T. Critchlow (ed.) *The Politics of Abortion and Birth Control in Historical Perspective* (University Park, Pennsylvania: Pennsylvania State University Press, 1996; first published 1995), 139. Tatalovich and Daynes, *The Politics of Abortion*, 24 and 69 note that New York passed legislation in 1970 decriminalizing abortion in all circumstances.

Fred Shapiro, "'Right to Life' has a message for New York State legislators" (August 20, 1972), <https://www.nytimes.com/1972/08/20/archives/-right-to-life-has-a-message-for-new-york-state-legislators-the.html> explains that in 1972, after the passage of this liberal legislation, the group continued its anti-abortion activities, with Golden still at "the head of the table." Shapiro describes the group as "one of the toughest—and least expected—political monoliths ever to demonstrate to the New York Legislature" and lists letter-writing and lobbying among their tactics.

<sup>62</sup> See footnote 45.

<sup>63</sup> Williams, *Defenders of the Unborn*, 76-77. Williams adds that, "[t]he League's board of directors read like a 'who's who' of the Catholic Church's five-year-long campaign against abortion [reform] in the state." However, the Cardinal sent letters to other bishops in the state, encouraging them to make an effort to recruit Protestants and Jews. On page 78, Williams notes that another organization, called the California Right to Life League, was also set up in the Bay Area (the Right to Life League was based in Los Angeles)..

<sup>64</sup> Karrer, "The National Right to Life Committee," 541.

<sup>65</sup> See Karrer, "The National Right to Life Committee," 540-4. For example, on page 542 Karrer notes that, "[i]n California, medical professionals with the Catholic Physicians Guild; Cardinal James McIntyre, archbishop of Los Angeles; and ministers attempted to derail the 1967 Beilensen bill, which was patterned after modest ALI guidelines." Karrer notes on page 540 that in 1972, New York's "pro-life organization had its moment of glory when it collaborated with legislators to repeal the 1970 Abortion Act. New York Right to Life raised money, sent lobbyists to Albany, demonstrated, and even warned lawmakers of political retribution if they failed to cast a pro-life vote. Pro-lifers would not vote for them. Single-issue voting increasingly became an effective tool in the ensuing years. The bill passed both chambers, but the governor vetoed the bill."

Doan, *Opposition & Intimidation*, 71 notes that "Early opposition to abortion originated in states where abortion rights had made minor, but legislatively formal, inroads." Doan then cites the examples of California and Virginia.

By the mid 1960s, the media and Catholic writers were contributing to the debate on abortion.<sup>66</sup> In 1966, the Catholic Church's organizational presence in the US was reformed, creating the National Conference of Catholic Bishops (NCCB) and the United States Catholic Conference (USCC).<sup>67</sup> The NCCB asked Reverend James T. McHugh, director of the Family Life Bureau of the USCC, to begin documenting legislative efforts to liberalize abortion policy.<sup>68</sup> The Catholic Church had long held strict policies against abortion, at least as early as 1398, and had a more clearly anti-abortion tradition than other Christian denominations.<sup>69</sup>

In 1966, the Termination of Pregnancy Bill to liberalize abortion law was proposed in the United Kingdom. This sparked the launch of the Society for the Protection of Unborn Children (SPUC) in the UK in January 1967.<sup>70</sup> The group was unable to stop the Abortion Act, which permitted abortion to avoid health risks, from being passed in 1967.<sup>71</sup>

<sup>66</sup> Karrer, “The National Right to Life Committee,” 531-2 notes that “As abortion became a growing issue in the media and among medical and legal professionals, Catholic writers and theologians also began to deal with the subject. Journalist Russell Shaw wrote the booklet “Abortion and Public Policy,” published by the Family Life Bureau of the United States Catholic Conference (USCC) in February 1966... The Catholic periodicals America and Commonweal stood out as early opponents along with the newspapers National Catholic Reporter and the Wanderer as did the Linacre Quarterly, the very small Catholic academic journal for the National Federation of Catholic Physicians’ Guilds. Beginning in November 1965 and continuing for fifteen additional installments in the Linacre Quarterly through 1971, Monsignor Paul V Harrington, an official with the Archdiocese of Boston, wrote on varying aspects of the abortion issue. In his inaugural article Harrington said, restating the official Catholic position on abortion and providing little room for therapeutic procedures.”

On page 533, Karrer adds that one article in “the February 1966 issue of America... reflected on the ‘moral health of the American people.’ Three-fourths ‘would sacrifice the life of the unborn child to save, not the mother’s life, but her health,’ and ‘more than half ... lest it be born deformed ... [was] even more significant—and discouraging.’ A Commonweal editorial a month later called upon Catholics to “exert pressure against any major liberalization of state abortion laws.”

<sup>67</sup> Nossiff, *Before Roe*, 46 describes the roles of these organizations as “to unify and strengthen the bishops’ political voice” (NCCB) and “to administer to its programs” (USCC).

<sup>68</sup> Cassidy, “The Right to Life Movement,” 140.

<sup>69</sup> Jacoby, *Souls, Bodies, Spirits*, 30 notes that, “[s]ince 1398, procuring an abortion has been held by canon law to be an offence that automatically excommunicates the offender from the moment it takes place. Others who in some way facilitate abortion stand in perpetual danger of formal excommunication, should an interfering cleric choose to take such a drastic step... The act of abortion undermines the Church’s ethical and moral codes in a number of areas. First, and most obviously to the abolitionist, abortion violates the Fifth Commandment in that terminating a fetus is an act of murder. Moreover, where Protestants and other Christians seek to follow the Ten Commandments, the Catholic faith defines certain violations as a special kind of offence—a ‘mortal sin’... Thus, abortion in the terms of Catholicism is not merely any sin; it is the mortal sin of murder, which removes all grace from the one who commits it and results (if not repented of prior to death) in an eternity in Hell... Protestants have never adopted the position that some types of sins are more eternally grievous than others.”

<sup>70</sup> “Our history & aims,” Society for the Protection of Unborn Children, accessed February 6, 2019, <https://www.spuc.org.uk/our-work/history-and-aims>.

<sup>71</sup> “Abortion Act 1967,” UK Government, accessed July 16, 2019, <https://www.legislation.gov.uk/ukpga/1967/87/section/1>. See also “Q&A: Abortion law,” British Broadcasting Corporation (June 10, 2019), <https://www.bbc.co.uk/news/health-19856314>.

In September 1967, the first International Conference on Abortion was held in Washington D.C.<sup>72</sup> The USCC sent information about proposed abortion legislation to state Catholic Conferences, held meetings to build resistance, and communicated with the bishops, urging the importance of the issue.<sup>73</sup>

In 1967, Colorado legalized abortion in cases of rape, incest, or when pregnancy would lead to permanent physical disability of the woman. Between 1967 and 1972, twelve other states reformed their laws to permit abortions under some or all of these circumstances.<sup>74</sup> In 1967, surveys of 40,089 physicians conducted by Modern Medicine and of the American Psychiatric Association's membership found support for abortion when there was a risk of the mother's death (77% and 97% respectively) but not whenever requested, for any reason (14% and 24%).<sup>75</sup>

Sociologist Suzanne Staggenborg notes that in the late-1960s, the grassroots of the abortion rights movement were made up of “[w]omen, college students and other young people who were activated by earlier movements of the 1960s.” Supporters of abortion rights seem to have had diverse motivations; Staggenborg notes that organizational support was provided by “[t]he family-planning population, and women’s movements” and that “the Women’s National Abortion Action Coalition (WONAAC) was formed in 1971 by members of the Socialist Workers Party.”<sup>76</sup> Focusing on evidence from California, Kristin Luker similarly argues that during the 1960s, the movement for abortion reform shifted from comprising predominantly medical and legal professionals to including the wider women’s movement.<sup>77</sup> The population control

<sup>72</sup> Karrer, “The National Right to Life Committee,” 534 notes that “The seventy-two participants represented the disciplines of medicine, social science, ethics, and law. St. John-Stevens attended, as well as Jerome Lejeune, a noted Paris physician. Two books resulted: the conference publication *The Terrible Choice: The Abortion Dilemma* (New York, 1968) and John Noonan’s *The Morality of Abortion* (Cambridge, MA, 1970).”

<sup>73</sup> Nossiff, *Before Roe*, 47

<sup>74</sup> Tatalovich and Daynes, *The Politics of Abortion*, 24.

<sup>75</sup> Tatalovich and Daynes, *The Politics of Abortion*, 50-1. They add that “In 1968 87 percent of Michigan physicians endorsed a new abortion law. About half wanted ALI-type legislation and the other half approved more liberal, pro-choice legislation.” They also report the results of several other surveys of medical opinion, including on issues such as rape or abortion for economic reasons.

<sup>76</sup> Staggenborg, *The Pro-Choice Movement*, 18-28. Staggenborg does not explicitly limit these claims to the late-1960s, instead discussing the 1960s in general terms on page 18. Nevertheless, the examples of groups that Staggenborg discusses, including Zero Population Growth (1968), the Women’s Liberation Abortion Counselling Service (1968), Chicago Women’s Liberation Union (1969), the Clergy Consultation Service on Abortion (1967), and National Association for Repeal of Abortion Laws (1969), were all formed in the late 1960s.

<sup>77</sup> Luker, *Abortion and the Politics of Motherhood*, 92 notes that, “[p]rior to 1967, the abortion debate in California was conducted in a spirit of compromise and civility; professional men and women tied to one another by bonds of collegueship and sociability endeavored to create a new compromise on abortion that they envisioned would provide the basis for a second century of calm. But their efforts failed... women, as a self-conscious interest group, came to cast the abortion debate in an entirely new framework.”

The rest of the chapter, “Women and the Right to Abortion,” pages 92-125, details this change. For example, on pages 97-8, Luker notes that the Society for Humane Abortions conducted “leafletting, abortion teach-ins, and petitions... Finally, SHA began to take direct action by engaging in civil disobedience.” On page 95, Luker claims that “the drive for total repeal of abortion laws was carried forward by many evanescent organizations that formed for one ‘action’ and then disbanded, fairly spontaneous public activities such as demonstrations, ‘speak-outs,’ and ‘street theaters.’ Although these activities were undoubtedly instrumental in changing the public climate, they left few records and are difficult to study after the fact.” Hence, Luker focuses on the SHA. The year 1967 is treated by Luker as a watershed because that was the year in which California passed the Therapeutic Abortion Act, liberalizing Californian abortion law, with the

movement seems to have become more involved in the push for abortion reform in the late 1960s and early 1970s.<sup>78</sup>

In 1968 Pope Paul VI issued the encyclical *Humanae Vitae* that reaffirmed the Catholic doctrine that contraception is immoral.<sup>79</sup> The link made between the issues of contraception and abortion was controversial within the leaders of the anti-abortion movement.<sup>80</sup>

That same year, the National Right to Life Committee (NRLC) was formalized and stated goals in its first newsletter of improving communication in the anti-abortion movement and of setting up new local groups.<sup>81</sup>

result that “by late 1970, of all women who applied for an abortion, 99.2 percent were granted one. By 1971 abortion was as frequent as it would ever become in California, and one out of every three pregnancies was ended by a legal abortion” (described on pages 93-4). Luker doesn’t seem to provide any other justification for 1967 being a turning point in terms of women’s engagement in the movement; many of the changes that Luker describes are attributed to the 1960s generally.

Williams, *Defenders of the Unborn*, 96, however, notes that, in the late 1960s, James McHugh of the NRLC “encouraged bishops to recruit doctors and lawyers to lead the right-to-life committees. This strategy seemed natural because, up to that point, organizations on both sides of the debate had consisted disproportionately of members of the medical and legal professions... By 1968, this was beginning to change, but the language of public health still dominated the debates on this topic in professional medical societies and state legislatures.”

<sup>78</sup> Mary Ziegler, “The Framing of a Right to Choose: *Roe v. Wade* and the Changing Debate on Abortion Law,” *Law and History Review* 27, no. 2 (2009), 281-330 notes that, “[b]efore *Roe*, supporters of population control, now not associated with pro-choice advocacy, were willing to support abortion reform as a population control measure, designed to cut welfare expenses, reduce pollution, or cut illegitimacy rates. In turn, in spite of the numerous, non-eugenic arguments associated with population control, some politicians and members of the public remained convinced that population control reformers harbored racist or eugenic motives. Abortion opponents and pro-life activists responded by emphasizing not only the rights of fetuses but also the threat that population control reforms might pose to African-Americans and disabled Americans. Partly for this reason, some African-American leaders and members of the public who supported abortion after *Roe* opposed abortion reform when, before the decision, abortion was thought of as a method of population control.”

Ziegler describes on pages 291-6 the increased role played by groups including the Population Council and Zero Population Growth, Incorporated (ZPG) in the late 1960s and early 1970s. Involvement included “The Report of the Commission on Population Control and the American Future (the Rockefeller Report)” from Population Council, “which endorsed a broad variety of economic, social, and educational measures, including a call for the repeal of all criminal abortion laws,” as well as campaigning by ZPG activists “for better access to alternative reproductive techniques as a tool to preserve the environment and achieve zero population growth.” Subsequent sections of the article describe how abortion rights and women’s rights groups engaged with this rhetoric. For example, Ziegler notes on page 320 that, “[b]y early 1972, NOW had renamed its abortion task force the ‘Task Force for Reproduction and Its Control and the Development of Population Policy.’ In February of that year, the NOW Board considered partnering with the Ford Foundation on a population control study. In 1972, NOW also began working closely with ZPG on the campaign for abortion reform.”

<sup>79</sup> Paul VI, “Encyclical letter, *Humanae Vitae*,” accessed July 16, 2019, [http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae.html](http://w2.vatican.va/content/paul-vi/en/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae.html).

<sup>80</sup> Karrer, “The National Right to Life Committee,” 235.

<sup>81</sup> Karrer, “The National Right to Life Committee,” 239 notes that the message “in that first newsletter did not herald bold proposals as much as define the organization’s mission statement: ‘The national office hopes to keep the information moving among the Right-to-Life Committees in the various states,’ which reinforced NRLC’s original charge of 1967 that it was little more than an educational clearing house. It claimed that ‘ultimate success’ would come

The NRLC encouraged the creation of new state-level anti-abortion groups, then coordinated and supported them.<sup>82</sup> Its influence was limited; historian Prudence Flowers notes that before 1973, “It had almost no funds, was run out of the offices of the National Conference of Catholic Bishops, did not direct the activities of affiliated chapters, and took three years to hold its first formal meeting for state right-to-life leaders.”<sup>83</sup> It has been estimated that 250 state and local groups were affiliated with NRLC by mid-1972.<sup>84</sup> Some funding for state groups came from the Catholic Church.<sup>85</sup>

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by setting up right-to-life committees, designating a reporter for these pro-life groups who would send information to the national office, and donating money to keep the NRLC financially secure.”

<sup>82</sup> Karrer, “The National Right to Life Committee,” 539 notes that “[s]mall, independent right-to-life committees had already begun to emerge in various places across the United States as people learned about new legislation in their respective states. They became aware of the NRLC and relied on the national office for direction and information. Taylor continued to provide almost monthly newsletters, keeping the growing number of anti-abortion groups informed on legislation and court action.

“After nearly fifty years, the genesis of the right-to-life movement now can be seen clearly as the effort of ordinary people who established grassroots committees and small groups in the late 1960s. In 1966, Troy, NY, resident Edward Golden, who was in the building trade, became increasingly aware that members of the state assembly wanted to enact a bill to weaken the state’s anti-abortion law. The following year he formed a small group to monitor legislation. From that humble start, Golden founded the New York State Right to Life Committee in 1967.... Golden contacted the NRLC and soon began receiving material.”

Other descriptions in the article present the foundation of new groups as autonomous decisions by local advocates, although their relationship with the NRLC is not explicitly discussed, so it is unclear whether the group played any role, but the narrative reads as if it did not. Speculatively, as president of Kalamazoo (MI) Right to Life, Karrer may be biased towards emphasizing the independence of local groups.

Williams, *Defenders of the Unborn*, 94 notes that James McHugh of the NRLC “wrote to the nation’s bishops in June 1968 urging each of them to create a state right-to-life committee by September 15, in time for the upcoming legislative season. Many state Catholic conferences failed to meet this tight deadline... Nevertheless, McHugh’s directive shaped the course of the pro-life movement for at least the next five years. The pro-life movement would be led by laypeople, with the bishops playing a less public role, and it would be organized primarily at the state level, with the NRLC providing a limited degree of national coordination. While many of the right-to-life organizations engaged in public educational efforts and other activities, they were created for one central purpose: lobbying their state legislatures to defeat all abortion law reform proposals.”

<sup>83</sup> “Fighting the ‘Hurricane Winds’ of Abortion Liberalization: Americans United for Life and the Struggle for Self-Definition before *Roe v. Wade*,” *The Sixties* (May 2018), 1-25.

Williams, *Defenders of the Unborn*, 94 adds that, “[t]he NRLC began essentially as an adjunct of McHugh’s office, with a leadership team made up entirely of his personal associates. Its first president was Juan Ryan, a Catholic lawyer and lifelong friend from McHugh’s home state of New Jersey. McHugh’s personal assistant Michale Taylor, a twenty-six-year-old employee of the NCCB, became the NRLC’s executive secretary. The operation had a shoestring budget, so the NRLC had no paid staff in its early years; Taylor and Ryan were volunteers.

<sup>84</sup> Staggenborg, *The Pro-Choice Movement*, 35, citing Malcolm Potts, Peter Diggory, and John Peel, *Abortion* (Cambridge, UK: Cambridge University Press, 1977).

<sup>85</sup> Williams, *Defenders of the Unborn*, 95 notes that state level Catholic conferences “provided the seed money and offered occasional financial help along the way [of starting new organizations], although usually not to the extent that the organizations wanted. In North Dakota for instance, the state’s Catholic conference provided a \$5,000 startup grant but then required the organization to raise \$3,800 on its own almost immediately. Collectively, Catholic bishops provided the NRLC with approximately \$25,000 per year until 1973—an amount that did not go very far toward the goal of creating a lobbying presence in all fifty states.”

Another notable event of 1968 was the founding of Birthright International in Canada, providing alternative services to abortion clinics through crisis pregnancy centers (CPCs).<sup>86</sup> CPCs seek to provide support to pregnant women and new mothers.<sup>87</sup> Staff often also attempt to dissuade women who attend the CPCs from having abortions.<sup>88</sup> Apart from a single example from Hawaii in 1967, Birthright International seems to have organized the first CPCs.<sup>89</sup> From about 1969, several anti-abortion books were written, which variously included discussion of legal, theological, moral, and anti-industry themes.<sup>90</sup>

Around this time, there were many legal challenges to laws restricting abortion in the courts.<sup>91</sup> The September 1969 California Supreme Court ruling of *People v. Leon P. Belous* stated that California's pre-1967 antiabortion law was unconstitutionally vague in only permitting abortion if it was "necessary to preserve" a pregnant woman's life. The four-to-three majority ruling also asserted that, "[t]he fundamental right of the woman to choose whether to bear children follows from the Supreme Court's and this court's repeated acknowledgement of a 'right to privacy' or 'liberty' in matters related to marriage, family, and sex."<sup>92</sup>

Also around this time, there was some internal debate in the abortion rights movement as to whether it should advocate for an increased number of exceptions to abortion restrictions or for a repeal of all abortion

Williams adds that, "[a]lthough the right-to-life organizations depended on Catholic institutional support... [b]y the early 1970s, many of the state organizations were led by Protestants who felt free to take positions that contradicted official Catholic teaching. And the relationships between organizations and local bishops varied."

<sup>86</sup> "Discover Birthright," Birthright International, accessed July 16, 2019, <https://birthright.org/learn/>.

<sup>87</sup> Laura S. Hussey, "The Pro-Life Pregnancy Help Movement," *APSA 2012 Annual Meeting Paper*, accessed April 9, 2019, <https://ssrn.com/abstract=2107990>.

<sup>88</sup> See, for example, Michael Alison Chandler, "Antiabortion Centers Offer Sonograms to Further Cause" (September 9, 2006) [http://www.washingtonpost.com/wp-dyn/content/article/2006/09/08/AR2006090801967\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2006/09/08/AR2006090801967_pf.html) and Alice X. Chen, "Crisis Pregnancy Centers: Impeding the Right to Informed Decision Making," *Cardozo Journal of Law and Gender* 19 (May 22, 2013), [https://web.archive.org/web/20180425183027/http://www.cardozolawandgender.com/uploads/2/7/7/6/2776881/c\\_hen\\_cpcs\\_final.pdf](https://web.archive.org/web/20180425183027/http://www.cardozolawandgender.com/uploads/2/7/7/6/2776881/c_hen_cpcs_final.pdf), 936-7.

<sup>89</sup> Alice X. Chen, "Crisis Pregnancy Centers: Impeding the Right to Informed Decision Making," *Cardozo Journal of Law and Gender* 19 (May 22, 2013), [https://web.archive.org/web/20180425183027/http://www.cardozolawandgender.com/uploads/2/7/7/6/2776881/c\\_hen\\_cpcs\\_final.pdf](https://web.archive.org/web/20180425183027/http://www.cardozolawandgender.com/uploads/2/7/7/6/2776881/c_hen_cpcs_final.pdf), 935.

<sup>90</sup> Karrer, "The National Right to Life Committee," 536 notes that Dennis Horan, a Catholic law professor, "coedited the influential book *Abortion and Social Justice* (New York, 1972) with pro-life colleague Thomas Hilgers of the Mayo Graduate School of Medicine. Three other scholars also contributed during the early years. Theologian Grisez of Georgetown University wrote an important book, *Abortion: The Myths, the Realities, and the Arguments* (New York, 1970), which discussed the aspects of the Church's position on abortion through the centuries. In January 1971, Paul Marx, a sociology professor at St. John's University in Collegeville, Minnesota, attended the Symposium on Implementation of Therapeutic Abortion in Los Angeles and recorded its sessions. His explosive book *The Death Peddlers: War on the Unborn* (Collegeville, MN, 1971) was an inside look at the pro-abortion industry. A final contributor was Granfield, professor in the Columbus School of Law at The Catholic University of America, whose *The Abortion Decision* (Garden City, NY, 1969), was a frequently consulted resource for early anti-abortionists."

<sup>91</sup> Tatalovich and Daynes, *The Politics of Abortion*, 27-8 note that, "[b]y one count, in fall 1970 there were five such cases before the Supreme Court, more than 20 in lower federal courts, and many more in the courts of 11 states. By the time of the *Wade* decision, the Supreme Court could cite precedent based upon 18 state and federal cases."

<sup>92</sup> Garrow, *Liberty and Sexuality*, 377. Garrow adds that the court cited *Griswold v. Connecticut* and "extensively and explicitly relied upon Zad Leavy's amicus brief on behalf of the 178 medical school professors and deans."

restrictions. The former case had been advocated by the American Law Institute, the Association for the Study of Abortion, and Alan Guttmacher, but the National Organization for Women had made a resolution in favor of repeal in November 1967.<sup>93</sup> In 1969, the National Association for Repeal of Abortion Laws (NARAL, later renamed the National Abortion Rights Action League) was formed; that year, it held the First National Conference on Abortion Laws in Chicago and openly sided with a medical group performing abortions after referrals from NARAL members.<sup>94</sup> The group was at least partly driven by feminist ideals.<sup>95</sup>

Staggenborg argues that in the years around 1970, the abortion rights movement pursued non-confrontational strategies, including education and lobbying, but lacked the resources to do so with much success. Women's liberation groups also used direct action and confrontational tactics to press for abortion rights at this time, including disrupting the American Medical Association's conference to protest its lack of support for abortion rights and using public demonstrations, such as the "Children by Choice" national action day.<sup>96</sup> One article presents the abortion rights movement at this time as an "uneasy" alliance of physicians and feminists.<sup>97</sup>

Between 1967 and 1970, campaigners for abortion liberalization in Hawaii gathered endorsements from a range of religious, medical, and other influential groups, as well as support from both Democrat and Republican state politicians. In contrast, anti-abortion campaigners in the state relied heavily on Catholic organizational support. Though both sides used petitions, mail, telephone, and face-to-face campaigning techniques, it seems that only the anti-abortion advocates used mass demonstrations.<sup>98</sup>

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<sup>93</sup> Ibid, 335-88.

<sup>94</sup> Tatalovich and Daynes, *The Politics of Abortion*, 61-2. They add that the "militants" won an internal election over the "moderates." The militants also supported "calling for 'days of anger' in 11 cities" and "a series of national demonstrations on May 8, 1969, to coincide with Mother's Day," with "picket lines and sit-ins at many hospitals."

<sup>95</sup> Tatalovich and Daynes, *The Politics of Abortion*, 61 describe the group as, "the work of a small cadre of dedicated activists motivated strongly by feminist goals." They note that dinner speakers included Betty Freidan, a prominent feminist, "Dr. Lester Breslow, president of the American Public Health Association, and Dr. Alan Guttmacher, president of Planned Parenthood - World Federation." They cite the account of Lawrence Lader, *Abortion II: Making the Revolution* (Boston: Beacon, 1973), 88-98, describing Lader as "a key figure in [NARAL's] establishment." Garrow, *Liberty and Sexuality*, 350 notes that Garrett Hardin was a founding member (for a quote from his speeches, see footnote 33).

<sup>96</sup> Staggenborg, *The Pro-Choice Movement*, 37-54.

<sup>97</sup> C. E. Joffe, T. A. Weitz, and C. L. Stacey, "Uneasy allies: pro-choice physicians, feminist health activists and the struggle for abortion rights" *Sociology of Health and Illness* 26, no. 6 (September 2004), 775-96. They note that physicians were involved in the abortion rights struggle, such as through the Association for the Study of Abortion and its 1968 conference at Hot Springs, VA. However, "one doctor said at the AMA gathering [in 1970], 'Legal abortion makes the patient truly the physician: she makes the diagnosis and establishes the therapy.' Similarly, even physicians deeply committed to legal abortion voiced hesitation about what legal abortion would imply about the role of the physician in this new health service. As Robert Hall said, in a statement that was to prove quite prophetic, 'When it comes to the doctor, I think he is eventually going to be no more than a technician. This may be humiliating to him. But it is his unavoidable plight if we are to grant women their inherent right to abortion.' Reflecting these concerns, the AMA resolution that was passed by its House of Delegates contained the statement that doctors should not provide abortions 'in mere acquiescence to the patient's demand.'

<sup>98</sup> Tatalovich and Daynes, *The Politics of Abortion*, 71-3.

In 1970, Hawaii legalized abortions at the request of the woman for any reason, at any point in the pregnancy,<sup>99</sup> and New York, Alaska, and Washington followed (in Washington's case, following a referendum in 1970).<sup>100</sup> Political scientists Raymond Tatalovich and Byron W. Daynes characterize the arguments voiced for reform in Washington as having been “the problem of unwanted children, the implications of having illegal abortions, and the discriminatory nature of seeking abortions elsewhere.” In contrast, anti-abortion advocates raised moral concerns such as “the sanctity of human life.”<sup>101</sup> After successful resistance efforts in previous years, the Catholic Church in New York seems to have become complacent that abortion liberalization could be resisted with minimal mobilization.<sup>102</sup> Anti-abortion legislators may have made a similar mistake.<sup>103</sup> The New York legislature only passed the liberalization bill by a single vote.<sup>104</sup> One leading anti-abortion activist in the state attributed this defeat to insufficient lobbying efforts.<sup>105</sup> These new abortion rights laws seem to have encouraged some anti-abortion backlash; subsequently, abortion reform bills were rejected in several states,

<sup>99</sup> “Bill to Legalize Abortions Clears Hawaii Legislature,” New York Times (February 25, 1970), <https://www.nytimes.com/1970/02/25/archives/bill-to-legalize-abortions-clears-hawaii-legislature-bill-on.html>.

<sup>100</sup> See, for example, Mary C. Segers and Timothy A. Byrnes, *Abortion Politics in American States* (Armonk, NY: M.E. Sharpe, 1995), 4 and “Washington Early-term Abortion, Referendum 20 (1970),” Ballotpedia, accessed July 16, 2019, [https://ballotpedia.org/Washington\\_Early-term\\_Abortion,\\_Referendum\\_20\\_\(1970\)](https://ballotpedia.org/Washington_Early-term_Abortion,_Referendum_20_(1970)).

<sup>101</sup> Tatalovich and Daynes, *The Politics of Abortion*, 69.

<sup>102</sup> Williams, *Defenders of the Unborn*, 125 notes that, “[t]he Catholic response was surprisingly weak, because Catholics who opposed abortion did not believe that Cook’s bill would become law. Three years earlier, in 1967, Catholics had mounted an all-out campaign to stop an abortion liberalization effort, and they had done the same the following year. In 1970, they did not put up the same fight... [Republican senate majority leader Earl Brydges] historic support for the Church’s cause and his previous unwillingness to bring abortion bills to the floor had given the bishops the false impression that the senate was more staunchly opposed to abortion than it actually was, and they underestimated the effect that Brydges’ unexpected acquiescence would have on the legislative body over which he presided. As late as March—nearly two months after Brydges’s staff had drafted an abortion legalizaton bill for the senator to introduce—the New York diocesan paper Catholic News continued to describe Brydges as ‘an opponent of loosening the present safeguards on abortion in the state’... the reports on the abortion bill that appeared in the Catholic News only one week before the senate vote on the measure gave no indication that the bishops thought the bill would pass or that they considered the matter an urgent priority. The Catholic News headline ‘Latest Abortion Bill Seen as No Different from Rest’ hardly seemed calculated to alarm the faithful, so it was not surprising that state legislators reproted receiving few letters protesting the bill.” On page 126, Williams describes how the bishops and anti-abortion activists became more active once the bill passed through the state’s Senate, lobbying legislators and organizing demonstrations.

<sup>103</sup> Williams, *Defenders of the Unborn*, 125-6 notes that the Republican senate majority leader Earl Brydges “had overestimated the strength of this pro-life coalition [of Republicans and socially conservative Democrats]. Brydges had likely supported abortion law repeal only because he thought that it was too radical to pass; by helping to draft a repeal bill, he thought he could stave off more modest liberalization proposals and preserve New York’s restrictive abortion law while also appearing not to stand in the way of the Republican governor’s effort to liberalize the law. But he had miscalculated. At the last minute, perceiving a wave of support for a bill that he had thought would be viewed as too extreme, he announced his opposition to the measure that he had helped to bring to the floor. Brydges’s eleventh-hour statement came too late. The bill passed in the state senate by a vote of thirty-one to twenty-six.”

<sup>104</sup> Ibid, 126-7. In fact, it had previously been rejected in the assembly by three votes, which Williams refers to as the “result of the pro-life lobbying.” Nevertheless, the bill was reintroduced the following week through “a point of parliamentary procedure.”

<sup>105</sup> Williams, *Defenders of the Unborn*, 129 notes that, “[p]art of the problem, New York pro-lifers decided, was that they had relied on the bishops to lobby for their cause instead of leading the campaign themselves. New York had several pro-life groups, but they were primarily educational or letter-writing organizations that lacked political influence. Edward Golden now recognized his mistake. ‘We realized we’d been steamrollered,’ he said. ‘The people who had been conducting the campaign in favor of abortion had done their work in the corridors of the Legislature, and we hadn’t.’ Golden decided that he and other pro-lifers needed to ‘roll up our sleeves and really become political.’ It might already be too late for that strategy, it seemed.”

perhaps due partly to lobbying efforts,<sup>106</sup> and the membership of New York's anti-abortion movement grew.<sup>107</sup> After anti-abortion demonstrations and lobbying, in 1972, New York's legislature voted to repeal the liberal abortion law that had been introduced in 1970, but this repeal bill was vetoed by the Governor.<sup>108</sup>

That same year, the Republican senator Bob Packwood proposed the "National Abortion Act" to secure the "fundamental and constitutional rights" of women. Political scientist David Karol notes that this was the first proposed federal legislation on abortion.<sup>109</sup> Important also, the American Medical Association took a more favorable public stance on abortion rights.<sup>110</sup>

In April 1971, in *United States v. Vuitch*, the Supreme Court permitted a D.C. law banning abortion except when necessary to protect the health or life of the woman. However, the court's emphasis on the importance of doctors' professional judgement in approving abortion procedures reflected a focus on medical (as opposed to moral) considerations that would become significant in the 1973 Supreme Court decisions.<sup>111</sup>

<sup>106</sup> Williams, *Defenders of the Unborn*, 142-3 notes that, "[p]ro-lifers had long warned that the abortion liberalization movement would soon lead to abortion on demand, but before the 1970s, proponents of abortion law liberalization had dismissed their concerns. After the legalization of elective abortion in New York, Hawaii, Alaska, and Washington, that was no longer possible... Seizing on this moment of public discomfort, pro-lifers regrouped and succeeded in blocking new proposals for abortion legalization in several states in the spring of 1971. In Wyoming, Indiana, and Illinois, they succeeded in getting abortion law repeal bills killed in committee. In Colorado and Montana, they defeated abortion law repeal bills on the House or Senate floor. One of their most striking successes occurred in Mississippi, where a state right-to-life organization orchestrated a letter-writing campaign that flooded state legislators' mailboxes with petitions against an abortion law repeal bill. When pro-lifers brought a coalition of hundreds of people, including not only Catholics but also Baptists and Jews, to speak against the abortion bill, the committee voted eleven to two to kill it. Altogether, at least twenty-five state legislature took up consideration of permissive abortion legislation in the spring of 1971, and pro-lifers succeeded in defeating every one of those bills."

<sup>107</sup> Williams, *Defenders of the Unborn*, 144 notes that, "[i]n the wake of the legalization of elective abortion, many people decided to join the pro-life cause for the first time, particularly in New York, now the nation's leading supplier of legal abortions. Prior to 1970, the state right-to-life organization that Edward Golden chaired was small and mostly ineffective; the Catholic Church in the state, rather than grassroots right-to-life organizations, was forced to take the lead in lobbying Albany when the legislature had debated abortion legalization. But immediately after New York passed its abortion law, Golden's Right to Life Committee began growing exponentially. By the spring of 1972, the committee had fifty county chapters and at least 200,000 members." Williams also notes on page 194 that Al Fortman, the president of the North Dakota Right to Life Association, who led anti-abortion resistance to proposed reform in that state in 1972, "had been sympathetic to some therapeutic abortion reform laws in the late 1960s, but after unrestricted first- and second-trimester abortions became legal in New York and several other states, he changed his mind."

<sup>108</sup> Ibid, 175-7. Williams notes that "[t]he assembly passed the repeal bill by a vote of seventy-nine to sixty-eight; the senate likewise adopted it by a vote of thirty to twenty-seven. As expected, the governor vetoed the measure... Several legislators who had voted in favor of abortion legalization in 1970 had switched their votes in 1972." Of course, the impact of the various anti-abortion tactics used, including mailings and marches, is unclear.

<sup>109</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 58. The author of this report has not checked Karol's claim that this was the first such legislation to be proposed, but he has not come across any earlier examples.

<sup>110</sup> Tatalovich and Daynes, *The Politics of Abortion*, 54-6. The AMA's Board of Trustees recommended that its delegates "establish a policy on abortion that would permit the decision to interrupt pregnancy to be made by the woman and her physician. However, no physician should be required to perform an abortion and no hospital should be required to admit a patient for abortion." On 53-8, they note that in 1967 and 1968, the AMA and American College of Obstetricians and Gynecologists respectively had endorsed the American Law Institute's model for limited reform of therapeutic abortions.

<sup>111</sup> Linda Greenhouse, *Becoming Justice Blackmun* (New York: Times Books, 2005), 78.

In August 1971, Americans United for Life (AUL) was formed as a national organization. Its focus was initially on education.<sup>112</sup> In 1971, Alternatives to Abortion International (later renamed Heartbeat International) was founded by 60 crisis pregnancy centers.<sup>113</sup> In 1971, John Willke of Cincinnati Right to Life produced a four-page color pamphlet called *Life or Death*, which, according to anti-abortion activist and historian Robert Karrer, “became the most widely used anti-abortion tract during the 1970s and was translated into many languages.”<sup>114</sup>

A poll in September 1972 suggested that 59% of Michigan voters favored supporting an upcoming referendum to permit abortion through the first twenty weeks of pregnancy without requiring state residency.<sup>115</sup> In November, however, 61% voted against the referendum.<sup>115</sup> This apparent change in public opinion was potentially caused partially by anti-abortion activism. Karrer summarizes that, beginning in September, the group Voice of the Unborn waged a “short but effective campaign”:

‘The humanity of the child is the only issue,’ stated Richard Jaynes, a Detroit-area physician and president of the coalition. ‘Nobody has the right to deprive him of his life—not even his mother.’ Working with the Michigan Catholic Conference (that sponsored the campaign “Love and Let Live” with the 950 Catholic parishes in the state), anti-abortion volunteers distributed literature to tens of thousands of homes, primarily the Willke brochure ‘Life or Death.’ Willke came to the state late in the campaign, visiting several mid sized cities to speak against the referendum and promote his ‘Life or Death’ tract. The tide turned in the final two weeks. That November, Voice of the Unborn garnered 61 percent of the vote and swiftly established itself as one of the most effective anti-abortion groups in the country.”<sup>116</sup>

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<sup>112</sup> Flowers, “Fighting the ‘Hurricane Winds,’” 13 notes that “AUL’s approach was different. The group wanted to shape opinion and attitudes, but aimed to evoke a more analytical, cerebral reaction from the public. AUL’s 1972 book *Abortion and Social Justice* emphasized that it avoided ‘strident, unreasoned polemical’ positions because the authors understood that ‘appeals to the emotions, pro or con’ were no longer sufficient in the abortion debate. They wanted people to ‘know’ what abortion was, and this meant locating it in a social, political, legal, and philosophical context. AUL was less focused on the specifics of the medical procedure. Graphic images of abortion appeared in *Abortion and Social Justice*, but there were only four pictures, and they came after almost 270 pages of dense legal, medical, and social analysis. The images were supplemental rather than a constitutive part of the argument, in contrast to Willke’s heavy emphasis on the visual. Ultimately, AUL used the professional expertise of its board to help Americans come to a reasoned understanding of the significance of abortion on demand. This focus on education occurred in spite of a newly partisan interest in exploiting abortion as a federal election issue.”

Flowers presents this focus as coming from an optimism that good education could drive legislative change, citing the doctor Joseph Stanton, an AUL member: “I view the main and essential thrust of A.U.L. as educational, a humanitarian and moral presence, doing a job no other group is doing. I have confidence, if we educate America on the issue and the values involved, we will not have to concern A.U.L. with politics or lobbying. Knowledgeable people will activate themselves on this issue.”

<sup>113</sup> Hussey, “The Pro-Life Pregnancy Help Movement,” 27, citing Margaret H. Hartshorn, *Foot Soldiers Armed with Love: Heartbeat International’s First Forty Years* (Virginia Beach, VA: The Donning Company Publishers, 2011).

<sup>114</sup> Karrer, “The National Right to Life Committee,” 544

<sup>115</sup> Karrer, “The National Right to Life Committee,” 547. The September poll was carried out by Detroit News and Free Press, both reported in September that 59 percent of the state’s voters favored the referendum, including the popular Republican governor William G. Milliken.”

<sup>116</sup> Ibid, 547.

In the same month, voters in North Dakota rejected a referendum to liberalize abortion laws, by 77% to 23%.<sup>117</sup>

Similar tactics seem to have been involved, including voter mobilization through speaking engagements and distribution of the pamphlet *Life or Death*.<sup>118</sup>

During the presidential election campaign of 1972, Republican president Richard Nixon asserted an anti-abortion stance (no prior US president seems to have discussed the issue so publicly and assertively), while George McGovern, the Democratic candidate, tried to avoid the issue. Nixon was re-elected.<sup>119</sup>

On December 9, 1972, the board of the National Right to Life Committee (NRLC, the largest national anti-abortion organization, with 250 affiliated state and local groups<sup>120</sup>) voted to sever official ties with the Catholic Church and to restructure the organization. This seems to have been caused by several factors, including a desire for the NRLC to accurately represent the views of local organizations, a desire for the NRLC to be well-placed to retain a national leadership position within the anti-abortion movement, and concerns that ties to the USCC were preventing fundraising for lobbying.<sup>121</sup>

Williams, *Defenders of the Unborn*, 191 notes that in November 1972, Voice of the Unborn had more than 10,000 members and spent \$200,000 on the campaign.

<sup>117</sup> Tatalovich and Daynes, *The Politics of Abortion*, 68.

<sup>118</sup> Karrer, “The National Right to Life Committee,” 547-8 writes that “[i]n June, 56 percent of voters said they intended to vote against the referendum. During 1972 [Albert Fortman, leader of the state’s Right to Life group] traveled the state and helped to establish thirty-nine local right-to-life groups to fight the ballot initiative. The American Lutheran Church and the Lutheran Church-Missouri Synod supplied leadership and energized congregations, as did the two Catholic bishops who organized the Catholic vote. During the final stage of the anti-abortion campaign, hundreds of volunteers distributed thousands of brochures. The Knights of Columbus passed out Willke’s ‘Life or Death.’ In the end, the referendum was soundly rejected, 77 to 23 percent.”

Williams, *Defenders of the Unborn*, 193 notes that the North Dakota Right to Life Association had, by the end of summer 1972, “30,000 members, a newsletter that reached 150,000 readers, and a campaign war chest of \$100,000—an impressive feat in a state whose population barely exceeded 600,000.”

<sup>119</sup> William B. Prendergast, *The Catholic Voter in American Politics: The Passing of the Democratic Monolith* (Washington DC: Georgetown University Press, 1999), 161. On pages 161-2, Prendergast notes that several examples of Richard Nixon demonstrating an anti-abortion stance, including that “On 5 May [1972] the president rejected his commission’s proposals [those of the Commission on Population Growth and America’s Future] declaring abortion ‘an unacceptable means of population control,’ a position that echoed the Catholic bishops who denounced the report on 13th April.

On page 162, he notes that “Whereas Republican spokesmen labeled McGovern the candidate of abortion (as well as acid and amnesty), the Democratic strategy was to keep abortion out of the campaign. Exercising their strong control of the Democratic National Convention, the McGovern forces mustered 58 percent of the delegates to vote down a motion to insert in the platform an endorsement of unrestricted abortion. During the campaign, when questioned or attacked on abortion, McGovern asserted that its regulation should be left in the hands of the states—the same position (he insisted) that Nixon held... But McGovern, unlike Nixon, made no effort by word or gesture to associate himself with the position of the bishops on abortion.”

<sup>120</sup> See the paragraph above beginning “That same year, the National Right to Life Committee...”

<sup>121</sup> Karrer, “The National Right to Life Committee,” 548-57, especially 552.

Though their influence within the Party remained limited, feminists sought to add an abortion rights plank to the Democrats' election platform at the 1972 Democratic Convention. Earlier that year, Democratic Representative Bella Abzug had proposed a national bill for abortion rights.<sup>122</sup>

Between 1966 and 1973, 13 states had passed laws permitting abortions to protect the woman's physical and mental health, 1 to allow abortions after rape, and 4 had legalized abortion for any reason. With the exception of 3 states that prohibited abortion in all circumstances (Louisiana, New Hampshire, and Pennsylvania), all other states prohibited abortion except when the woman's life was in danger.<sup>123</sup> Some states had rejected liberalized legislation by large margins.<sup>124</sup> There is evidence that women would travel from states where abortion was illegal to states where they could have the procedure.<sup>125</sup> Internationally, Tatalovich and Daynes count that, "Only 15 nations predated the United States in [liberalizing] abortion reform," mostly in Eastern Europe and Scandinavia, and that "only 6 other countries allowed abortion 'on demand' in 1974."<sup>126</sup>

## 1973-80: *Roe v. Wade*, anti-abortion mobilization, and political tactics

The January 22, 1973 *Roe v. Wade* ruling enforced a national framework for state legislation that decriminalized abortion on "n up to twelve weeks of pregnancy (the end of the first trimester). After this point, a woman could obtain an abortion for health reasons."<sup>127</sup> This landmark decision was likely encouraged by the

<sup>122</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 58. Based on these two examples, Karol argues that "leadership of the struggle for liberalization of abortion laws passed from doctors to feminists in the early 1970s. These activists were not satisfied with a gradual state-level reform process in which the professional prerogatives of physicians — as opposed to the reproductive rights of women — were expanded." Karol notes, however, that "The Democratic presidential nominee that year, Senator George McGovern (D-SD), held to a 'states' rights' position on abortion and blocked the feminists' proposed pro-choice plank... Despite rejecting the feminists' plank, McGovern was still tarred as the candidate of 'acid, amnesty and abortion.'"

<sup>123</sup> Tatalovich and Daynes, *The Politics of Abortion*, 24, and Matthew E. Wetstein, *Abortion Rates in the United States: The Influence of Opinion and Policy* (Albany, NY: State University of New York Press, 1996).

<sup>124</sup> Karrer, "The National Right to Life Committee," 544 notes that, "[f]or example, the Montana house rejected a bill (95 to 5) that would have repealed the state's anti-abortion law." See also the paragraphs above beginning "A poll in September 1972..." and "In the same month, voters..."

<sup>125</sup> Ted Joyce, Ruoding Tan, and Yuxiu Zhang, "Abortion Before & After *Roe*," *Journal of Health Economics* 32, no. 5 (September 2013), 804-15 summarize that they "use unique data on abortions performed in New York State from 1971 to 1975 to demonstrate that women traveled hundreds of miles for a legal abortion before *Roe*. A 100-mile increase in distance for women who live approximately 183 miles from New York was associated with a decline in abortion rates of 12.2 percent whereas the same change for women who lived 830 miles from New York lowered abortion rates by 3.3 percent. The abortion rates of nonwhites were more sensitive to distance than those of whites. We found a positive and robust association between distance to the nearest abortion provider and teen birth rates but less consistent estimates for other ages. Our results suggest that even if some states lost all abortion providers due to legislative policies, the impact on population measures of birth and abortion rates would be small as most women would travel to states with abortion services."

<sup>126</sup> Tatalovich and Daynes, *The Politics of Abortion*, 9. Which countries are being counted in the count of 15 nations that had reformed their laws is unclear; they do not include the UK in this list, despite the passage of the 1967 Abortion Act. France liberalized its law in 1975. Other countries presumably prohibited abortion entirely or permitted it only in limited circumstances, such as after rape or where the mother's health was at risk.

<sup>127</sup> "*Roe v. Wade*," Oyez, accessed July 16, 2019, <https://www.oyez.org/cases/1971/70-18>.

abortion rights activism of the past two decades.<sup>128</sup> Legal scholars Linda Greenhouse and Reva Siegel argue that “doctors and public health advocates played an important role in setting the nation on the road to *Roe*, but so too did movements for human freedom... As the women’s movement connected the abortion right to these larger claims of principle, the abortion conflict was constitutionalized.” Nevertheless, they note that the Supreme Court justified its decisions largely with reference to medical arguments, rather than moral ones.<sup>129</sup> The legal precedent of recent court decisions such as *Griswold v. Connecticut*, which had ruled that the Constitution protects the right of marital privacy against state restrictions on contraception,<sup>130</sup> was cited in the *Roe* ruling as justices weighed the right to privacy of those seeking abortion against the interests of the state.<sup>131</sup>

On the same day as the *Roe* ruling, the *Doe v. Bolton* ruling clarified that a variety of factors, “physical, emotional, psychological, familial, and the woman’s age,” could influence a medical decision to permit a late termination of pregnancy.<sup>132</sup>

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<sup>128</sup> Luker, *Abortion and the Politics of Motherhood*, 142 argues that the abortion rights movement appeared to the Supreme Court to have a broader base of support than the anti-abortion movement. Luker lists several national medical organizations that submitted amicus briefs and notes that “the abortion reform advocates appeared to be in large part ‘disinterested’; they belonged to organizations that could not be called ‘single-issue’ groups... Whereas the pro-abortion forces had mustered the support of over twenty ‘disinterested’ organizations, the pro-life forces were able to deliver amicus briefs from only four groups—Americans United for Life, ‘Certain Physicians and Fellows of the American College of Obstetricians and Gynecologists,’ National Right to Life, and LIFE (League for Infants, Fetuses, and the Elderly)—and all four were clearly ‘single-issue’ organizations, concerned exclusively with the abortion issue. The organizer of LIFE claimed that his nationwide group had ‘over a thousand’ members, which hardly compared with the 20,000 members of one California women’s group, or the 300,000 members claimed nationwide by Zero Population Growth [both of which also submitted amicus briefs]. Another incentive for the Court to rule on these cases was the fact that over a dozen states already had liberalized abortion laws with different and often conflicting provisions in them.”

<sup>129</sup> Linda Greenhouse and Reva Siegel, *Before Roe v. Wade: Voices that Shaped the Abortion Debate before the Supreme Court’s Ruling* (New York: Kaplan Publishing, 2010), pages ix-x notes that “the fact that neither women nor fetuses figured very prominently in *Roe v. Wade* makes it plausible to assume that feminist voices and right-to-life voices were simply missing, both from the arguments presented to the Supreme Court and from the public conversation. In fact, feminist and right-to-life positions were passionately expressed in public debate and in friend-of-the-court briefs filed in *Roe*. Yet, the Supreme Court issued a decision that appeared mainly responsive to the arguments of the medical community. In page after page, *Roe* reasoned from medical science, and in its main holding affirmed the autonomy of doctors to act in what they believed to be the best interest of their patients. The organized medical profession, which had spurred the criminalization of abortion a century earlier, had come only lately to view the hundreds of thousands of illegal abortions performed every year as a public health problem of urgent dimensions. The Court responded to these medical voices—which the justices heard through legal briefs and, more informally, through their reading and in their daily lives.”

They note that the justices emphasized “support for abortion’s decriminalization from doctors, the bar, many religious leaders, and the rising tide of public opinion,” perhaps because they were more “Mainstream sources of authority.”

Linda Greenhouse and Reva B. Siegel, “Before (and after) *Roe v. Wade*: New questions about backlash,” *Yale Law Journal* 120 (2010): 2028-87 note that there were public health, environment and population, sexual freedom and feminist framings that shaped the debate.

See also the paragraph beginning “In 1955, Mary Calderone...” above.

<sup>130</sup> “*Griswold v. Connecticut*,” Oyez, accessed October 4, 2019, <https://www.oyez.org/cases/1964/496>.

<sup>131</sup> “*Roe v. Wade*, 410 U.S. 113,” US Supreme Court (1973), <https://supreme.justia.com/cases/federal/us/410/113/>. Though one such interest was the state’s interest in protecting prenatal life, the justices concluded that “the word ‘person,’ as used in the Fourteenth Amendment, does not include the unborn.”

<sup>132</sup> “*Doe v. Bolton*, 410 U.S. 179,” US Supreme Court (1973), <https://supreme.justia.com/cases/federal/us/410/179/>.

The Republican party did not yet have a consensus position on abortion and so issued only a brief statement in response to *Roe v. Wade*, repeating Nixon's view that abortion should not be used for "population control," without commenting directly on the ruling.<sup>133</sup> Likewise, Evangelical leaders adopted various positions on the issue, or passed little comment on the decision, though there was some agreement on "a high view of the sanctity of human life, including fetal life."<sup>134</sup>

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<sup>133</sup> Daniel K. Williams, "The GOP's Abortion Strategy: Why Pro-Choice Republicans Became Pro-Life in the 1970s," *Journal of Policy History* 23, no. 4 (2011), 523-5. Williams also describes the mixed reactions of others in the Republican party.

<sup>134</sup> For example, W. Barry Garrett, "News Analysis," *Baptist Press* (January 1973), accessed April 24, 2019, <https://docplayer.net/89407224-By-w-barry-garrett-the-texas-decision-in-all-probability-invalidated-si-muar-laws-in-30-other-states.html>, notes that "There is no official Southern Baptist position on abortion, or any other such question. Among 12 million Southern Baptists, there are probably 12 million different opinions. Messengers to the Southern Baptist Convention, meeting in St. Louis in 1971, adopted a resolution acknowledging differing viewpoints on the question of abortion, and expressing 'the belief that society has a responsibility to affirm through the laws of the state a high view of the sanctity of human life, including fetal life, in order to protect those who cannot protect themselves.' The resolution further called on Southern Baptists 'to work for legislation that will allow the possibility of abortion under such conditions as rape, incest, clear evidence of severe fetal deformity, and carefully ascertained evidence of the likelihood of damage to the emotional, mental, and physical health of the mother.'"

Randall Balmer, *Thy Kingdom Come: How the Religious Right Distorts the Faith and Threatens America: An Evangelical's Lament* (New York: Basic Books, 2006), 11-12 argues that at the time, "the vast majority of evangelical leaders said virtually nothing about [Roe v. Wade]; many of those who did comment actually applauded the decision," and cites several other examples of evangelical leaders offering support for abortion in at least some circumstances.

In contrast, the official statement "Abortion 1973," National Association of Evangelicals (1973), <https://www.nae.net/abortion-1973/>, noted that "we deplore in the strongest possible terms the decision of the U. S. Supreme Court which has made it legal to terminate a pregnancy for no better reason than personal convenience or sociological considerations. We reaffirm our conviction that abortion on demand for social adjustment or to solve economic problems is morally wrong. At the same time we recognize the necessity for therapeutic abortions to safeguard the health or the life of the mother, as in the case of tubular pregnancies. Other pregnancies, such as those resulting from rape or incest may require deliberate termination, but the decision should be made only after there has been medical, psychological and religious counseling of the most sensitive kind."

Many anti-abortion activists were surprised by the court ruling.<sup>135</sup> There is anecdotal evidence that these two legal rulings catalyzed some activists' deeper involvement in the anti-abortion movement. For example, sociologist Ziad Munson notes that a "handful" of his activist interviewees "became mobilized immediately after the Supreme Court rulings."<sup>136</sup> Several right-to-life organizations saw a surge in engagement and

<sup>135</sup> A commonly cited example of this is the statement of one anti-abortion activist, who said that "we felt as though the bottom had been pulled out from under us. It was an incredible thing, I couldn't believe it... I think we all sort of took a lot of things for granted." (Cited in Doan, *Opposition & Intimidation*, 66 and elsewhere).

Ziad W. Munson, *The Making of Pro-life Activists: How Social Movement Mobilization Works* (Chicago: The University of Chicago Press, 2008), 83-4 notes that "Many pro-life activists today remember being shocked, angry, disappointed, or saddened when they first heard of the decisions. Diane, a fifty-nine-year-old in Charleston, sums up the experiences of many when she describes the time she first became interested in the abortion issue: 'It was right after the Supreme Court decision, probably right after. I mean, when that happened, I went WHOA! What a change.'"

Doan, *Opposition & Intimidation*, 72-3 adds that anti-abortion activists "were comforted by the political reality that abortion reform efforts at the state level were tapering off by 1972. Between 1967 and 1973, nineteen states liberalized their abortion laws; however, many of these legislative victories were won by a small margin... the reformed laws often did not lead to tangible changes; access to abortion remained problematic especially for poor women. Only four states assured women the right to terminate an unwanted pregnancy, and two of those states were geographically remote—Hawaii and Alaska. Pro-life advocates had good reason to believe that the legalization of elective abortions on a national scale would remain elusive, which is why January 22, 1973, was a devastating day for activists."

<sup>136</sup> Munson, *The Making of Pro-life Activists*, 84 notes that "Previous scholars have found that *Roe v. Wade* was a critical catalyst that led people into activism (Luker 1984; Staggenborg 1991). They argue that people such as Diane flocked to the pro-life movement, driven by the shock the Supreme Court decision gave to their moral views and understanding of the world. Only a handful of the activists I spoke with, however, actually became mobilized immediately after the Supreme Court rulings." Munson notes that 54% of the sample of 82 activists were "not even eighteen years old when *Roe v. Wade* and *Doe v. Bolton* were decided, but does not provide the percentage of those who indicated that the legal rulings influenced their involvement in the movement. Given that conceding a large influence of these cases would undermine Munson's argument, the concession that "a handful" were influenced by this implies that some activists attribute at least some importance to the rulings.

Luker, *Abortion and the Politics of Motherhood*, 137 notes that "[m]ore of the people we interviewed joined the pro-life movement in 1973 than in any other year, before or since; and almost without exception, they reported that they became mobilized to the cause on the very day the decision was handed down. For many of them, the memories of that day are extraordinarily vivid... The new group of people brought into active participation in the anti-abortion movement by the Supreme Court decision were predominantly women with high school educations (and occasionally some college) who were married, had children, and were not employed outside the home... the median number of children was 3.5 for those [of the interviewees] who joined before 1967 and 4.25 for those who joined between 1967 and 1973. But on the average, the 1973 recruits were a full decade younger than their predecessors and were thus more likely to have *small* children to care for." Luker does not mention having taken any measures to ensure that the interviewees were representative of the anti-abortion movement at this time, but pages 249-5 mention several steps that were taken to ensure that they were some of the most active people in the area.

Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), 38-9 cites "Elsah Drogin and Theo Stearns, the women who in 1974 founded Catholics United for Life (CUL), a California group focused on picketing abortion clinics" as further examples of "prominent national advocates [who] recall the Court's intervention as the reason for their mobilization." Ziegler adds that, "[I]n nonetheless, consistent with sociologist Ziad Munson's findings, other leaders who joined the movement after the *Roe* decision did not describe it as a major factor in their mobilization, citing several further examples of individuals identified through the interviews conducted for the book.

support; Minnesota Citizens Concerned for Life's membership rose by 50% in 4 months,<sup>137</sup> and Michigan Citizens for Life's membership rose from 10,000 in late 1972 to 50,000 in May 1973 and to 200,000 in 1976.<sup>138</sup> At least one new national anti-abortion group was formed.<sup>139</sup> Additionally, the June 1973 NRLC national convention had about 1,500 attendees from 46 states and Canada, a large increase from the previous conference in June 1972, which had had 280 to 380 attendees. Changes in organization at the NRLC may partially account for this difference, however.<sup>140</sup>

On January 30, 1973 (8 days after *Roe v. Wade*), Congressmen Lawrence Hogan proposed the first Human Life Amendment (HLA)<sup>141</sup> —that is, an amendment to the constitution to overturn the ruling of *Roe v. Wade* and to outlaw abortion.<sup>142</sup> Hogan's proposed HLA stated that neither federal nor state government "shall deprive any human being, from the moment of conception, of life without due process of law." Two other HLAs were proposed that year. Although one of these reached a Senate subcommittee vote in September 1974, it was rejected by a 5 to 2 vote.<sup>143</sup> Many HLAs have been proposed subsequently.<sup>144</sup> In the wake of *Roe*, Rhode Island, West Virginia, Indiana, and Utah sought to introduce new anti-abortion state legislation, but the new

<sup>137</sup> Karrer, "The National Right to Life Committee," 548 notes that "Anti-abortion leaders witnessed a new surge of activity. MCCL's Paul Andreini of the Mayo Clinic described the situation in Minnesota: 'We have seen here that many people who were marginally committed are now beating a path to our door asking what they can do.' Twelve new MCCL chapters organized between January and March, and state membership jumped 50 percent in four months. Kristin Luker writes that unlike the first period of pro-life activity when Catholic male professionals dominated the movement, a huge number of married women joined right-to-life groups in the period immediately after Roe: 'They were known to be devout, traditional women who valued motherhood.' Luker calls them 'the housewives'—a term borrowed from pro-lifers. They became the new driving force for the movement, eager for involvement and change."

Luker, *Abortion and the Politics of Motherhood*, 144 notes that "[b]efore 1973 most major cities in California had only one pro-life organization... but most major cities now [i.e. in 1984] have several, and most suburban areas have their own." Of course, this does not necessarily show that the 1973 legal rulings were the cause of this change.

<sup>138</sup> Williams, *Defenders of the Unborn*, 207-8.

<sup>139</sup> Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), 38 notes that, "the Court's decision prompted the formation of several new national groups, such as the Ad Hoc Committee in Defense of Life, a lobbying and education group founded by *National Review* editor J. P. McFadden."

<sup>140</sup> Karrer, "The National Right to Life Committee," 546 and 555. The 1972 conference had larger attendance in turn than the first and second conferences in previous years.

<sup>141</sup> Robert N. Karrer, "The Pro-Life Movement and Its First Years under 'Roe,'" *American Catholic Studies* 122, No. 4 (2011), 59.

<sup>142</sup> Brian L. Wilcox, Jennifer K. Robbennolt, and Janet E. O'Keeffe, "Federal Abortion Policy and Politics: 1973 to 1996," in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 4 notes that anti-abortion constitutional amendments "tend to fall into two distinct classes: right-to-life or human life amendments and states' rights amendments... note that "Some of these amendments have been crafted to allow for certain exceptions to the general ban on abortions (e.g., in cases of rape or incest, to prevent the death of or protect the health of the mother); others allow no exceptions. States' rights amendments would give states the option of setting their own abortion standard, much as was the case prior to the decision in *Roe*.

<sup>143</sup> Karrer, "The Pro-Life Movement," 59-61.

<sup>144</sup> For a list of HLAs 1973-2003, see Human Life Action, "Human Life Amendments: 1973-2003" (2004), <https://www.humanlifeaction.org/downloads/sites/default/files/HLAlst7303.pdf>. The definition of HLAs seems to vary; the author of this report recalls having seen other sources claiming that there have been smaller numbers of HLAs proposed than this source suggests, but neglected to record these sources at the time.

laws were struck down by courts in several of these states.<sup>145</sup> Other restrictive state-level anti-abortion legislation was maintained, however, at least in part.<sup>146</sup>

In addition to supporting HLAs, anti-abortion legislators pursued legislation at the state level. Political scientists Scott H. Ainsworth and Thad E. Hall note that 1973-84 saw a mean of 37 proposals per year.<sup>147</sup>

Between 1972 and 1973, national polls showed a rise in support for abortion rights in the population as a whole. Support had been rising in previous years and continued to rise subsequently.<sup>148</sup>

On December 8, 1973, the NRLC board agreed that the “first program priority” was “the development and implementation of a political campaign to effect passage of a Human Life constitutional Amendment.”<sup>149</sup>

Shortly after the *Roe v. Wade* ruling, the board of Americans United for Life (AUL) gave control to a medical attorney, Dennis J. Horan, who shifted AUL’s focus away from education and towards a legal strategy, though they continued to publish books setting forth moral arguments. By 1976, the group had formed the AUL Legal Defense Fund.<sup>150</sup> AUL won four of the seven Supreme Court cases between 1975 and 1981 in which

<sup>145</sup> Williams, *Defenders of the Unborn*, 210-1.

<sup>146</sup> Nossiff, *Before Roe*, 149 notes that “Pennsylvania was not alone in passing restrictive abortion laws just one year after Roe. Massachusetts and Missouri did the same. The 1974 Pennsylvania Abortion Control Act, SB 1318, shared many of the provisions of the Missouri act. These included viability regulations that physicians were required to follow and rules governing informed consent (a woman requesting an abortion had to be told the details of the procedure), spousal consent, unless the woman’s life was endangered, and parental permission for an abortion if the woman was a minor. But Pennsylvania significantly expanded restrictions on abortion by prohibiting the public funding of abortions unless the woman’s health or life was in danger—a restriction that proved to be widely popular on the state level in the period after Roe.”

On page 150, Nossiff adds that, “[w]ithin the next five years, the courts ruled on the constitutionality of several of the act’s provisions. In the first case, *Planned Parenthood Association v. Fitzpatrick* (1975), a district court deemed several provisions of the 1974 Abortion Control Act to be unconstitutional. The court held that spousal- and parental-consent provisions violated women’s rights to privacy, and that the prohibition of public funding for nontherapeutic abortions violated the equal-protection clause. It also struck down Pennsylvania’s definition of viability, which necessitated a standard of care, on the grounds of vagueness. Several provisions, however, were upheld including those regarding licensing, reporting, and medical procedures.”

<sup>147</sup> Scott H. Ainsworth and Thad E. Hall, *Abortion Politics in Congress: Strategic Incrementalism and Policy Change* (Cambridge: Cambridge University Press, 2011), 116 and 160-1.

<sup>148</sup> See the paragraph beginning “Polling from before *Roe v. Wade*” in the section on “Changes to Public Opinion.” For discussion of the effects of the legal ruling and surrounding campaigning on public opinion, see the paragraph beginning “Modelling abortion opinion...” and the subsequent paragraph in the section on “Institutional Reform.”

<sup>149</sup> Cited in Cassidy, “The Right to Life Movement,” 144. Cassidy notes that there was much debate about the specifics of the amendment to be proposed, and how radical it should be.

<sup>150</sup> “History,” Americans United for Life, accessed February 11, 2019, <https://aul.org/about/history/>. The site also notes that “Horan’s vision was simple: AUL and the movement needed a legal defense fund, an entity to draft laws that would do what was possible to save unborn life, while laying siege to Roe by ensuring that such laws were properly defended in the courts. For several years, Horan and a handful of colleagues did this on nights and weekends, on top of their demanding legal practices. Horan remained AUL’s driving force from 1973 until his untimely death in 1988, and the focus on abortion’s harm to women became central to AUL’s advocacy.”

they sponsored litigation or submitted *amicus curiae* briefs (a method of offering information and expertise relevant to a case), though this is a small number of cases compared to other interest groups.<sup>151</sup>

In the years after *Roe*, there seems to have been a shift away from population control arguments in the abortion rights movement;<sup>152</sup> population control organizations stepped away from the abortion rights movement<sup>153</sup> and other organizations seem to have distanced themselves from population control rhetoric.<sup>154</sup>

<sup>151</sup> Susan E. Lawrence, *The Poor in Court: The Legal Services Program and Supreme Court Decision Making* (Princeton: Princeton University Press, 1990), cited by Lee Epstein, “Interest Group Litigation During the Rehnquist Court Era,” *Journal of Law and Politics* 9 (1992), 691. For the 15 listed interest groups across different periods, “success rates” of litigation range from 37% to 88% and the number of cases reviewed ranges from 7 (the AUL LDF) to 345 (the US Solicitor General), with the next highest being the American Civil Liberties Union with 140 cases (of which they won 41%).

<sup>152</sup> Ziegler, “The Framing of a Right to Choose,” 283-4 notes that, “*Roe* was not the only reason for the decline of these arguments in the years between 1973 and 1980. Because some African-Americans identified population control reforms with racism, organizations that favored legalized abortion had reason to set aside population control arguments in order to avoid being accused of racism themselves... But if *Roe* was not the only reason that the abortion debate changed, it was an important reason. *Roe* brought rights-based arguments into new prominence and shifted the balance in the debate away from policy-based arguments, including those related to population control. As a consequence, population control was effectively eliminated as an influence on the abortion debate... By minimizing the role of population control in the abortion debate, *Roe* ultimately changed the way people thought and talked about abortion, and as a result, changed the coalitions on either side of the debate as well.”

<sup>153</sup> Ziegler, “The Framing of a Right to Choose,” 300-1 notes that, “[a]fter *Roe*, when population control rhetoric no longer played a significant role in the abortion debate, [The Population Council] distanced itself from abortion discussion. Thus, when Christopher Tietze began a 1975 study about the rate of legal abortions and abortion-related deaths, the Council no longer sponsored his research, and he instead pursued funding from Planned Parenthood’s Guttmacher Institute. Between 1974 and 1978, after Third World leaders at the 1974 UN Conference criticized population control initiatives, the Council also publicized domestic research on the safety of oral contraception rather than international programs or abortion studies.” Ziegler adds that, “[a]s population control arguments stopped playing a role in the abortion debate, ZPG [Zero Population Growth, Incorporated] stopped focusing exclusively on protecting abortion rights or even on access to contraception. In the summer of 1974, ZPG Executive Director, Robert Dennis, spoke publicly about a proposal by the organization to restrict legal immigration by 90 percent... This new emphasis was evident even into the late 1970s as ZPG’s involvement in pro-reform advocacy continued to decline. Instead of lobbying for funding for abortions or the appointment of pro-choice judges, ZPG joined the 1977 call for federally-funded ‘alternatives’ to abortion and continued arguing that immigration policy was a central part of population control.”

<sup>154</sup> Ziegler, “The Framing of a Right to Choose,” 308-12 shows that Planned Parenthood continued to use population control arguments for several years after *Roe*; the shift appears to have occurred gradually, in response to various events in the 1970s. There was at least some explicit effort to focus on the arguments used in *Roe*. For example, “[i]n a confidential memorandum, Robin Elliott, one of the [Planned Parenthood] conference organizers, summarized the conclusion of the Conference that an effective defense of *Roe* was central to Planned Parenthood’s ‘program gains’ in abortion and even contraception... Elliott summarized the concern of Planned Parenthood operatives that opponents of the *Roe* decision had successfully called into ‘question... Planned Parenthood’s credibility in its reference to a population problem’ (Memorandum, 4). Those present at the conference saw Planned Parenthood’s support for population control as a vulnerability, because pro-life organizers had successfully ‘sought to exploit to their own advantages the fears of minorities’ (Memorandum, 4). Elliott suggested that abortion reform advocates adopt a new strategy involving ‘the reaffirmation of commitment to freedom of choice in parenthood’ (Memorandum, 4).”

Likewise, change at NARAL was not immediate; Ziegler notes on page 315 that, “NARAL and Zero Population Growth persisted throughout 1973 in sharing fact sheets, press advice, newsletters, and membership lists. In 1974, [Lawrence Lader, a leader at NARAL] continued building alliances with population control organizations and sought a place for NARAL speakers at the UN World Population Conference.” Following this, however, as shown on pages 315-7, some

Some anti-abortion activists also focused on refuting the rights arguments discussed in the *Roe* ruling.<sup>155</sup> Both the abortion rights and anti-abortion movements seem to have made some effort to explore possible compromises between women's rights and fetus' rights.<sup>156</sup>

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members of NARAL called for more explicit focus on the arguments in *Roe*; the organization's focus seems to have shifted after one of those advancing this position, Sarah Weddington, became head of NARAL.

Ziegler argues on pages 320-1 that for the National Organization for Women, “[e]ven after the decision of *Roe v. Wade*, while Heide remained President, NOW leaders continued to combine rights-based and population control arguments... The true rhetorical shift, however, occurred when the leadership of NOW changed. In 1974, Karen DeCrow, another feminist attorney, became president of NOW, and shortly after called on the organization to clarify its stand on abortion... because of DeCrow's influence, the organization had developed a formal debating handbook by 1974, recommending that activists emphasize primarily rights-based arguments... [such as] ‘Don't argue the moral rights or wrongs of abortion... instead stress that everyone has the right to make their own moral decision for or against abortion.’”

<sup>155</sup> Ziegler, “The Framing of a Right to Choose,” 324 notes that, “[r]ights-based anti-abortion arguments also changed in 1973. Many antiabortion activists began spending time refuting the reasoning of *Roe v. Wade* itself. In a flurry of letters to Congress, individuals and organizations criticized the decision’s holding that the fetus was not a person and that women had a right to abortion. One of the letters sent to NARAL in the wake of the decision is representative of new anti-abortion arguments: ‘Every human being gets his or her right to live, not from the Supreme Court, but from God... Where does the woman get her so-called ‘right’ to destroy another human life? In short, she does not have that right.’”

<sup>156</sup> Mary Ziegler, “Beyond backlash: Legal history, polarization, and *Roe v. Wade*,” *Washington and Lee Law Review* 71 (2014), 974-5 summarizes that, “[a]bortion opponents argued that the state could ban abortion only if it conferred rights on women after pregnancy. For this reason, activists campaigned for reforms that created new protections for caretakers, arguing that reproductive choice lost meaning if the state did not support women raising children. Part IV [of Ziegler’s article] examines pro-choice conversations about medical experimentation, fetal life, and informed consent. In the midst of scandals concerning medical exploitation and sterilization abuse, some in the pro-choice movement worked to carve out a space for fetal rights that did not conflict with *Roe*. ”

These shifts are detailed in the article. For example, on page 989, Ziegler notes that Marjory Mecklenberg, a long-time anti-abortion activist and one of the leaders of American Citizens Concerned for Life, “formulated a new understanding of reproductive choice. The Supreme Court had set forth an idea of choice that mostly involved liberty from the state. Mecklenburg instead saw choice as inextricably linked to the idea of welfare rights. If the state recognized a right to choose to bear a child, as Mecklenburg argued, then the state had to guarantee women the means to raise that child. She asked Congress to support child care, sex education, family planning, and programs to encourage young girls to continue to pursue education in the setting of their choice.” The direct role that *Roe* played in encouraging these shifts is, of course, difficult to assess. Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), 36-7 describes schisms in the movement, citing Mecklenberg as an example of an anti-abortion activist supporting both contraception and women’s equality, while other activists disagreed with both of these positions.

Ziegler (2014) concludes on page 1017 that, “for almost a decade after the decision, abortion politics little resembled the bitter, dysfunctional debate with which so many have found fault.” Nevertheless, Ziegler suggests on page 975 that this “world of possible compromise gave way to one of greater ideological entrenchment” and argues that this was encouraged by “ongoing political party realignment, the emergence of the New Right and the Religious Right in American politics, and the ascendancy of incrementalist litigators in the pro-life movement.”

Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), 157-86 provides further detail on how *Roe*, as summarized on pages xxiii-xxiv, functioned “as a canvas onto which activists could project different strategic aims. Those on both sides reinterpreted *Roe* as a way of winning new members, raising funds, remaking public views of what the Court had said, and preparing the ground for later law reform efforts. Competing groups drew on one another’s understandings of the decision, ultimately settling on the version that predominates today—*Roe* protects a woman’s right to choose.”

On January 22, 1974, the anniversary of the *Roe v. Wade* decision, the first March for Life was held. These protest rallies have continued to be held annually in Washington, D.C., organized by the March for Life Education and Defense Fund.<sup>157</sup>

Anthropologist Carol J. C. Maxwell notes that, “[i]n the mid 1970s, abortion clinics in the United States experienced their first sit-ins.”<sup>158</sup> A group called Catholics United for Life engaged in clinic protests and sidewalk counselling — where anti-abortion activists stood outside abortion clinics and attempted to dissuade pregnant women from entering the clinic or choosing to have an abortion — from the mid- to late-1970s.<sup>159</sup> However, other accounts of anti-abortion direct action do not mention direct action protests this early.<sup>160</sup> This omission suggests that these protests remained small-scale and localized for several years.

During the years after *Roe v. Wade*, abortion rights groups professionalized and built up organizational stability. For example, NARAL hired new staff, used direct-mail techniques to raise money, and set up a political action committee.<sup>161</sup>

In 1975, the National Council of Catholic Bishops (NCCB) launched a campaign for an amendment of the US Constitution to reverse the *Roe v. Wade* decision.<sup>162</sup>

<sup>157</sup> “History of the March for Life,” March for Life Education and Defense Fund, accessed July 17, 2019, <https://marchforlife.org/history-of-the-march-for-life/> and Karrer, “The Pro-Life Movement,” 57-8.

<sup>158</sup> Carol J. C. Maxwell, *Pro-Life Activists in America: Meaning, Motivation, and Direct Action* (Cambridge, UK: Cambridge University Press, 2002), 1. On pages 31-2, Maxwell recounts the narrative explained by activist interviewees in St. Louis (in Maxwell’s words): “In August 1975 the first significant pro-life sit-in took place in Maryland near Washington D.C.; the second followed on July 4, 1976 in Washington, D.C., and a third sit-in occurred early that fall in Cleveland. By then Kevin [Maxwell’s pseudonym for the activist whose ideas and organizing helped to first establish the use of sit-ins] had returned to join his friends. Together they formed an organization [the Pro-Life Nonviolent Action Project (PLNAP)] that conducted 1 or 2 sit-ins in each of 25 states throughout 1977 and 1978; sit-ins occurred more frequently in the Washington, D.C. area, St. Louis, and St. Paul, Minnesota during that period... [PLNAP] ‘worked as systematically as possible on a small budget to promote sit-ins across the country.’ They networked through existing pro-life organizations (such as the National Right to Life Committee and the National Youth Coalition) to promote their message.”

<sup>159</sup> Michael W. Cuneo, *The Smoke of Satan: Conservative and Traditionalist Dissent in Contemporary American Catholicism* (Baltimore, MD: Johns Hopkins University Press, 1999), 64 notes that in 1974, a “California hippie” named Theo Stearns and Stearns’ associates “formed a pro-life organization called Catholics United for Life.” In an interview with Cuneo, Stearns said that the NRLC “hated” the CUL because “we went to abortion clinics and prayed the rosary.” On page 65, Cuneo notes that, “[i]n 1978 the group moved to an abandoned mine near Coarsegold, California, and began demonstrating at an abortion clinic in Fresno. After just several weeks, however, they put away their placards and bullhorns and started a ministry that has since become known within pro-life circles as sidewalk counseling.”

In a section entitled “The Rise of Street Protest,” on pages 67-70, Cuneo focuses on the foundation of the Pro-Life Action League from 1980.

<sup>160</sup> For example, Faye Ginsburg, “Saving America’s Souls: Operation Rescue’s Crusade Against Abortion,” in Martin E. Marty and R. Scott Appleby (eds.) *Fundamentalism and the State: Remaking Polities, Economies, and Militance* (Chicago: University of Chicago Press, 1993), 561-3 mentions acts of violence from 1977 and the foundation of the Pro-Life Action League in 1980 and Operation Rescue in 1988, but no sit-ins or grassroots protests in the 1970s.

<sup>161</sup> Staggenborg, *The Pro-Choice Movement*, 81-92.

<sup>162</sup> Prendergast, *The Catholic Voter*, 161.

In September 1976, the Hyde Amendment, an amendment to a fiscal measure proposed to the House of Representatives by Republican Henry J. Hyde, prevented the use of certain federal funds for abortions, principally through Medicaid. Initially rejected by the Senate, the measure was passed once an exception was included to allow funding for abortions that would prevent “severe and long-lasting physical health damage.”<sup>163</sup> Prior to this, approximately 300,000 abortions per year were funded by Medicaid.<sup>164</sup> After the Hyde Amendment, some states continued to use their own funds to cover abortion for those on Medicaid.<sup>164</sup> Despite the continued failure of HLA tactics, funding restrictions were passed again subsequently, as with 1978 modifications to three bills.<sup>165</sup>

In 1976, the Supreme Court’s decision in *Planned Parenthood v. Danforth* declared unconstitutional a Missouri law that gave husbands or parents of unwed minors the ability to veto their decision to have an abortion.<sup>166</sup> However, informed consent laws (requiring the woman to be aware of certain factors, such as the extent of fetal development) were upheld and the ruling suggested that other restrictions on abortion could be allowed in the first trimester of pregnancy.<sup>167</sup>

In the buildup to the 1976 election, Democratic candidate Jimmy Carter and Republican candidate Gerald Ford sought to reassure the NCCB about their position on abortion. Archbishop Joseph Bernardin, the president of the NCCB, noted that he and the NCCB were “disappointed” with Carter’s position on abortion, while Ford’s position was “encouraging.”<sup>168</sup> Carter won the election and became president in January 1977.

<sup>163</sup> Doan, *Opposition & Intimidation*, 75. Emma Green, “Why Democrats Ditched the Hyde Amendment” (June 14, 2019), <https://www.theatlantic.com/politics/archive/2019/06/democrats-hyde-amendment-history/591646/> suggests that Ford had initially tried to veto the whole bill for financial reasons; that is, presumably, regardless of the Hyde Amendment.

<sup>164</sup> Planned Parenthood, “Hyde Amendment,” accessed February 11, 2019, <https://www.plannedparenthoodaction.org/issues/abortion/hyde-amendment> notes that, “[t]he Hyde Amendment bans using federal Medicaid to cover almost all abortions but does not limit a state’s ability to use its own funds to cover abortion. As of 2016, 17 states use their own funds to extend abortion coverage to low-income women enrolled in Medicaid (although some of these states still make it difficult to access). An additional 6 states extend abortion coverage under specific exceptions, such as when a woman’s health is at risk. That leaves more than half the country abiding by the Hyde Amendment. Notably, South Dakota’s Medicaid program goes even further than Hyde.”

<sup>165</sup> Ainsworth and Hall, *Abortion Politics in Congress*, 161-2. The proportion of abortion bills introduced into Congress that were considered by the appropriations committee increased over time, from 11% in 1973-84 to 22% in 1985-92 to 29% in 1993-2004. They note that the restricted 1978 bills were “the Labor-HEW appropriations bill, the Department of Defense appropriations bill, and legislation related to the Peace Corps.”

<sup>166</sup> Kathryn Cullen-DuPont, *Encyclopedia of Women’s History in America* (New York: Infobase Publishing, May 2014; first published 1996), 203.

<sup>167</sup> Nossiff, *Before Roe*, 151. Nossiff adds that this latter point “was significant, because it signaled the Supreme Court’s later willingness to allow states to enact other restrictions on first-trimester abortions, such as prohibiting public funding of nontherapeutic abortions (*Beal v. Doe* and *Maher v. Roe*) and allowing states to limit the kinds of abortions poor women could obtain in public hospitals (*PoeLker v. Doe*). These decisions were without regard to the trimester framework, which had previously been understood to prohibit first-trimester restrictions, with the exception of licensing requirements for medical workers and facilities.”

<sup>168</sup> Prendergast, *The Catholic Voter*, 170-1. Nevertheless, Prendergast notes that the NCCB did not express unconditional support for Ford, emphasizing the importance of multiple social issues.

The two major political parties were not yet clearly split in Congress on the issue of abortion, however,<sup>169</sup> and both presidents had mixed views, supporting the implementation of the Hyde Amendment, but not supporting a HLA.<sup>170</sup>

In the 1970s, evangelicals had been increasingly mobilizing on conservative political campaigns and issues.<sup>171</sup> Jimmy Carter was an evangelical Protestant. His election as president may have encouraged evangelical politicization, given his open claims that “I’ll be a better president because of my deep religious convictions,”

<sup>169</sup> Prendergast, *The Catholic Voter*, 170-1 adds that “The platforms of the major parties took contrasting stands on proposals to amend the Constitution to reverse the decision in *Roe v. Wade*. The Democratic Party declared ‘undesirable’ any attempt to enact an amendment of this sort. The Republican platform was less abrupt. It agonized over the ‘difficult and controversial’ question of abortion, noted a lack of consensus within the party on the Supreme Court’s decision, which it said permitted ‘abortion on demand,’ and urged continuation of ‘the public dialogue on abortion.’ It ended its contribution to the dialogue, however, with an expression of support for ‘those who seek... a constitutional amendment to restore protection of the right to life for unborn children.’”

David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 64-6 notes that “In Congress the polarization on abortion was not yet striking... when the Senate voted on a motion to table an anti-abortion constitutional amendment on April 28, 1976, Democratic senators split 33 to 23 to kill the pro-life proposal while Republicans voted 20 to 16 against tabling the measure.”

<sup>170</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 64-6 notes that Ford “did not even in principle favor a national ban on abortions. Yet he did support an amendment to the Constitution that would overturn *Roe*, which he said ‘goes too far,’ and favored returning the issue to the states. Ford also opposed federal funding on abortions... Carter coupled his support for the continued legality of abortion with unequivocal statements that the practice was ‘wrong,’ and — unlike later Democratic presidential nominees — he opposed federally funded abortions.”

Andrew R. Flint and Joy Porter, “Jimmy Carter: The Re-emergence of Faith-Based Politics and the Abortion Rights Issue,” *Presidential Studies Quarterly* 35, no. 1 (2005), 39 note that “the president made clear in 1977 his support of the Hyde Amendment... Carter was concerned that the Hyde Amendment’s regulations be strictly enforced so that women were not able to use the rape and incest exemption to obtain an abortion deceitfully. At Carter’s behest, Califano was indeed strict in his implementation of the amendment. Jaffe, Lindheim, and Lee (1981, 59) bemoaned the fact that under Califano’s leadership, “Indifference to and avoidance of the implications of legalization of a critical, widely sought health service were replaced by open hostility on the part of the pre-eminent public health official and agency in the United States.”

<sup>171</sup> Kenneth D. Wald and Allison Calhoun-Brown, *Religion and politics in the United States* (Lanham, MD: Rowman and Littlefield, 2014), paragraph 14.25 notes that “Several local movements that developed during the social ferment and upheaval of the 1970s facilitated the return of evangelicals to organized political action, manifested in what was originally labeled the New Christian Right. Each campaign was led by evangelical Protestants who rallied their coreligionists strongly to the defense of traditional cultural and social values. The threat in West Virginia was a new set of textbooks denounced as ‘disrespectful of authority and religion, destructive of social and cultural values, obscene, pornographic, unpatriotic, or in violation of individual and familial rights of privacy.’ A referendum in Dade County, Florida, overturned an ordinance prohibiting discrimination on the basis of sexual orientation in housing, employment, and public accommodations; the leading opponents, organized in Save Our Children, preyed on concerns about child molestation if private and religious schools were required to employ homosexuals. The proposed Equal Rights Amendment to the U.S. Constitution, approved by Congress early in 1972, was denied ratification by the required three-fourths of American states due largely to efforts by groups and movements drawn disproportionately from evangelical Protestantism that feared it threatened women’s traditional values... These movements represented a sea change in the thinking of evangelical Protestants, a ‘coming out’ almost as dramatic as the political awakenings of feminists and homosexuals that had triggered it.”

and admission that his “deep and consistent religious faith” was “the most important thing in [his] life.”<sup>172</sup> Despite encouraging a perception that his politics were inspired by faith, his moderate liberal politics differed from those of many evangelicals,<sup>173</sup> and frustration with his policies seems likely to have encouraged a shift towards the Republican Party among conservative Christians.<sup>174</sup>

The Hyde Amendment survived four Supreme Court rulings on cases brought by abortion rights groups: *Beal v. Doe*, *Maker v. Roe*, and *Poelker v. Doe*, each in 1977, and *Harris v. McRae* in 1980.<sup>175</sup>

In 1977, the first organization dedicated to securing the election of anti-abortion candidates, the Life Amendment Political Action Committee, was created. The NRLC later created its own organization, NRLCPAC, which, according to historian Keith Cassidy, “became the largest pro-life PAC.”<sup>176</sup>

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<sup>172</sup> Andrew R. Flint and Joy Porter, “Jimmy Carter: The Re-emergence of Faith-Based Politics and the Abortion Rights Issue,” *Presidential Studies Quarterly* 35, no. 1 (2005), 31. They add that “Carter’s 1976 electoral campaign was not based on specific issues or, given his status as a political outsider, even on partisan loyalty. As Skowronek puts it, it was an ‘autobiographical campaign’ (1993, 374). A vote for Carter was not a vote for the agenda of the Democratic Party; it was a vote for who Carter was and what he personally represented. What he was, was a man of Christian faith whose public pronouncements reverberated with Biblical undertones. And Jimmy Carter was not just any Christian. According to Tom Wolfe (1983, 271), he was a member of the ‘Missionary lecternpounding Amen ten-finder C-major-chord Sister-Martha at the Yamaha-keyboard loblolly piney-woods Baptist faith in which the members of the congregation stand up and ‘give witness’ and ‘share it, Brother’ and ‘share it, Sister’ and ‘praise God’ during the service.’ Carter actively identified himself with ‘born-again’ evangelicalism.”

On page 32, they claim that “Unsurprisingly, his candidacy inspired the evangelical community. ‘Surely the Lord sent Jimmy Carter,’ said Daddy King [Martin Luther King Sr.] to the Democratic Party convention in 1976 “to come on out and bring America back where she belongs.”

<sup>173</sup> For more evidence of his assurances of the importance of his faith to his politics, see Andrew R. Flint and Joy Porter, “Jimmy Carter: The Re-emergence of Faith-Based Politics and the Abortion Rights Issue,” *Presidential Studies Quarterly* 35, no. 1 (2005), 32 and 34-5. On his difference from the politics of most evangelicals, the authors summarize on page 35 that “In practice, however, Christian conservatives quickly became disillusioned with the Carter presidency. His advocacy of the Equal Rights Amendment and gay rights, and his failure to support mandatory prayer in public schools or to move to ban abortion were all anathema to their religious principles. On the international stage, his efforts toward arms control and the Panama Canal Treaty smacked of misplaced idealism at best and unholy accommodation with godless Communism at worst. As early as 1978, evangelicals began to feel disillusionment with the Carter White House. By 1979, they had coalesced as the New Religious or Christian Right and were actively campaigning for his removal from office.”

<sup>174</sup> Ibid, 42-7. They note, for example, that Religious Liaison Reverend Maddox repeatedly advised Carter to reach out to the conservative Christian leaders, but he did not meet them until January 22, 1980. Shortly afterwards, “Jerry Falwell, the founder of the largest of the Christian Right organizations, the Moral Majority, publicly attacked Carter for his stance on gay rights and accused him of attempting to woo homosexual voters by giving public approval of their ‘sinful’ lifestyle.” This was after these leaders had held meetings with several Republican candidates. They add that “Their bitterness, Maddox recalled, led Christian conservative leaders to denounce Carter ‘as the anti-Christ,’ and when newspaper columnist Bob Novak attended a conference of conservative preachers in 1979, he observed minister after minister declaring ‘I was part of Carter’s team in 1976. I delivered my congregation for Carter. I urged them all to vote for Carter because I thought he was a moral individual. I found out otherwise, and I’m angry’... The conservative evangelical community, now politically activated as the Christian Right, instead turned to Ronald Reagan in 1980, a candidate who more carefully articulated their agenda. This was despite the fact that Reagan’s nominal religious credentials bore no comparison to Carter’s genuine piety. Reagan did not regularly attend religious services.”

<sup>175</sup> Karrer, “The Pro-Life Movement,” 64.

<sup>176</sup> Cassidy, “The Right to Life Movement,” 149.

From late 1976 until 1979, anti-abortion advocates focused on a different tactic to secure a HLA; calling a constitutional convention.<sup>177</sup> A constitutional convention is a meeting that congress must convene if asked to do so by two-thirds of the states.<sup>178</sup> This tactic would have enabled anti-abortion states to request a convention but bypass the requirement for two-thirds of Congress to support a constitutional amendment proposed via the traditional method.<sup>179</sup>

1977-8 saw several notable incidents of anti-abortion violence at clinics.<sup>180</sup> The data aggregated by economists Mireille Jacobson and Heather Royer includes 1 violent incident in 1976, 4 in 1977, and 7 in 1978.<sup>181</sup> Isolated anti-abortion activists committed many acts of violence during subsequent decades, including arson, bombings, acid attacks, and murder attempts (some of which were successful), although between 1976 and 1983, the average number of violent incidents per year was 3.<sup>182</sup> No major anti-abortion group publicly supported these violent attacks, though some were accused of tacitly accepting violent tactics.<sup>183</sup>

In spring 1979, the American Life League (ALL) was founded after a schism within the NRLC.<sup>184</sup> ALL adopted a more radical stance; in the 1990s, activists from ALL took part in direct action tactics.<sup>185</sup>

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<sup>177</sup> Karrer, “The Pro-Life Movement,” 67-9.

<sup>178</sup> “Convention to propose amendments to the United States Constitution,” Wikipedia, last edited July 10, 2019, [https://en.wikipedia.org/wiki/Convention\\_to\\_propose\\_amendments\\_to\\_the\\_United\\_States\\_Constitution](https://en.wikipedia.org/wiki/Convention_to_propose_amendments_to_the_United_States_Constitution).

<sup>179</sup> Karrer, “The Pro-Life Movement,” 67-9.

<sup>180</sup> Karrer, “The Pro-Life Movement,” 70 notes that “In 1977, violence erupted at abortion facilities across the country. On February 23, a Planned Parenthood clinic in St. Paul, Minnesota, was vandalized when an intruder poured a flammable liquid and ignited it, causing an estimated \$250,000 worth of damage. In August 1977, a bottle of gasoline was thrown through a window at a clinic in Omaha. The largest act, a fire that destroyed a clinic in Cleveland, occurred on February 15, 1978. Anti-abortion groups condemned the reoccurring violence.”

<sup>181</sup> See the spreadsheet “[Count of violent and disruptive incidents](#),” which uses data from Mireille Jacobson and Heather Royer, “Aftershocks: The Impact of Clinic Violence on Abortion Services,” *American Economic Journal: Applied Economics* 3, no. 1 (January 2011), 194-5. They note that “Data are from the ATF, the NAF, refuseandresist.org, and LexisNexis searches.”

<sup>182</sup> Ibid.

<sup>183</sup> For discussion of whether other anti-abortion activists endorse or reject such violence, see Carol Mason, “From Protest to Retribution: The Guerilla Politics of Pro-Life Violence,” in Kenton Worcester, Sally Avery Bermanzohn, and Mark Ungar (eds.) *Violence and Politics: Globalization’s Paradox* (New York: Routledge, 2002), 127-45.

Doan, *Opposition & Intimidation*, 106-8 quotes several leaders of anti-abortion groups disavowing violent tactics.

<sup>184</sup> Karrer, “The Pro-Life Movement,” 69.

<sup>185</sup> “American Life League Incorporated vs. ACLU,” FindLaw, accessed June 19, 2019, <https://caselaw.findlaw.com/us-4th-circuit/1054994.html>, shows a legal case involving ALL’s use of clinic protests. “About Us,” American Life League’s STOPP International, accessed June 19, 2019,

<https://www.stopp.org/article.php?id=5247> notes that “STOPP endorses all nonviolent activity which is in accord with the laws of God. We support the no-exception legislation position of American Life League. We believe all these activities are necessary and must be joined with an all-out assault on the failed sex ed programs of Planned Parenthood if we are to restore the family to its true place and protect our children.” The claims at “American Life League,” Wikipedia, last edited May 20, 2019, [https://en.wikipedia.org/wiki/American\\_Life\\_League](https://en.wikipedia.org/wiki/American_Life_League) that “ALL helped to establish the ‘rescue movement’, which utilizes several tactics against abortion and related services” and that “These tactics, adopted and popularized by ALL” are uncited.

Maxwell, *Pro-Life Activists in America*, 48-9 describes that in the early 1980s, NRLC supported the ocal direct action activists in St. Louis. However, “[i]n the mid-1980s ALL endorsed direct action and NRLC disassociated itself from it. Perhaps NRLC officials saw the increasingly aggressive tactics of direct activists as too alien to their own focus (which

In 1979, the organizations Moral Majority (a non-profit), Moral Majority, Inc. (a political lobby) and Moral Majority Political Action Committee were founded by Baptist minister Jerry Falwell, partially on the encouragement of conservative activists such as Paul Weyrich.<sup>186</sup> These groups were part of the developing political mobilization of conservative Christians, which included other groups such as Christian Voice, the Religious Roundtable, and the National Christian Action Coalition. These groups, often referred to collectively as the Christian Right, held anti-abortion beliefs among other socially conservative and pro-religious values.<sup>187</sup> At this time, the audience for religious broadcasts and television shows was growing,<sup>188</sup> and these groups became increasingly politicized.<sup>189</sup> In 1980, the Washington for Jesus rally with many conservative speakers had somewhere between 250,000 and 500,000 attendees.<sup>190</sup> The anti-abortion movement seems to have become more conservative, influenced by the growth of the Christian Right.<sup>191</sup>

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centered on legal action to curtail abortion practice) or too dangerous. They might also have foreseen the exposure the leaders of such media-rich activities might capture as a challenge to their own positions as spokesmen for the pro-life movement. NRLC reversed its previous policy and position, and expunged all mention of sit-ins from their mass communications... ALL recognized anyone who donate to their organization as a supporter and so had a large ‘subscription’ base, but lacked NRLC’s complex grassroots structure. Consequently, ALL did not replace the speaking and networking opportunities formerly available to Dylan [a prominent St. Louis activist] through NRLC.”

<sup>186</sup> Jacoby, *Souls, Bodies, Spirits*, 71-4.

<sup>187</sup> Kenneth D. Wald and Allison Calhoun-Brown, *Religion and politics in the United States* (Lanham, MD: Rowman and Littlefield, 2014), paragraph 14.30 notes that these organizations “shared a common agenda that stressed opposition to abortion, support for voluntary prayer and Bible reading in public schools, the responsibility of government to encourage the ‘traditional family unit,’ maintenance of tax exemption for churches, and endorsement of the Christian school movement. They also targeted social evils like the teaching of evolution, pornography, ‘immoral’ behavior on television, and liquor and drug abuse.” The authors also argue that these changes were driven largely by “secular conservatives” and used “religious rationale” to justify conservative positions, although the evidence for this interpretation seems to be anecdotal.

<sup>188</sup> Jacoby, *Souls, Bodies, Spirits*, 78 quotes directly A. James Reichley, *Religion in American Public Life* (Washington, DC: Brookings Institution, 1985), 315: “A study in 1963 showed that only 12 percent of all Protestants regularly watched or listened to religious broadcasts. Gallup polls taken in the late 1970s showed that this figure had more than doubled, and a poll in 1981 found that 27 percent of the national public claimed to have watched more than one religious program in the preceding month. A study in 1984 by Gallup and the Annenberg School of Communications placed the regular audience for religious broadcasts at about 13.3 million.”

<sup>189</sup> Jacoby, *Souls, Bodies, Spirits*, 80 notes that “By 1976... Programs like ‘The 700 Club’ and ‘The Old Time Gospel Hour’ were mixing politics and proclamation, and politically oriented guests became commonplace, especially on ‘the 700 Club.’” On page 92, Jacoby adds that in 1980, “‘The 700 Club’ began producing a segment of the show called ‘Perspective,’ in which genial host Pat Robertson explained the biblical principles that were to be applied to political leadership. The television evangelists of the Moral Majority uniformly endorsed Reagan over Carter.”

<sup>190</sup> Ibid, 71-4.

<sup>191</sup> Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), 201 notes that in 1975, the NRLC “resoundingly defeated” a proposal to oppose the Equal Rights Amendment, but “easily” approved a similar proposal in 1977. Ziegler argues that, “[t]he NRLC’s growing hostility to the ERA stemmed from larger changes to the identity of the pro-life movement. In the mid- to late 1970s, it took in new evangelical Protestant members and organizations, including national groups like the Christian Action Council or Christian Voice and smaller local groups like Christians for Life and the Christian Freedom Foundation. The new conservative Protestant antiabortion contributed to a change in the rhetoric of the pro-lfie movement as a whole.”

On pages 202-3, Ziegler describes “a larger New Right campaign to recruit abortion opponents” and “a partnership with the New Right and the Religious Right... As importantly, between 1977 and 1979 new absolutist pro-life groups, funded and supported by Richard Viguerie and Paul Weyrich [Christian Right activists], began to challenge the NRLC’s

By 1980, the NRLC claimed to have an annual budget of \$1.6 million.<sup>192</sup>

Momentum seemed to decline for a constitutional amendment to address abortion by the end of the decade; more constitutional amendments related to abortion were proposed between 1975 and 1980 than 1980-2004.

<sup>193</sup> From the late 1970s, some members of the anti-abortion movement became more interested in legislation and litigation that incrementally challenged the abortion rights conferred by *Roe*.<sup>194</sup>

## 1980-92: Ronald Reagan, the diversification of anti-abortion tactics, and an increasingly anti-abortion Supreme Court

During the 1980 presidential campaign, the Republican platform was strongly anti-abortion, including advocating an amendment to the Constitution to overturn *Roe v. Wade*. The Democratic platform remained more ambivalent.<sup>195</sup> The Republican position seems to represent a marked institutionalization of an

dominance in the antiabortion movement. When hardliners took center stage in pro-life politics, mainstream groups like the NRLC moved to the right to outmaneuver their new competitors.”

<sup>192</sup> Doan, *Opposition & Intimidation*, 90. They also claimed that they had 11 million members, though this figure seems especially likely to be exaggerated.

<sup>193</sup> Ainsworth and Hall, *Abortion Politics in Congress*, 160.

Doan, *Opposition & Intimidation*, 77 notes that after the Hyde Amendment, “it was becoming increasingly clear that [Congress] was unwilling to pass a constitutional amendment prohibiting abortion. For a couple of years, anti-abortionists tried to enact a constitutional amendment without Congress’ approval by employing Article V and moving the issue to the state level where the movement had experienced more success. Yet by 1978 only thirteen states had called for a convention to amend the Constitution to overturn *Roe*.”

<sup>194</sup> Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), 47-9 describes the involvement of individuals affiliated with American Citizens Concerned for Life and the NRLC in the prosecution for manslaughter in 1975 of Dr. Kenneth Edelin, who had performed an abortion after the fetus had been claimed by observers to have drawn breath outside of the mother’s body. On pages 49-51, Ziegler presents this case as evidence of an increased interest in incrementalism, citing also the efforts to restrict funding for abortions through Congress, such as the Hyde Amendment in 1976. On pages 53, Ziegler quotes “prominent New York activist Ellen McCormack” as saying in 1978 that, “when.... It would not be pragmatically convenient for the Court to support abortion—then the judges may well lean in the other direction.” Pages 54-5 provide evidence that the Christian New Right, which was increasingly becoming associated with the anti-abortion movement, emphasized the importance of the Court’s composition and concerns about its judicial activism.

On pages 58-9, Ziegler notes that John Willke, who had designed the Life or Death pamphlet, “became a champion of incrementalism, arguing for compromise regulations that would restrict abortion without banning it altogether” and cites interviews with an anti-abortion conservative Catholic writer, James Bopp Jr., as providing evidence that from around the turn of the decade, “Bopp saw in incrementalist litigation the seeds of a strategy that could transform the abortion wars. If the movement prioritized statutes that could survive constitutional scrutiny, he believed that pro-lifers could build momentum, motivate new activists, limit access to abortion, and gradually convince the public of the humanity of the unborn.” Nevertheless, other activists resisted this change in strategy, which created “a bitter and lasting schism within the pro-life community.”

<sup>195</sup> Prendergast, *The Catholic Voter*, 182-3. Prendergast adds that The Republican platform included “opposition to government financing of abortion, and support for the appointment of judges committed to the right to life. The Democratic platform opposed an amendment to alter the Supreme Court’s decision on abortion and endorsed

anti-abortion position, compared to the start of the previous decade.<sup>196</sup> Despite competing against two evangelical Protestants, Jimmy Carter and John Anderson (a Republican turned Independent candidate), Ronald Reagan (the Republican candidate) seemed to more fully endorse the political positions of the new Christian Right.

Reagan was elected and became president in January 1981.<sup>197</sup> From January 1981 until January 1987, the Republicans held a majority in the Senate (for the first time since 1954) but the Democrats retained a majority in the House of Representatives.<sup>198</sup> These victories for a Republican party that newly emphasized anti-abortion attitudes presumably made the political prospects of the anti-abortion movement seem more promising. By the mid-1980s, anti-abortion positions seem to have become much more closely correlated with right wing positions on other issues among members of Congress, though this development did not occur suddenly during or following the election.<sup>199</sup>

In 1982, two separate anti-abortion bills were introduced into Congress: the Hatch Amendment and the Helms Bill. Though the amendment was more moderate than the bill, seeking to return abortion decisions to the states rather than to ban abortions outright, neither passed through Congress.<sup>200</sup>

government financing of abortions for the poor. President Carter accepted the stand taken in the platform on the constitutional amendment but notified the convention of his personal opposition to federal funding of abortion.”

On pages 195-6 Prendergast notes several inconsistencies and “obfuscation” in the Democratic platform’s position on abortion.

<sup>196</sup> Prendergast, *The Catholic Voter*, 260 notes that “The Court’s decision in *Roe* was written by Justice Blackmun, whom President Nixon appointed to the Supreme Court in 1970, and supported by other of Nixon’s conservative appointees, including Lewis Powell, who during the Court’s deliberations actually advocated lengthening the time period in which women’s abortion decision was protected — from the end of the first trimester to the end of the second. But over the course of the 1970s, prominent Republicans shifted positions on abortion, acting on alignments and framings that were already in evidence by the 1972 election. By the decade’s end, conservatives of the New Right—led by Ronald Reagan, who, in the late 1960s, had signed California’s legislation liberalizing abortion—urged fundamentalist Christians to make common cause with Catholics in opposition to abortion and in support of family values. They attacked *Roe* as a threat to life and family and as a symbol of judicial overreaching. Republican Party platforms began regularly to support ‘the appointment of judges who respect traditional family values and the sanctity of innocent human life.’”

<sup>197</sup> Noted in Kenneth D. Wald and Allison Calhoun-Brown, Religion and politics in the United States (Lanham, MD: Rowman and Littlefield, 2014), paragraph 14.32. The authors note that as well as its anti-abortion stance, the 1980 Republican platform also included “the legalization of prayer and religious meetings in public schools, and opposition to the Equal Rights Amendment.”

<sup>198</sup> “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>199</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 82 -3 contains a graph that “shows the correlation between a senator’s position on abortion and his or her placement on the general left-right continuum measured by Poole and Rosenthal’s (1997) D1 and D2 NOMINATE scores. It reveals that although abortion used to fall between the two dimensions [for example, both measures have a correlation of approximately 0.5 with senators’ abortion positions in 1982], now it loads neatly on the first [for example, by 1998, D1’s correlation coefficient around 0.9, whereas D2’s correlation coefficient was around 0.15]. A greater proportion of liberal senators once opposed abortion rights, and a higher percentage of conservatives once supported them than is now the case.”

<sup>200</sup> Alesha E. Doan, *Opposition & Intimidation: The Abortion Wars & Strategies of Political Harassment* (Ann Arbor: University of Michigan Press, 2007), 83.

On January 26, 1983, Senator Orrin Hatch proposed another HLA to a congressional committee. By the time it reached a vote in the Senate on July 27, this HLA (the “Hatch-Eagleton Amendment,” following modification by Senator Thomas Eagleton) proposed that the right to an abortion is not secured by the Constitution. In the Senate, the Hatch-Eagleton Amendment received 49 votes for and 50 against, thereby falling 18 votes short of the 67 needed.<sup>201</sup> This was the only HLA to actually be considered by either the House or the Senate.<sup>202</sup>

After this point, proposed legislation on abortion became less radical and the total volume of proposals decreased. By the count of political scientists Scott H. Ainsworth and Thad E. Hall, between 1973 and 1984, 70% of the abortion-related proposals in Congress were nonincremental, meaning that they were efforts to either reverse or codify *Roe v. Wade* through legislation. The proportion of proposals that were nonincremental fell to 24% between 1985 and 1992, and down further to 13% between 1993 and 2004. The years between 1973 and 1984 saw 445 proposals (i.e. a mean of 37 proposals per year), 1985-92 saw 213 proposals (mean: 27), and 1993-2004 saw 348 (mean: 29). They note that abortion-related constitutional amendments accounted for less than 10% of all abortion-related activity in the House of Representatives in the 1990s, with 12 abortion-related constitutional amendments introduced in the House in that time.<sup>203</sup> Despite this shift towards less radical proposals, legislation continued to fail to pass through Congress with few exceptions.<sup>204</sup>

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<sup>201</sup> “S.J.Res.3 - A joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion,” 98th US Congress, accessed July 17, 2019, <https://www.congress.gov/bill/98th-congress/senate-joint-resolution/00003/all-actions-without-amendments>.

<sup>202</sup> At least, this is what is claimed by Brian L. Wilcox, Jennifer K. Robbennolt, and Janet E. O’Keeffe, “Federal Abortion Policy and Politics: 1973 to 1996,” in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 4 and the author of this report has not seen evidence of such an amendment being discussed in Congress subsequently.

<sup>203</sup> Ainsworth and Hall, *Abortion Politics in Congress*, 116 and 160-1. The percentage of all abortion-related proposals that were classified as incremental rose steadily from the 94th Congress (1975-7) to the 105th Congress (1997-9) but declined slightly in the three subsequent Congresses.

The methodology for categorizing proposals as incremental or nonincremental is unclear. On pages 11-12, they note that “the incremental implication of the [partial-birth abortion ban] is noted in the legislative title — not all abortions are banned.” This implies that anything short of an outright ban on abortions is seen to be incremental. However, on pages 108-10, under the subtitle “pro-life nonincremental failures,” they describe several other HLAs, suggesting that other efforts to reverse *Roe v. Wade* are also categorized as nonincremental. On page 110, they note that “[j]ust as the pro-life advocates have failed in their efforts to enact a pro-life amendment to the Constitution, the pro-choice side has also seen efforts to either codify their views into law or pass a constitutional amendment to allow abortions to fall flat.” Given the subtitle of “pro-choice nonincremental failures,” this is presumably how they define abortion rights nonincremental legislation.

<sup>204</sup> For example, Brian L. Wilcox, Jennifer K. Robbennolt, and Janet E. O’Keeffe, “Federal Abortion Policy and Politics: 1973 to 1996,” in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 3-24 notes that “Several bills to restrict abortion rights were introduced in the 101st Congress, including a measure by Representative Robert Dornan (R-CA), which would have declared fetuses to be persons, but none of these measures were seriously considered. In the 102nd Congress, measures designed to limit access to abortion include a bill that would have permanently codified existing abortion restrictions using appropriated funds, a bill that would have prohibited abortions from being performed solely because of the gender of the fetus (the Civil Rights of Infants Act), a bill intended to prohibit federal funding for research on RU-486 (the French-developed abortifacient), and bills designed to establish parental notification

During the 1980s, there was a growth in the number of crisis pregnancy centers and alternatives to abortion clinics.<sup>205</sup>

In 1982, the first incident occurred with individuals identifying as members of the terrorist anti-abortion group, the Army of God, with the kidnapping of a doctor who provided abortions and his wife.<sup>206</sup>

By the 1984 election, the Republican party platform declared unequivocally that, “The unborn child has a fundamental individual right to life which cannot be infringed.”<sup>207</sup> Reagan was re-elected.<sup>208</sup>

In 1984, the NRLC and Bernard Nathanson, a medical doctor and co-founder of the abortion rights group NARAL who had reversed his views on abortion, co-produced the documentary *The Silent Scream*. This documentary seemed to prioritize emotional impact over medical accuracy and became widely publicized.<sup>209</sup> In the same year, the NRLC formalized its media department and ran an advertisement in *Time* magazine. Though this was its first professionally produced advertisement, the NRLC then launched similar adverts in seven “markets” and by 1985, it had sent a five-minute radio broadcast to 300 radio stations.<sup>210</sup> The group was growing at this time.<sup>211</sup>

requirements for any programs receiving federal financial aid. None of the bills received serious attention by either legislative body.”

On page 18, the note an exception: “The 104th Congress also marked the first time an attempt was made to codify language restricting federal funding for abortions as part of the Medicaid statute... Although it is significant that the attempt was made, the measure was vetoed by President Clinton as part of the Balanced Budget Act of 1995 in December 1995 and did not become law.”

<sup>205</sup> Staggenborg, *The Pro-Choice Movement*, in footnote 9 on page 205, notes that, “[t]hese include the Pearson Foundation, which was founded in 1969 and planned to increase its 130 clinics to 1,000 in the 1980s; Jerry Falwell’s ‘Save-A-Baby’ program, which began in 1984 with the goal of creating 1,000 centers; and the Christian Action Council, which was founded in 1980 and had 155 centers, with plans for 700 more in 1985.

<sup>206</sup> Jennifer Jefferis, *Armed for Life: The Army of God and Anti-Abortion Terror in the United States* (Santa Barbara, CA: Praeger, 2011), 23.

<sup>207</sup> Linda Greenhouse, “Public Opinion & the Supreme Court: The Puzzling Case of Abortion,” *Daedalus* 141, no. 4 (2012), 78. Greenhouse adds that previously, in 1980, “the Republican national platform offered only mild criticism of the Court and *Roe*, declaring that “we recognize differing views on this question among Americans in general—and in our own party.”

<sup>208</sup> “Electoral College Box Scores 1789-1996,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores.html>.

<sup>209</sup> Rosalind Pollack Petchesky, “Fetal Images: The Power of Visual Culture in the Politics of Reproduction,” *Feminist Studies* 13, no. 2 (Summer 1987), 264 notes that “On major network television the fetus rose to instant stardom, as *The Silent Scream* and its impresario, Dr. Bernard Nathanson, were aired at least five different times in one month, and one well-known reporter, holding up a fetus in a jar before 10 million viewers, announced: ‘This thing being aborted, this potential person, sure looks like a baby!’”

<sup>210</sup> Deana A. Rohlinger, *Abortion Politics, Mass Media, and Social Movements in America* (New York: Cambridge University Press, 2015), 60. The definition of “markets” is unclear. Rohlinger adds that the ad in Time magazine catapulted the organization into the national spotlight and hundreds of individuals joined the organization.

<sup>211</sup> Deana A. Rohlinger, *Abortion Politics, Mass Media, and Social Movements in America* (New York: Cambridge University Press, 2015), 60. Citing an interview with an NRLC founder and president, Rohlinger writes that “[i]n 1980, the organization had five employees, several volunteers, and a US\$ 400,000 budget. A decade later, the organization employed fifty-five activists and had a US\$ 15 million budget.”

In 1985, following 2 years of a boycott of the Upjohn Company that NRLC coordinated, the company ceased research into abortifacient drugs, though they continued to sell the abortifacient drugs Prostaglandins.<sup>212</sup>

The years 1984 and 1985 saw the peak of anti-abortion arsons and bombings (30 in 1984, 22 in 1985) and of reported death threats.<sup>213</sup> In 1984, the number of violent incidents jumped up to 29, from 2 in the previous year; the average number of violent incidents per year was 3 in 1976-83, which rose to 20 in 1984-99.<sup>214</sup> From the mid-1980s, direct action tactics were increasingly used. 80% of large nonhospital facilities (providing 400 or more abortions) were picketed in 1985, with 40% reporting an increase from the previous year.<sup>215</sup>

In 1987, the group Operation Rescue conducted “rescue” tactics—direct action to obstruct the operation of abortion clinics—for the first time at a New Jersey clinic.<sup>216</sup>

In 1988, the group led the “Siege of Atlanta” at the Democratic National Convention in Atlanta, getting themselves intentionally arrested and covering up their own identity in order to clog up the courts and jails;<sup>217</sup> 1,300 were arrested.<sup>218</sup>

Although data by individual years is not available for this period, the average number of arrests of anti-abortion activists per year was 1,875 in 1977-89 and 2,266 in 1990-1993. Picketing of clinics was likely rising steeply at this time; the average number of picketing incidents per year was 65 between 1977 and 1989 and 1,379 between 1990 and 1993.<sup>219</sup> Comparing Gallup polls in 1983 and 1985, there appears to have been a small increase in anti-abortion sentiment (from 16% to 21% believing abortion should be illegal in all circumstances), although the increases in violence and direct action were not the only changes in this period and outright opposition to abortion had fallen back to 17% by 1988.<sup>220</sup>

<sup>212</sup> Gina Kolata, "Boycott Threat Blocking Sale Of Abortion-Inducing Drug," *The New York Times* (February 1988), <https://www.nytimes.com/1988/02/22/us/boycott-threat-blocking-sale-of-abortion-inducing-drug.html>.

<sup>213</sup> Catherine Cozzarelli and Brenda Major, “The Impact of Antiabortion Activities on Women Seeking Abortions,” in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 83 citing data from the National Abortion Federation.

<sup>214</sup> See the spreadsheet “Count of violent and disruptive incidents.”

<sup>215</sup> Jacqueline Darroch Forrest and Stanley K. Henshaw, “The Harassment of U.S. Abortion Providers,” *Family Planning Perspectives* 19, no. 1 (1987), 10.

<sup>216</sup> Doan, *Opposition & Intimidation*, 85. Doan notes that the term “rescue” was “initially used in Philadelphia in 1985.”

<sup>217</sup> Ginsburg, “Saving America’s Souls,” 567.

<sup>218</sup> Doan, *Opposition & Intimidation*, 85-6. See also David Treadwell, “250 Arrested in Anti-Abortion ‘Siege of Atlanta’” (October 5, 1988), <https://www.latimes.com/archives/la-xpm-1988-10-05-mn-2866-story.html>.

<sup>219</sup> See the tab “NAF data” in the spreadsheet “Count of violent and disruptive incidents,” which uses data from “2018 Violence and Disruption Statistics,” National Abortion Federation, accessed July 23, 2019, <https://prochoice.org/wp-content/uploads/2018-Anti-Abortion-Violence-and-Disruption.pdf>.

<sup>220</sup> “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>.

From January 1987 until January 1995, the Democrats held a majority in both the Senate and the House of Representatives.<sup>221</sup> According to one paper, in 1987, the Reagan administration took on a different strategy to deal with abortion issues, focusing on restriction of abortion rather than radical policy change, because views were too polarized on abortion for radical change to be tractable.<sup>222</sup>

In 1988, in Colorado, Michigan, and Arkansas, a majority (60%, 58%, and 52% respectively) of voters endorsed anti-abortion stances in state referendums on related legislation.<sup>223</sup>

In 1988, the NRLC and other anti-abortion organizations notified drug companies that if any company sold an abortifacient drug, they and anti-abortion members of the public would boycott all the products of that company. The threat of a boycott was used to delay the sale of the abortifacient drug RU-486, which was brought to market in France by 1987, but not until 2000 in the US.<sup>224</sup>

The Republican candidate George H. W. Bush won the 1988 election and became president in January 1989.<sup>225</sup>

Although Bush had run against Reagan in 1980 for the Republican party nomination while espousing an abortion rights position, he had changed his position in the intervening years and ran on a platform opposing abortion in 1988.<sup>226</sup> In the 1988 election, the Democratic party adopted a clearer stance in favor of abortion rights.<sup>227</sup>

During the 1988 presidential campaign, the former evangelical Protestant minister Pat Robertson ran against George Bush in the Republican primaries but withdrew before the primaries were finished. The following year, the organization Moral Majority was disbanded seemingly due, at least in part, to its failure to build a

<sup>221</sup> “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>222</sup> Brian L. Wilcox, Jennifer K. Robbennolt, and Janet E. O’Keeffe, “Federal Abortion Policy and Politics: 1973 to 1996,” in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 8, citing K. Victor, “Not praying together,” National Journal (October 1987), 2546-51, notes that White House staff members argued that because there is and always will be disagreement about the appropriateness of legal abortion, the debate must be framed in a different way. They suggested that because there is fairly widespread agreement among the public that abortion is undesirable, even among individuals who support the continued legality of access to abortion services, much like the growing consensus that smoking is undesirable, the administration should choose a policy approach similar to the one taken in the smoking arena. Among the suggestions offered by the staffers were the following: (a) transfer program funds from groups that promote or otherwise support abortions to those that assist with adoptions, (b) end tax deductions for medical expenses associated with abortions, (c) direct the Surgeon General to develop and disseminate pamphlets warning of the medical hazards of abortion, and (d) veto every bill allowing federal dollars to be spent on abortion.

<sup>223</sup> Prendergast, *The Catholic Voter*, 198.

<sup>224</sup> See the point about “Boycotts of specific companies” in the section on “Consumer Action and Individual Behavioral Change.”

<sup>225</sup> “Electoral College Box Scores 1789-1996,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores.html>.

<sup>226</sup> See David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 67-74 for the narrative of his switch.

<sup>227</sup> Prendergast, *The Catholic Voter*, 196 notes that “The Democratic platform of 1984 echoed the 1980 platform’s stand on abortion. By 1988, however, the last vestiges of obfuscation were discarded in a platform which affirmed ‘reproductive choice’ to be a ‘fundamental right’ which ‘should be guaranteed regardless of ability to pay.’”

wide base of support.<sup>228</sup> Combined, these two events represented notable defeats for the political influence of evangelicals. In the 1990s, however, new organizations with a seemingly more moderate character were established.<sup>229</sup>

In 1989, the five-to-four Supreme Court decision in *Webster v. Reproductive Health Services* returned some power over abortion policy to states, including during the first trimester of pregnancy.<sup>230</sup> In 1990, the case of *Ohio v. Akron Center for Reproductive Health* (1990) further reinforced the freedom of state restrictions against abortion services.<sup>231</sup> The ruling also saw challenges by some justices to the principles of *Roe v. Wade*.<sup>232</sup> One paper, using *The New York Times* mentions of interest group activities in 1985-9, finds evidence of significantly higher-than-usual activity of anti-abortion groups in the quarter year during which the *Webster* decision was made but not in the quarter year following it.<sup>233</sup> Further analysis suggests that coverage of both the public

<sup>228</sup> Mark J. Rozell and Clyde Wilcox, “Second Coming: The Strategies of the New Christian Right,” *Political Science Quarterly* 111, no. 2 (1996), 272 note that “By the end of the decade [the 1980s], Reverend Jerry Falwell had disbanded the one-time leading Christian Right organization, his Moral Majority; Reverend Pat Robertson’s presidential campaign had failed; and many predicted the imminent demise of the Christian Right in America. There were three primary reasons for the failure of the first wave of the New Christian Right. First, the social movement organizations made no real effort to build at the grassroots and had few active local chapters. Jeffrey Hadden et al. reported that their study revealed no evidence of a functioning grassroots structure and argued that ‘the Moral Majority was primarily an organization for grabbing media attention, built and supported by direct-mail technology.’ Second, religious prejudices made for narrow coalitions, with Moral Majority leaders especially intolerant of Catholics, Pentecostals, and mainline Protestants. Finally, the movement made little attempt to market its message to a broader audience, serving up the same heated rhetoric to the press and public that it used to motivate its activists.”

<sup>229</sup> Mark J. Rozell and Clyde Wilcox, “Second Coming: The Strategies of the New Christian Right,” *Political Science Quarterly* 111, no. 2 (1996), 272-3 note that “In the 1990s, the Christian Right built far more effective organizational structures, far larger and more inclusive coalitions, and began to adopt more pragmatic strategies. Some activists claimed that the movement had matured and that it could now be considered part of the conservative mainstream. Critics charged that the Christian Right was adopting a moderate face to win elections, but that the fundamental agenda remained unchanged. Matthew Moen argues that the new organizations of the Christian Right differed from those that came before in several key ways. First, the organizations of the 1990s abandoned the language of moral crusade in favor of appeals based on the ‘rights talk’ of liberalism. Second, the groups emphasized politics over moral reform and attempted to build political coalitions. In this way, Moen argues, they became more secular. Finally, the new organizations were far more sophisticated than those that went before, primarily because of the influx of a new cadre of skilled leaders.”

<sup>230</sup> Nossiff, *Before Roe*, 9.

<sup>231</sup> Doan, *Opposition & Intimidation*, 92. This was judged by a six to three margin.

<sup>232</sup> Doan, *Opposition & Intimidation*, 92 summarizes that “the Supreme Court upheld many of the anti-abortion restrictions and in turn opened the door for future restrictions.” Doan also notes that the decision was won by five-to-four and that “three of the justices in the majority opinion even recommended revisiting the *Roe* decision.”

Wetstein, *Abortion Rates*, 22 counts slightly differently, noting that “Borrowing language from previous dissents by O’Connor, Rehnquist maintained in the plurality opinion that the *Roe* trimester framework was ‘unsound in principle and unworkable in practice.’ Scalia argued that *Roe* should be abandoned. In all, five of the nine Justices were now questioning the logic of the *Roe* trimester ruling: Scalia in an outright way; Rehnquist, with White and Kennedy, in a more muted way; and O’Connor because scientific advances were pushing viability forward.”

<sup>233</sup> Christopher B. Wlezien and Malcolm L. Goggin, “The Courts, Interest Groups, and Public Opinion about Abortion,” *Political Behavior* 15, no. 4 (1993), 392-5. Additionally, abortion rights activities were reported more regularly in the quarter before the decision.

activities of anti-abortion groups and the activities of the Courts in this period encouraged support for the legal status quo.<sup>234</sup>

By 1989-90, NRLC sent 85% of their campaign donations to Republicans.<sup>235</sup>

One source claims that by 1992, the NRLC still had fewer than 50 employees, though local groups had experienced professionalization, hiring executive directors.<sup>236</sup> Another source claims that by 1980-91, the NRLC “grew from five to fifty employees, and went from \$400,000 annual cash flow to \$15 million.”<sup>237</sup>

In 1992, the *Planned Parenthood v. Casey* decision reaffirmed the principles of *Roe v. Wade* and found unconstitutional a Pennsylvania law that required women intending to have an abortion to inform their husbands.<sup>238</sup> However, the Supreme Court abandoned the trimester framework previously established in *Roe v. Wade*, instead using a framework of “undue burden.” This allowed more scope for restrictive laws such as parental involvement laws, as long as they were not found by courts to constitute an undue burden.<sup>239</sup>

<sup>234</sup> Ibid, 392-5. They use as their dependent variable an unusual measure of public opinion, measured by CBS/New York Times polls in the 1980s: “Although public preferences for legalized abortion appear to have remained basically unchanged through the 1980s, a series of surveys conducted by CBS and the New York Times reflects a very different pattern of opinion during the same period. The exact wording of the abortion item is: ‘Should abortion be legal as it is now, or legal only in such cases as rape, incest, or to save the life of the mother, or should it not be permitted at all?’ The responses to this three-pronged abortion question used in the CBS/New York Times surveys indicate that a significant shift in opinion occurred during the 1980s, whereby the public became more supportive of legalized abortion ‘as it is now.’ At the same time, the public became less supportive of further restrictions on abortion. This shift in opinion is well outside of the bounds of sampling error and occurs somewhat gradually over time.”

The effect of Court activities, but not of “Pro-Life Public Activities” were replicated in an additional check that used “measures of court and interest-group activities... created by content coding the evening television newscasts for all three major networks.”

<sup>235</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 67. Karol notes that “the resources of the Republican pro-choice groups pale before those of their Democratic equivalents. By the 1995-1996 cycle the Democratic group EMILY’s List was the single biggest PAC in existence, channelling \$12,000,000 to pro-choice Democratic female candidates. The GOP equivalent, the WISH List, contributed just over \$1,000,000 to pro-choice female Republican candidates in the same period. When we look at the formally nonpartisan lobbies focused on abortion the story is similar. Already by the 1989-1990 campaign cycle, the leading pro-choice groups, the National Abortion Rights Action League (NARAL) and Planned Parenthood, were giving 89 percent and 98 percent of their contributions, respectively, to Democratic congressional candidates, while the National Right to Life Committee sent 85 percent of their donations to Republicans. Since then these groups’ contribution patterns have become even more one-sided.”

<sup>236</sup> Cassidy, “The Right to Life Movement,” 141.

<sup>237</sup> Jack Wilke, “For Better or Worse,” in Teresa R. Wagner (ed.) *Back to the Drawing Board: The Future of the Pro-Life Movement* (South Bend, Indiana: St. Augustine’s Press, 2003), 126. No citations are provided for this data.

<sup>238</sup> Kathryn Cullen-DuPont, *Encyclopedia of Women’s History in America* (New York: Infobase Publishing, May 2014; first published 1996), 203.

<sup>239</sup> Michael New, “Analyzing the Effect of State Legislation on the Incidence of Abortion Among Minors” (February 2007),

<https://www.heritage.org/marriage-and-family/report/analyzing-the-effect-state-legislation-the-incidence-abortion-among>. Doan, *Opposition & Intimidation*, 92 explains the case’s significance similarly, and notes that the case was ruled by five-to-four.

The Supreme Court decisions of *Webster v. Reproductive Health Services*, *Ohio v. Akron Center for Reproductive Health*, and *Planned Parenthood v. Casey* made state-level anti-abortion legislation more tractable.<sup>240</sup> Alesha Doan notes that “over 400 anti-abortion measures [were] enacted in the states within a ten-year time span.”<sup>241</sup> In the period 1992-2000, the number of states enforcing laws requiring parental involvement in abortion decisions rose from 20 to 32, 12 bans or restrictions on partial-birth abortions were introduced where previously there were none, and the rise in the number of states requiring parental consent rose from “virtually [none]” to 27.<sup>242</sup>

In 1991, a 46 day protest in Wichita, Kansas with 25,000 anti-abortion activists was orchestrated by the group Operation Rescue. This led to the closure of 3 abortion clinics, 3,000 arrests, and a cost of \$846,447 to taxpayers.<sup>243</sup> During the April 1992 “Spring of Life” protests at abortion clinics in Buffalo, New York, 615 arrests were made, and the police officials estimated that extra costs came to \$500,000. All clinics remained open.<sup>244</sup> Although not giving precise dates, Carol J. C. Maxwell argues, based on the stories told in activist interviews, that during the 1990s, the “middle ground provided by sit-ins (which allowed assertive personal action, tempered by a commitment to nonviolence) diminished, and the opposing extremes persisted... picketing flourished, acts of extreme violence arose, and terrorist tactics increased,” while other activists shifted away from direct action towards legislative and educational actions.<sup>245</sup>

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Greenhouse and Siegel, *Before Roe v. Wade* notes that the judgement states that “[T]he State may enact rules and regulations designed to encourage [a pregnant woman] to know that there are philosophic and social arguments of great weight that can be brought to bear in favor of continuing the pregnancy to full term and that there are procedures and institutions to allow adoption of unwanted children as well as a certain degree of state assistance if the mother chooses to raise the child herself.”

<sup>240</sup> New, “Analyzing the Effect of State Legislation” notes that “pro-life legislation received increased legal support during the 1990s. Although parental involvement laws predated *Roe v. Wade*, they were struck down in many cases by state and federal courts in the subsequent decades. In the 1990s, this trend halted as conservative jurists appointed by President Ronald Reagan and President George H. W. Bush gave these laws a better chance to withstand judicial scrutiny. In addition, in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the Supreme Court abandoned its trimester framework in favor of a doctrine of “undue burden,” which gave parental involvement laws and other types of pro-life legislation broader constitutional protection.”

<sup>241</sup> Doan, *Opposition & Intimidation*, 92. Doan notes that the numbers of bills introduced “continued to rise:” 245 in 1998, 395 in 2000 and 620 in 2001.

<sup>242</sup> New, “Analyzing the Effect of State Legislation,” citing the NARAL Foundation.

New explains that “Parental involvement rules require minors to notify or to receive consent from one or both parents before receiving an abortion... Informed consent statutes, which received constitutional protection in the Supreme Court’s 1992 *Casey* decision, require women seeking abortions to receive additional information about the abortion procedure, which may include information on fetal development, health risks involved with obtaining an abortion, or public and private sources of support for single mothers... The specifics of informed consent laws vary from state to state. Partial birth bans were upheld in 12 states between 1996 and 2000, although the Supreme Court struck down all partial birth abortion bans in *Stenberg v. Carhart* in 2000.”

<sup>243</sup> Cozzarelli and Major, “The Impact of Antiabortion Activities,” 87.

<sup>244</sup> Ibid, 87.

<sup>245</sup> Maxwell, *Pro-Life Activists in America*, 75.

In 1992, the number of newspaper articles discussing abortion reached a peak of over 10,000 articles.<sup>246</sup>

## 1992-2000: Bill Clinton, declining violence, and declining abortion incidence

The Democratic candidate Bill Clinton won the 1992 election while supporting abortion rights; he became president in January 1993.<sup>247</sup>

Clinton reversed several laws and restrictions on abortion implemented under Reagan and Bush, such as a gag order that had federally-funded family planning agencies from explaining to their clients that abortion was an option. Several of these restrictions have subsequently been reinstated and repealed again as administrations have changed.<sup>248</sup>

From approximately 1993, a decline in the number of abortions began that has continued until at least 2015.<sup>249</sup> Reported legal abortions dropped 18.4% from 1990 to 1999.<sup>250</sup>

In 1994, the Supreme Court ruled unanimously in *National Organization for Women v. Scheidler* that the existing Racketeer Influenced and Corrupt Organizations Act (RICO) could be applied to restrict illegal anti-abortion activism.<sup>251</sup> In May 1994, the Freedom of Access to Clinic Entrances Act (FACE) was passed, which

<sup>246</sup> Doan, *Opposition & Intimidation*, 159. Whereas magazine articles remained fairly stable, between about 550 and 750 in each year between 1995 and 2003, newspaper articles seem to have fluctuated much more, with a peak of over 10,000 in 1992, but varying between about 5,000 and just over 9,000 in the other years between 1989 and 2003.

An endnote explains that “The data presented in figure 8 comes from a search of the major American newspapers and magazines tracked on the Lexis-Nexis database... Abortion-related stories also receive more coverage than reflected in this figure because the count presented in figure 8 does not include local or state newspapers or magazines.”

<sup>247</sup> “Electoral College Box Scores 1789-1996,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores.html>.

<sup>248</sup> Kenneth D. Wald and Allison Calhoun-Brown, *Religion and politics in the United States* (Lanham, MD: Rowman and Littlefield, 2014), paragraphs 15.41 and 15.43 note that Clinton lifted the gag order that had prohibited “federally funded family planning agencies in the United States from even mentioning abortion as an option.” Additionally, Clinton “authorized the resumption of medical research using fetal tissue, restored the authority of overseas military hospitals to perform abortions, permitted importation of a ‘morning-after’ abortion pill (RU-486), and reinstated foreign aid to groups that advocated abortion... Clinton also supported a 1994 law [the FACE Act] that made it a federal crime to intimidate women seeking abortion or to impede their access to clinics. He also vetoed a law prohibiting a rare form of abortion used late in pregnancy. Clinton’s successor, George W. Bush, restored the gag rule and signed the ‘partial-birth abortion’ ban that Clinton had vetoed. The cycle continued when Barack Obama, Bush’s successor in 2008, repealed the gag order, overturned the ban on federal funding of stem cell research, and endorsed federal funding of Planned Parenthood services. Donald Trump promised to reverse those actions following his election in 2016.”

<sup>249</sup> Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel; Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, “Abortion Surveillance — United States, 2015,” *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, No. SS13 (2018), 1-45. See also the spreadsheet “Abortions and the abortion ratio by year,” which uses various reports by The Centers for Disease Control and Prevention.

<sup>250</sup> New, “Analyzing the Effect of State Legislation.”

<sup>251</sup> Marshall H. Medoff, “The Impact of Anti-Abortion Activities on State Abortion Rates,” *Journal of Socio-Economics* 32, no. 3 (2003), 267 claims that “Implicit in the Scheidler decision was the concern by the Court that anti-abortion activities

prohibited the use of force to prevent someone using or providing abortion services, as well as prohibiting the intentional damage of a facility.<sup>252</sup> After 1994, the percentage of clinics reporting to have experienced severe violence and threats of severe violence in surveys (including blockading clinic entrances or facility invasions) dropped steeply.<sup>253</sup> Another Count of violent incidents with a narrower categorization shows that violent behavior peaked in 1992, with 51 incidences of arson, bombings, or acid attacks, though there continued to be more than 10 incidents each year until the year 2000; the average number of violent incidents per year was 20 in 1984-99, which fell to 4 in 2000-4.<sup>254</sup> Data from the National Abortion Federation (based on “monthly reports on the violence and disruption” experienced by NAF members) shows that the number of arrests of anti-abortion activists fell steeply from an average of 2,266 per year in 1990-3 to 217 in 1994 to an average of 8 per year in 1995-2018,<sup>255</sup> presumably because the new legal restrictions made the consequence of risking arrest unacceptably high. Other forms of disruptive activity did not fall at this time, however. In fact, picketing rose from an average of 1,379 incidents per year in 1990-3 to 1,407 incidents in 1994, to an average of 8,071 incidents per year in 1995-2014.<sup>256</sup>

From January 1995 until January 2007, the Republicans held a majority in both the Senate and the House of Representatives (apart from 2001 to 2003, when 50 senators from each party were elected). This was the first time that this had happened since January 1955,<sup>257</sup> well before *Roe v. Wade*, although Clinton remained

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designed to deny women access to abortion services and to shut down abortion clinics may constitute an undue burden on women seeking an abortion.”

<sup>252</sup> “Freedom of Access to Clinic Entrances Act,” Wikipedia, last edited January 21, 2019, [https://en.wikipedia.org/wiki/Freedom\\_of\\_Access\\_to\\_Clinic\\_Entrances\\_Act](https://en.wikipedia.org/wiki/Freedom_of_Access_to_Clinic_Entrances_Act).

<sup>253</sup> See the spreadsheet “Count of violent and disruptive incidents,” which uses data from Feminist Majority Foundation, “2018 National Clinic Violence Survey” (2019), <https://www.feminist.org/anti-abortion-violence/images/2018-national-clinic-violence-survey.pdf>.

For the 2018 data, they explain that “Severe violence and threats of severe violence included blocking clinic access, invasions, bombings, arson, chemical attacks, stalking, physical violence, gunfire, bomb threats, death threats, arson threats, as well as other incidences of severe violence. The most common types of severe violence in 2018 included blockading of clinic entrances (9.1%), stalking (7.3%), facility invasions (6.8%), death threats (3.2%), and physical violence (3.2%).” However, only “218 providers responded to the survey, out of 729 clinics contacted.” This low response rate may have led to bias and inflation of the figures, although presumably the problem was similar across all years of the survey.

Doan, *Opposition & Intimidation*, 88 explains that FACE not only “essentially criminalized clinic blockades and attached severe monetary penalties to those who violated the law” but “also opened the door for individuals who are seeking or providing reproductive services to seek ‘civil remedies’ against offenders—that is, sue.”

<sup>254</sup> See the spreadsheet “Count of violent and disruptive incidents.”

<sup>255</sup> “2018 Violence and Disruption Statistics,” National Abortion Federation, accessed July 23, 2019, <https://prochoice.org/wp-content/uploads/2018-Anti-Abortion-Violence-and-Disruption.pdf>. However, when the number of arrests in the years 1990-2000 are plotted on a graph (see the tab “NAF data” in the spreadsheet “Count of violent and disruptive incidents”), the decline from the peak in 1991 resembles a smooth logarithmic curve; it is possible that the legal restrictions played little role in encouraging this decline.

<sup>256</sup> See the tab “NAF data” in the spreadsheet “Count of violent and disruptive incidents,” which uses data from “2018 Violence and Disruption Statistics,” National Abortion Federation, accessed July 23, 2019, <https://prochoice.org/wp-content/uploads/2018-Anti-Abortion-Violence-and-Disruption.pdf>.

<sup>257</sup> “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

president until 2001.<sup>258</sup> Anti-abortion candidates seem to have performed well in the election. One newspaper noted that:

“[N]ot a single pro-life governor or member of Congress of either party was defeated by a pro-choice challenger; pro-life challengers defeated 28 House and 2 Senate incumbents; of the 48 races for open House seats, pro-lifers took 34; of the 11 new senators, all but one are pro-life; and of the 26 percent of the electorate who said, according to a Wirthlin Group post-election survey, that the abortion issue affected the way they voted, two-thirds backed abortion foes while only one third voted for pro-choice candidates.”<sup>259</sup>

In the 1996 election, Republican candidate Bob Dole seemed to de-emphasize abortion issues compared to previous Republican candidates.<sup>260</sup> Clinton was re-elected.<sup>261</sup>

In April 1996 and October 1997, President Bill Clinton vetoed bills banning the procedure of intact dilation and extraction (an abortion procedure in the late stages of pregnancy, widely known as partial-birth abortion)<sup>262</sup> on the basis that they did not include health exceptions.

In 1997, in *Schenck v. Pro-Choice Network of Western New York*, anti-abortion activist Paul Schenck challenged a US district court injunction which restricted demonstrations from within 15-feet of four abortion clinics in New York state. The case came before the Supreme Court, where Justices ruled 8–1 to uphold the constitutionality of a “fixed buffer zone” (the area around the clinic itself), but not that of a “floating buffer zone” (the area around objects in transit such as cars or people).<sup>263</sup>

<sup>258</sup> “Electoral College Box Scores 1789-1996,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores.html> and “Electoral College Box Scores 2000-2016,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores2.html>.

<sup>259</sup> “This Week,” *National Review* 46 (December, 1994), 12, cited in Jacoby, *Souls, Bodies, Spirits*, xi-xii.

<sup>260</sup> Prendergast, *The Catholic Voter*, 208-9, notes that “To the dismay of conservative supporters, the conduct of the campaign deemphasized the issues of their cultural agenda. When Dole addressed such issues, he was so obviously uncomfortable as to sound insincere... Professor James Hitchcock, a leading conservative, raised a question that troubled many in a column syndicated in the Catholic press captioned ‘How Pro-Life is Bob Dole?’ Noting that Dole had turned aside questions on the subject, once claiming to be unfamiliar with the platform language on the issue of abortion, again ignoring the topic in a speech at Jesuit-run St. Louis University, Hitchcock warned that in comparing Dole and Clinton ‘pro-lifers need to think very hard about how preferable Dole really is.’”

On pages 210-11, Prendergast notes that Clinton vetoed bills banning partial-birth abortion, but argues that “the issue of partial birth abortion failed to generate a stronger protest vote from Catholics against the Clinton veto not because of ambiguous signals from clerics but because of the reluctance of Republican candidates to make it a major issue in their campaign.”

<sup>261</sup> “Electoral College Box Scores 1789-1996,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores.html>.

<sup>262</sup> Prendergast, *The Catholic Voter*, 210-11.

<sup>263</sup> “*Schenck v. Pro-Choice Network of Western New York*,” Oyez, accessed July 17, 2019, <https://www.oyez.org/cases/1996/95-1065>.

The year 1999 saw a high-profile death of a mother during an abortion procedure, which was followed by increased regulations on abortion clinics in “dozens of states;” the AUL claim that “many” used “AUL’s model act as a guide.”<sup>264</sup> Indeed, hundreds of abortion-related bills were proposed in the states each year in the late 1990s and early 2000s. Over 400 anti-abortion measures were enacted within ten years.<sup>265</sup>

In 2000, the US Supreme Court overturned partial-birth abortion bans across 30 states in *Stenberg v. Carhart* because it made no exception “for the preservation of the... health of the mother” and imposed an “undue burden” on a woman’s ability to choose to have an abortion, both of which violated the principles of the 1992 *Planned Parenthood v. Casey* ruling.<sup>266</sup>

## 2000-present: Republican dominance, incremental legislative successes, and renewed anti-abortion sentiment in the Supreme Court

Republican candidate George W. Bush won the 2000 election and became president in January 2001. This was the first time since January 1955 that the president had been a Republican simultaneously with both the Senate and House of Representatives having Republican majorities.<sup>267</sup>

In 2003, in spite of the *Stenberg v. Carhart* ruling that had overturned state partial-birth abortion bans, Bush signed the Partial-Birth Abortion Ban Act into law. One paper finds, through content analysis, that although senators mostly voted for or against the bill on the basis of its constitutionality, discussion focused on the morality of the procedure. The author argues that the issue may have been framed in this manner in order to pressure abortion rights politicians and the Supreme Court.<sup>268</sup> In 2007, the *Gonzales v. Carhart* case upheld the

<sup>264</sup> “History,” Americans United for Life, accessed February 11, 2019, <https://aul.org/about/history/>.

<sup>265</sup> Doan, *Opposition & Intimidation*, 92. Doan notes that the numbers of bills introduced “continued to rise:” 245 in 1998, 395 in 2000 and 620 in 2001. Doan adds that “anti-abortion legislation easily outnumbered pro-choice legislation from 1990 to 2001. For example, in 2000, pro-choice supporters introduced 138 bills, whereas pro-life sympathizers introduced 257 in the same year. The following year, 222 bills were pro-choice and 398 were anti-abortion. Out of the measures that were adopted by states during 2001, there were 39 anti-abortion measures, while 27 were pro-choice measures.”

<sup>266</sup> “*Stenberg, Attorney General of Nebraska, et. al. v. Carhart*,” US Supreme Court (2000), <https://supreme.justia.com/cases/federal/us/530/914/case.pdf>, 930.

<sup>267</sup> “Electoral College Box Scores 1789-1996,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores.html> and “Electoral College Box Scores 2000-2016,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores2.html>, compared to “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>268</sup> Cheryl Schonardt-Bailey, “The Congressional Debate on Partial-Birth Abortion: Constitutional Gravitas and Moral Passion,” *British Journal of Political Science* 38, no. 3 (July 2008), 383-410. On page 406, Schonardt-Bailey hypothesizes that “the larger battle was directed at the Supreme Court. By framing a specific type of abortion as morally unacceptable and by laying down the gauntlet to the Supreme Court, Santorum and other sponsors sought to further their incremental assault on abortion in general. Omitting both the exception for a woman’s health and any endorsement of *Roe v. Wade* were clear signals of the bill’s attempt to further polarize the abortion issue. The reason that the bill’s supporters latched onto the D & X procedure [dilation and extraction procedure, i.e. “partial-birth abortion”] was that it enabled them to frame abortion in a particularly negative and passionate way, and thereby gain leverage in a larger anti-abortion struggle.

Partial-Birth Abortion Ban Act of 2003 by a vote of 5-4, including by two justices appointed to the Supreme Court by George W. Bush. This modified the earlier findings of *Stenberg v. Carhart*.<sup>269</sup>

On April 1, 2004, Bush signed the Unborn Victims of Violence Act into law, which meant that those who injured or killed a pregnant mother could be prosecuted with a second offence against the unborn child. This act thereby established the fetus as a separate legal entity.<sup>270</sup> Commentators suggested that this was a strategic decision taken by the anti-abortion movement to establish legal personhood for human fetuses.<sup>271</sup> Legal challenges to similar laws at the state level have been rejected.<sup>272</sup>

From January 2007 until January 2011, the Democrats held a majority in both the Senate and the House of Representatives.<sup>273</sup> Democratic candidate Barack Obama won the 2008 election and became president in January 2009.<sup>274</sup> Despite some legislative and legal victories for the anti-abortion movement, this period of Republican dominance thus came to an end without overturning of *Roe v. Wade* or implementing any particularly radical reshaping of the abortion policy landscape, which may have been due partially to the Republicans not prioritizing socially conservative goals.<sup>275</sup> From January 2011 until January 2015, the

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Within the legislative arena, by framing the D & X procedure as infanticide, proponents gained political points by forcing anti-ban senators into a difficult defensive position.”

<sup>269</sup> “*Gonzales v. Carhart*,” Oyez, accessed July 25, 2019, <https://www.oyez.org/cases/2006/05-380>.

In this manner, an anti-abortion president had successfully managed to influence a landmark judicial decision through his choice of appointees. The ruling may also be partially attributable to influence from Americans United for Life. “History,” Americans United for Life, accessed February 11, 2019, <https://aul.org/about/history/> notes that “In 2007, Justice Kennedy provided the crucial fifth vote and wrote the Court’s opinion in the landmark case of *Gonzales v. Carhart*... This decision... resoundingly affirmed AUL’s long-term strategy of pursuing state legislation and legal arguments that focused on protecting women from abortion’s harms. In both Casey and Gonzales, Kennedy was concerned with the impact of abortion on women. Importantly, he based his Gonzales opinion, in large part, on what had become common knowledge: abortion harms women.

<sup>270</sup> Doan, *Opposition ↗ Intimidation*, 98.

<sup>271</sup> “The Unborn Victims of Violence Act,” Congressional Research Service (January 2007), [https://www.everycrsreport.com/files/20070124\\_RS21550\\_dffbd7cf0a9429c5cd533599e0716218b5ea7.pdf](https://www.everycrsreport.com/files/20070124_RS21550_dffbd7cf0a9429c5cd533599e0716218b5ea7.pdf), 1-2, citing the Center for Reproductive Rights and NARAL Pro-Choice America, summarizes that “organizations that support a woman’s right to choose opposed the act. These organizations asserted that the UVVA [Unborn Victims of Violence Act] was part of a campaign to undermine the right to abortion. They argued that recognition of a fetus or embryo as an entity separate from the pregnant woman could obscure the U.S. Supreme Court’s finding in *Roe v. Wade* that the word ‘person’ does not include the unborn. If personhood could be established for a fetus or embryo, such entities’ right to life under the Fourteenth Amendment would seem to be guaranteed.”

<sup>272</sup> See “Constitutional Challenges to Unborn Victims (Fetal Homicide) Laws,” National Right to Life (May 2013), <https://www.nrlc.org/site/federal/unbornvictims/statechallenges/>.

<sup>273</sup> “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59. Technically, the Democrats did not have a majority in the Senate at first in 2007, since 49 Democrats, 49 Republicans, and 2 senators from “Other Parties” were elected.

<sup>274</sup> “Electoral College Box Scores 2000-2016,” National Archives and Records Administration, US Electoral College, accessed October 22, 2019, <https://www.archives.gov/federal-register/electoral-college/scores2.html>.

<sup>275</sup> Kenneth D. Wald and Allison Calhoun-Brown, *Religion and politics in the United States* (Lanham, MD: Rowman and Littlefield, 2014), paragraph 14.127 note that “On the legislative goals central to the GOP agenda—tax cuts, Social Security reform, the war in Iraq, expanded oil drilling—the administration deployed all its ammunition and usually secured legislative approval. By contrast, social conservatives complained, the administration gave only halfhearted

Republicans held a majority in the House of Representatives, but the Democrats retained a majority in the Senate.<sup>276</sup>

By the Guttmacher Institute's count, 2011 saw a sudden rise in the passage of state laws restricting abortions from between 0 and 30 passed in each year from 1985 to 2010 up to over 90 restrictions passed in 2011 alone.<sup>277</sup>

This seems likely to have been encouraged by the new Republican control of the House of Representatives.<sup>278</sup>

These laws include TRAP (Targeted Regulation of Abortion Providers) laws, as well as restrictions on insurance coverage of abortion procedures, other restrictions on the conditions in which medical abortion can be provided, and bans on abortion after 20 weeks of pregnancy.<sup>279</sup> According to the data from NARAL, however, 2011 seems like less of a sudden rise, with 69 new "statewide anti-choice measures" enacted, while the highest increase in previous years was 58 in 2005. In 2016, the cumulative total enacted since 1995 was 932.<sup>280</sup>

In 2011, the first "heartbeat bills" were proposed.<sup>281</sup> Heartbeat bills are legislation that makes abortion illegal once a heartbeat can be detected. This can be as early as six weeks into the pregnancy, at which point some women may not yet be aware that they are pregnant.<sup>282</sup> These bills therefore seem likely to drastically cut the number of abortions conducted within an individual state where such legislation exists, but fall slightly short of an outright ban on abortion.

efforts to their cherished goals of ending abortion, prohibiting gay marriage, and other such aims. It seemed like a repeat of the Reagan years, with their manifold disappointments amid so much hope."

<sup>276</sup> "Statistics of the Congressional election from official sources for the election of November 6, 2018," Office of the Clerk, US House of Representatives (February 28, 2019),

<https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>277</sup> Rachel B. Gold and Elizabeth Nash, "Troubling Trend: More States Hostile to Abortion Rights as Middle Ground Shrinks," *Guttmacher Policy Review* 15, no. 1 (2012), 16.

Heather D. Boonstra and Elizabeth Nash, "A Surge of State Abortion Restrictions Puts Providers--and the Women They Serve--in the Crosshairs." *Guttmacher Policy Review* 17, no. 1 (March 2014) notes that "More state abortion restrictions were enacted in 2011-2013 [205 total] than in the entire previous decade [189 total]."

<sup>278</sup> For discussion of other factors that may have influenced the introduction of anti-abortion legislation, see the sections beginning "For securing desired legislative outcomes..." and "A variety of other advocacy tactics..." in the section on "Strategic Implications".

<sup>279</sup> Heather D. Boonstra and Elizabeth Nash, "A Surge of State Abortion Restrictions Puts Providers--and the Women They Serve--in the Crosshairs." *Guttmacher Policy Review* 17, no. 1 (March 2014).

<sup>280</sup> NARAL Pro-Choice America, "Who Decides? The Status of Women's Reproductive Rights in the United States" (January 2017),

<https://www.prochoiceamerica.org/report/2017-decides-status-womens-reproductive-rights-united-states/>, 4-5.

<sup>281</sup> Wikipedia, "Fetal heartbeat bill," last edited July 15, 2019, [https://en.wikipedia.org/wiki/Fetal\\_heartbeat\\_bill](https://en.wikipedia.org/wiki/Fetal_heartbeat_bill) lists some of the proposed and passed legislation, with heartbeat bills listed for Arkansas, North Dakota, and Wyoming in 2013.

Erik Eckholm, "Anti-Abortion Groups are Split on Legal Tactics," *New York Times* (December 2011), <https://www.nytimes.com/2011/12/05/health/policy/fetal-heartbeat-bill-splits-anti-abortion-forces.html> shows that such legislation was considered in Ohio in 2011.

<sup>282</sup> Anna North, "The 'Heartbeat' Bills that could Ban Almost All Abortions, Explained" (April 2019),

<https://www.vox.com/policy-and-politics/2019/4/19/18412384/abortion-heartbeat-bill-ohio-2019-georgia-iowa>.

From January 2015 until January 2019, the Republicans held a majority in both the Senate and the House of Representatives.<sup>283</sup> Compared to 2014, the years 2015 to 2018 saw very sharp rises in the amount of hate mail and harassment, trespassing, and picketing conducted by anti-abortion activists; each of these activities rose in frequency by over an order of magnitude between 2014 and 2018. For example, the number of picketing incidents rose from 5,402 incidents in 2014 to 99,409 in 2018, with an average of 8,071 per year in 1995-2014 rising to an average of 65,200 per year in 2015-18.<sup>284</sup> These changes do not appear to have had any notable effect on public opinion.<sup>285</sup>

In 2016, the *Whole Woman's Health v. Hellerstedt* ruling struck down several restrictions on abortion services in Texas via the “undue burden” principle.<sup>286</sup>

Republican candidate Donald Trump won the 2016 election and became president in January 2017. At various points, Trump had announced inconsistent views on abortion.<sup>287</sup> However, during the campaign, he identified as “pro-life” and announced that he intended to appoint anti-abortion Justices to the Supreme Court, which would then “automatically” lead to the reversal of *Roe v. Wade*.<sup>288</sup> Since then, he has appointed two anti-abortion justices, Neil M. Gorsuch and Brett Kavanaugh.<sup>289</sup>

In January 2017, Vice President Mike Pence attended the annual March for Life in Washington DC. He was the highest-ranking U.S. official to attend in person, though presidents had previously telephoned in as speakers.<sup>290</sup> In January 2017, the House of Representatives passed legislation that would make the Hyde

<sup>283</sup> “Statistics of the Congressional Election from Official Sources for the Election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>284</sup> See the tab “NAF data” in the spreadsheet “Count of violent and disruptive incidents,” which uses data from “2018 Violence and Disruption Statistics,” National Abortion Federation, accessed July 23, 2019, <https://prochoice.org/wp-content/uploads/2018-Anti-Abortion-Violence-and-Disruption.pdf>. The authors of the National Abortion Federation report note that “As of mid-November 2015, enhanced technology allowed for an increased ability to uncover Hate Email/Internet Harassment.” It is possible that this technical change could explain the majority of the increase in recorded incidents of harassment in 2015 and 2016, given that the recorded number of incidents was much smaller in 2017 and 2018. No methodological changes that might explain the rise in trespassing or picketing are noted in the 2016, 2017, or 2018 reports, however.

<sup>285</sup> See “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>.

<sup>286</sup> “*Whole Woman's Health v. Hellerstedt*,” Oyez, accessed July 23, 2019, <https://www.oyez.org/cases/2015/15-274>.

<sup>287</sup> Philip Bump, “Donald Trump took 5 different positions on abortion in 3 days” (April 2016), <https://www.washingtonpost.com/news/the-fix/wp/2016/04/03/donald-trumps-ever-shifting-positions-on-abortion/>.

<sup>288</sup> Dan Mangan, “Trump: I'll appoint Supreme Court justices to overturn *Roe v. Wade* abortion case” (October 2016), <https://www.cnbc.com/2016/10/19/trump-will-appoint-supreme-court-justice-to-overturn-roe-v-wade-abortion-case.html>.

<sup>289</sup> The appointments and voting records of the justices is discussed in the [“Institutional Reform.”](#)

<sup>290</sup> “Notable speakers” in “March for Life (Washington, D.C.),” Wikipedia, last edited July 3, 2019, [https://en.wikipedia.org/wiki/March\\_for\\_Life\\_\(Washington,\\_D.C.\)#Notable\\_speakers](https://en.wikipedia.org/wiki/March_for_Life_(Washington,_D.C.)#Notable_speakers) and Bob Fredericks, “Mike Pence makes history by rallying with pro-life marchers” (January 27, 2017), <https://nypost.com/2017/01/27/mike-pence-will-make-history-by-rallying-with-pro-life-marchers/>.

Amendment's provisions permanent, preventing the use of certain federal funds for abortions. However, the bill was never brought to a vote in the Senate.<sup>291</sup>

From January 2019 until the time of writing, the Democrats have held a majority in the House of Representatives but the Republicans have retained a majority in the Senate.<sup>292</sup> In February 2019, in the *June Medical Services v. Gee* ruling, the Supreme Court voted 5-to-4 to prevent a restrictive Louisiana abortion law.<sup>293</sup>

One article by the BBC claims that between January and April 2019, fifteen states "have specifically been working with so-called 'heartbeat bills,' that would ban abortion after six weeks of pregnancy," compared to seven in 2018.<sup>294</sup> In early April, the Guttmacher Institute noted that "Legislation under consideration in 28 states would ban abortion in a variety of ways."<sup>295</sup> Three heartbeat bills have been passed by state legislatures but struck down by courts or judges, six further bills have been temporarily blocked by federal courts, and one is expected to be effective from November 16, 2019.<sup>296</sup>

Comparing Gallup polls in May 2018 to May 2019, the public seems to have become slightly more hostile to abortion by several percentage points.<sup>297</sup> Abortion issues may also to have become more politically salient in this period; asked to think about "how the abortion issue might affect [their] vote for major offices," Gallup polls show that 75% of registered voter respondents in 2019 saw abortion as an important issue, compared to 71% in 2016.<sup>298</sup>

<sup>291</sup> Kate Scanlon, "'We are a pro-life Congress': House votes to make Hyde amendment permanent" (January 2017), <https://www.theblaze.com/news/2017/01/24/we-are-a-pro-life-congress-house-votes-to-make-hyde-amendment-permanent>. See also Wikipedia, "Hyde Amendment," last edited March 2019, [https://en.wikipedia.org/wiki/Hyde\\_Amendment](https://en.wikipedia.org/wiki/Hyde_Amendment).

<sup>292</sup> "Statistics of the Congressional election from official sources for the election of November 6, 2018," Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>293</sup> "June Medical Services, LLC v. Gee," SCOTUSblog, accessed July 22, 2019, <https://www.scotusblog.com/case-files/cases/june-medical-services-llc-v-gee-2/>.

<sup>294</sup> Ritu Prasad, "What's behind the rise of anti-abortion 'heartbeat bills'?" (April 2019), <https://www.bbc.co.uk/news/world-us-canada-47940659>.

The individual legislation is not listed, although Wikipedia, "Fetal heartbeat bill," last edited July 15, 2019, [https://en.wikipedia.org/wiki/Fetal\\_heartbeat\\_bill](https://en.wikipedia.org/wiki/Fetal_heartbeat_bill) lists some of the proposed and passed legislation; at the time of writing, seventeen states were listed as having proposed heartbeat bills in 2019.

<sup>295</sup> Elizabeth Nash, Olivia Cappello, Sophia Naide, Lizamarie Mohammed, and Zohra Ansari-Thomas, "Radical Attempts to Ban Abortion Dominate State Policy Trends in the First Quarter of 2019" (April 2019), <https://www.guttmacher.org/article/2019/04/radical-attempts-ban-abortion-dominate-state-policy-trends-first-quarter-2019>. Other types of bans include bans at other gestational ages (such as at 18 or 20 weeks, as opposed to the 6 weeks in the heartbeat bills), "Trigger bans that would automatically make abortion illegal if *Roe v. Wade* is overturned," "Reason bans that would prohibit abortion based on fetal characteristics (such as sex, race or disability status); and Method bans that would bar providers from performing a specific type of abortion."

<sup>296</sup> Wikipedia, "Fetal heartbeat bill," last edited July 15, 2019, [https://en.wikipedia.org/wiki/Fetal\\_heartbeat\\_bill](https://en.wikipedia.org/wiki/Fetal_heartbeat_bill).

<sup>297</sup> See the tab "Gallup overall support" on the spreadsheet "Public opinion data," which uses data from "In Depth: Topics A to Z: Abortion," Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>. Of the measured years, only 1995-6 had a shift in public attitude of the same size (7%).

<sup>298</sup> "In Depth: Topics A to Z: Abortion," Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>. The figures for "important" were taken by combining the answers

## Summary of Shifts in Tactics

A broad chronological generalization is that the anti-abortion movement has moved through phases of prioritizing different tactics, shifting each time a tactic failed to achieve success:

- In the 1960s-1973, advocates focused on localized legislation and legal struggles to prevent abortion liberalization.<sup>299</sup>
- In 1973-1983, after *Roe v. Wade* invalidated localized efforts,<sup>300</sup> advocates focused on major national legislative change such as attempts to introduce a Human Life Amendment and the successful implementation of the Hyde Amendment.<sup>301</sup>
- Once efforts to secure a HLA seemed to have failed despite an anti-abortion Republican president and a Republican majority in the Senate, federal legislative efforts came to focus predominantly on incremental change.<sup>302</sup> Beyond this, various other tactics were used more widely from the mid-1980s, including grassroots direct action to disrupt abortion services and build support for anti-abortion measures,<sup>303</sup> an increase in violent tactics,<sup>304</sup> and a growth in the number of crisis pregnancy centers.<sup>305</sup>
- After restrictions in 1994, grassroots tactics shifted from illegal methods towards legal protest,<sup>306</sup> and the number of violent incidents declined by 2000.<sup>307</sup>

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“Candidate must share views” and “One of many important factors” and were contrasted to “Not a major issue” and “No opinion.” The figure fluctuated between 59% and 76%.

<sup>299</sup> See the section on the “Early History of the Movement” above.

<sup>300</sup> See the paragraph beginning “The January 22, 1973 *Roe v. Wade* ruling enforced...” above.

<sup>301</sup> See the section on “1973-1980: *Roe v. Wade*, anti-abortion mobilization, and political tactics” above plus the paragraph beginning “In 1982, two separate anti-abortion bills...” and following few paragraphs.

<sup>302</sup> See the paragraph beginning “After this point, proposed legislation...” above.

Ainsworth and Hall, *Abortion Politics in Congress*, 160 notes also that more constitutional amendments related to abortion were proposed from 1975-80 than were in the combined total of the years 1980-2004, despite Republican presidents in around two-thirds of those years.

Cassidy, “The Right to Life Movement,” 146-7 argues that at this point, advocates shifted focus to securing the nomination of anti-abortion Supreme Court candidates, but only seems to provide evidence of political action to support this before 1983, rather than after that year.

Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015) argues that this transition towards incrementalism began earlier than 1983. See footnote 194.

<sup>303</sup> See the section “1980-92: Ronald Reagan, the diversification of anti-abortion tactics, and an increasingly anti-abortion Supreme Court” above, especially the paragraph beginning “The years 1984 and 1985...”

<sup>304</sup> See the spreadsheet “Count of violent and disruptive incidents.”

<sup>305</sup> See footnote 205.

<sup>306</sup> See the paragraph beginning “In 1994, the Supreme Court ruled unanimously...” above.

<sup>307</sup> See the spreadsheet “Count of violent and disruptive incidents.”

- The 1990s saw a slight increase in the passage of anti-abortion state legislation;<sup>308</sup> this increased again from 2011.<sup>309</sup>

Throughout this period, advocates have also sought to persuade the public that abortion is undesirable and immoral through information campaigns and resources such as John Wilke's pamphlet *Life or Death* and Bernard Nathanson's film, *The Silent Scream*. The author of this report has not seen evidence to suggest that there were substantial shifts in the extent to which this form of activism was prioritized.

## The Extent of the Success of the Anti-Abortion Movement in US

The extent of success is important for the weight that we place on strategic knowledge from this case study. For some concrete outcomes, such as the passage of legislation regulating abortion at the state level, analysis of their causes can provide strategic knowledge.<sup>310</sup> However, where judgements of causation regarding particular movement outcomes are uncertain, a case study can still be informative; if a particular social movement successfully achieves its goals, then this provides weak evidence that its particular characteristics (such as the tactics used and prioritized) led to success. The noting of such correlations between certain characteristics and success or failure will become more useful as we analyze a greater number of historical social movements and note whether any correlations reliably replicate across different movements and across different contexts.<sup>311</sup>

This section seeks to summarize the degree of success or failure of the anti-abortion movement to date, but does not discuss the causes of these outcomes. For discussion of causation, see the section on “[Strategic Implications](#).”

Changes in behavior, legislation, and legal precedent are most directly related to improvements in wellbeing for the intended beneficiaries of a social movement. From a longer-term perspective, reflecting an interest in these changes as constituting one step in a wider process of moral circle expansion or another longer-term social change, it is also important to consider whether the anti-abortion movement has been able to secure less concrete forms of success that might have indirect effects on human fetuses, such as changes to values, culture, and identity.

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<sup>308</sup> See the paragraph beginning “The year 1999 saw...” above.

<sup>309</sup> See the paragraph beginning “The Supreme Court decisions of *Webster...*” above and the section on “2000-present: Republican dominance, incremental legislative successes, and renewed anti-abortion sentiment in the Supreme Court” above.

<sup>310</sup> See the point beginning “For securing desired legislative outcomes...” in the section on “[Strategic Implications](#).”

<sup>311</sup> For further discussion of related issues, see Jamie Harris, “What can the farmed animal movement learn from history?” (May 2019),

<https://www.sentienceinstitute.org/blog/what-can-the-farmed-animal-movement-learn-from-history>.

Given that the anti-abortion movement was partially a reaction to the social and legal changes of the 1960s onwards, the movement may have been successful in terms of preventing change that it disapproved of, rather than in terms of encouraging changes that it desired.

## Changes to Behavior

The number of abortions appears to have risen each year between 1972 and 1977, rising from 587,000 in 1972 to 1,270,000 in 1977;<sup>312</sup> this was around the time that the modern US anti-abortion movement began to mobilize seriously, though this process had begun in the 1960s.<sup>313</sup> According to data from the Centers for Disease Control and Prevention, the number of abortions per 1,000 live births rose in the 1970s from little over 200 to around 250 for most of the 1980s. From 1993 this ratio fell and by 2015 was under 200 per 1,000 live births.<sup>314</sup> The extent to which the anti-abortion and abortion rights movements have been responsible for these changes is unclear and so this metric does not show clear success or failure for either movement.<sup>315</sup>

## Legislative and Legal Changes

Before *Roe v. Wade*, there were some political victories for the anti-abortion movement at the state level, which were nevertheless undermined by the legal defeat.<sup>316</sup>

None of the proposals for a Human Life Amendment to overturn *Roe v. Wade* and/or criminalize abortion have succeeded to date.<sup>317</sup>

<sup>312</sup> Susan B. Hansen, “State Implementation of Supreme Court Decisions: Abortion Rates Since *Roe v. Wade*,” *The Journal of Politics* 42, no. 2 (May 1980), 376. Hansen notes that “Rates for 1972 through 1973 are reported by states in the Statistical Abstract of the United States, 1977, Table 93, p. 64, based on surveys of hospitals, clinics, and physicians conducted by the Alan Guttmacher Institute. Rates for 1976, from similar surveys, are available from the Abortion Surveillance Bureau, ‘Abortion -Surveillance-United States, 1976,’ (Atlanta, GA.: Bureau of Epidemiology, 1978). Each year's figures are for July 1 of that year through June 30 of the following year.”

Some of the delay in rising abortion incidence may have been due to delayed implementation of *Roe v. Wade*. Garrow, *Liberty and Sexuality*, 608 notes that “While judicial compliance with *Roe* and *Doe*'s mandate was unsurprisingly prompt, actual implementation of the rulings' tangible commands by American hospitals was generally slow and in many instances simply nonexistent. Both journalistic and professional surveys disclosed that many hospitals, both private and public, were manifesting no desire whatsoever to begin providing abortion services, but in some states, doctors who had already been performing abortions quickly moved to expand the scale of their clinic facilities.”

<sup>313</sup> See the subsections on “1966-73: Legalization of abortion in some states and initial anti-abortion resistance” and “1973-1980: Roe v. Wade, anti-abortion mobilization, and political tactics” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>314</sup> Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel, Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, “Abortion Surveillance — United States, 2015,” *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, no. SS13 (2018), 1-45 and Sonya B. Gamble, Lilo T. Strauss, Wilda Y. Parker, Douglas A. Cook, Suzanne B. Zane, and Saeed Hamdan, “Abortion Surveillance — United States, 2005,” *Morbidity and Mortality Weekly Report Surveillance Summaries* 57, no. SS13 (2008), 1-32.

<sup>315</sup> For discussion of causation, see the point beginning “Disruptive and confrontational tactics...” at the start of the “Strategic Implications” section.

<sup>316</sup> See, for example, footnote 124.

<sup>317</sup> See footnote 144.

Some laws have been passed and Supreme Court rulings have been made that make access to abortion more difficult:

- Although many Supreme Court decisions have mixed implications for accessibility and support for abortion rights, of the 23 Supreme Court decisions relating to abortion between 1973 and 1994, Matthew Wetstein categorized 11 as predominantly supporting or permitting abortion rights and 14 as being anti-abortion.<sup>318</sup>
- The Hyde Amendment and its successful protection in the courts are notable successes of the anti-abortion movement.<sup>319</sup>
- Hundreds of abortion-related bills were proposed in the states each year in the late 1990s and early 2000s. Over 400 anti-abortion measures were enacted within ten years.<sup>320</sup> According to the data from NARAL, in 2016, the cumulative total of “statewide anti-choice measures” enacted since 1995 was 932.<sup>321</sup>
- Three heartbeat bills are expected to be effective by January 1, 2020.<sup>322</sup>

Legal victories may only realize their full potential if further victories are won, by building precedent for further legal decisions.<sup>323</sup>

## Acceptance and Inclusion

In various ways, the anti-abortion cause seems to have gained acceptance and normalization within the Republican Party. Four anti-abortion US Presidents—Ronald Reagan, George H. W. Bush, George W. Bush, and Donald Trump—have been elected to date.<sup>324</sup> Vice President Mike Pence attended the annual March for Life in Washington D.C., and presidents have previously telephoned in as speakers.<sup>325</sup> Although not synonymous with the anti-abortion movement, some organizations and individuals associated with the Christian Right have been welcomed by the Republican Party.<sup>326</sup>

<sup>318</sup> Wetstein, *Abortion Rates*, 32-6

<sup>319</sup> See the paragraphs beginning “In September 1976, the Hyde Amendment...” and “The Hyde Amendment survived...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>320</sup> See footnote 265.

<sup>321</sup> NARAL Pro-Choice America, “Who Decides? The Status of Women’s Reproductive Rights in the United States” (January 2017), <https://www.prochoiceamerica.org/report/2017-decides-status-womens-reproductive-rights-united-states/>, 4-5.

<sup>322</sup> Wikipedia, “Fetal heartbeat bill,” last edited July 15, 2019, [https://en.wikipedia.org/wiki/Fetal\\_heartbeat\\_bill](https://en.wikipedia.org/wiki/Fetal_heartbeat_bill).

<sup>323</sup> “History,” Americans United for Life, accessed February 11, 2019, <https://aul.org/about/history/> argues that “AUL’s emphasis on the states not only offered the most immediate opportunity to save lives — it has also served to bolster pro-life policies, legal precedents, public attitudes, and coalitions that pro-life leaders can build upon in order to enact broader pro-life laws and prepare for the day when Roe’s eventual reversal returns abortion jurisdiction to the states. For example, AUL advised on both the legislation and litigation in the pivotal 1989 U.S. Supreme Court decision, *Webster v. Reproductive Health Services* — which successfully upheld a Missouri law restricting state funding of abortions.”

<sup>324</sup> See the descriptions of their elections and views at various points in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>325</sup> See footnote 290.

<sup>326</sup> Mark J. Rozell and Clyde Wilcox, “Second Coming: The Strategies of the New Christian Right,” *Political Science Quarterly* 111, no. 2 (1996), 27 notes, for example, that “GOP lawmakers eagerly seek to be pictured with Christian Coalition executive director Ralph Reed, Jr., who unveiled the “Contract with the American Family.”

To some extent, the anti-abortion cause and crisis pregnancy centers (CPCs) in particular have gained acceptance at the national level during Republican administrations, as well as at the state level. For example, during the presidency of George W. Bush, CPCs were given federal funding to provide abstinence education.<sup>327</sup> Currently, 32 states sell “Choose Life” license plates; the funds from these sales often go to CPCs.<sup>328</sup>

There are various other examples of ad hoc engagement, consultation with, or endorsement of anti-abortion organizations by politicians and institutions, which also represent a form of acceptance. One example is the consulting of Americans United for Life by legislators at the state level.<sup>329</sup>

## Changes to Public Opinion

Gallup polls suggest that the U.S. public has slightly shifted towards support for abortion being legal in all circumstances since regular polling began, rising slightly from 22% in 1975 to 25% in 2019.<sup>330</sup> The General Social Survey (GSS) also shows a slight move towards support for abortion for any reason, however, it also reveals a trend towards anti-abortion attitudes in the years 1973 to 2012 for all six more specific questions

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<sup>327</sup> Hartshorn, “Putting It All Together,” 114 notes that “A boon came in the early ‘80s when a small amount of federal dollars was appropriated through Title XX in the Department of Health and Human Services to develop national ‘model prevention programs’ based on abstinence. During the current Bush administration, federal funding has grown for abstinence-until-marriage education through Title V, the welfare reform bill, and SPRANS grants (Special Programs of Regional and National Significance). As a result, tax-funded abstinence-education programs, including at least thirty based within pregnancy centers, have expanded dramatically and have reached more and more schools and communities.”

<sup>328</sup> “Benefits,” Choose Life America Inc., last updated February 27, 2019, <http://www.choose-life.org/benefits.php> and “Purpose,” Choose Life America Inc., last updated September 11, 2019, <http://www.choose-life.org/purpose.php>.

<sup>329</sup> “History,” Americans United for Life, accessed February 11, 2019, <https://aul.org/about/history/>.

<sup>330</sup> “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>. In 1975, 21% of respondents thought that abortions should be illegal in all circumstances. That number was again at 21% by 2019, having fluctuated between 15% and 21%. The percentage of respondents who thought that abortion should be legal only under certain circumstances also remained similar at 54% in 1975 to 53% in 2019, with fluctuations between 48% and 61%. The percentage of respondents who thought that abortion should be legal under any circumstances has risen from 22% to 25%, with fluctuations between 21% and 34%. Combined measures of those who thought that abortion should be legal under any or legal under most circumstances, compared to those who thought that abortion should be legal only in a few or illegal in all circumstances, also show little indication of change, apart from possibly in 2019 compared to 2018 (see the tab “Gallup overall support” on the spreadsheet “Public opinion data”).

measured, such as the right to abortion if the baby has a strong chance of being born with a serious defect.<sup>331</sup> However, anti-abortion activists themselves have different views on these specific questions.<sup>332</sup>

Given the fluctuations in each of these measures for both the GSS and Gallup polls, none of these changes seem to mark clear victories or defeats for either the anti-abortion movement or its opponents.

However, there are several reasons to think that the apparent stagnation in abortion attitudes represents partial success for the anti-abortion movement:

- US support for premarital sex and birth control increased in the decades following *Roe v. Wade*, so that abortion appears to be an outlier among attitudes relating to reproductive rights.<sup>333</sup>

<sup>331</sup> See the spreadsheet “[Public opinion data](#),” which uses data from the “General Social Survey 2012 Final Report: Trends in Public Attitudes towards Abortion,” National Opinion Research Center (May 2013), <https://gssdataexplorer.norc.org/documents/878/download>. The General Social Survey data shows that a large majority of the population has consistently supported the right to abortion if there is a strong chance of serious defect for the child, the woman’s health is seriously endangered, or the woman is pregnant as a result of rape. In contrast, support for the right to abortion for any reason, because the woman is not married, or because the woman wants no more children has remained a minority, while support and opposition to the right to abortion for those who cannot afford more children due to low incomes have both fluctuated between about 40% and 60%. For the right to abortion in each of these cases (except abortion for any reason, which was not measured in 1973), comparing the mean of the most recent three years in which the survey was carried out (2008, 2010, and 2012) to a similar spread of surveys in 1973, 1975, and 1977 reveals a increase in opposition of between 1% and 10% (the mean increase in opposition was 6.5% and the mean decrease in support was also 6.5%).

<sup>332</sup> This is suggested by the findings from “In Depth: Topics A to Z: Abortion,” Gallup, accessed March 20, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>; in May 2018, 48% of respondents considered themselves to be pro-life, but only 18% believed that abortion should be illegal in all circumstances.

Even the largest, most mainstream anti-abortion advocacy group, National Right to Life, implies that its mission involves ending all abortion: “The mission of National Right to Life is to protect and defend the most fundamental right of humankind, the right to life of every innocent human being from the beginning of life to natural death” (“National Right to Life Mission Statement,” National Right to Life Committee, accessed 05/03/19, <https://www.nrlc.org/site/about/mission/>). However, Donald Granberg, “The Abortion Activists,” *Family Planning Perspectives* 13, no. 4 (July-August 1981), 157-63 found that “7 in 10 NARL members favored legal abortion if the woman’s life would be endangered otherwise, and 4 in 10 NARAL members oppose abortion to prevent the birth of a child not of the desired sex.”

<sup>333</sup> Samuel J. Best and Benjamin Radcliff (eds.), *Polling America: An Encyclopedia of Public Opinion* (Westport, Conn: Greenwood Press, 2005), 4. They note that “In general, public opinion is much more accepting of sex outside of marriage than it was in the 1970s, gender role attitudes have moved in a direction more supportive of equality between the sexes, and female participation in the paid labor force has increased dramatically during this period. Since all of these variables are associated with pro-choice attitudes, it might be expected that support for legal abortion would have increased correspondingly during this period. The fact that such support has remained stable seems an important nonfinding.”

Data from the GSS seems to support these claims. The following statistics were all found at “Trends,” National Opinion Research Center, accessed May 8, 2019, <https://gssdataexplorer.norc.org/trends/>. 34% of respondents believed that it was wrong to have sex before marriage in 1972, which fell fairly steadily to 17% in 2018. In 1977, 19% believed that it was better for the man to work and the woman to stay at home, which fell to 9% by 1985 and fell further to 5% by 2018. In 1972, 70% of respondents reported that they would vote for a woman president, which had risen to 95% by 2010. Slightly challenging the evidence of more liberal attitudes on a variety of sex and gender related issues, 22% of respondents in 1986 believed that birth control should be available to teens (14-16) if the parents don’t approve; this

- Data from the GSS 1972-2006 shows that the youngest participants (from 1974 onwards) had less favorable attitudes to abortion than older participants.<sup>334</sup>
- Lower levels of education are more strongly associated with anti-abortion attitudes,<sup>335</sup> so one might have expected the slight increase in the proportion of people attending college<sup>336</sup> to have encouraged a small increase in support for abortion rights.<sup>337</sup>

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number has fluctuated between 22% and 30%, with 28% agreeing in 2018. Note, however, that this question is not purely about the availability of birth control, since it also relates to parental consent.

<sup>334</sup> Tom W. Smith, “An Analysis of Cohort Differences on Abortion Attitudes, 1972-2006,” *GSS Social Change Report* 57 (December 2009) notes that, “for all seven abortion items support for abortion rights rises from the pre-1903 cohort to a peak in the 1944-1953 cohort and then declines generally to a low point in the 1984+ cohort.”

Elizabeth Adell Cook, Ted G. Jelen, and Clyde Wilcox, “Generational Differences in Attitudes Toward Abortion,” in Malcolm L. Goggin (ed.) *Understanding the New Politics of Abortion* (Newbury Park, CA: Sage Publications, 1993) also examined the GSS data, albeit from an earlier timepoint. On page 75, they conclude that “In the United States, our data show that the youngest cohorts of whites [referring to those that “reached age 18 after 1979”] are less supportive of legal abortion than those who came of age during the 1960s and 1970s. This pattern does not hold for blacks: Among African Americans the youngest cohorts are the most supportive of legal abortion, whereas among whites they are less supportive than some other cohorts.”

<sup>335</sup> For example, Wetstein, *Abortion Rates* uses data from the National Election Series Senate Panel Study, 1988-90, in a multivariate regression (using “a factor score from principal components analysis... to purge the negative effects” that “high collinearity between income and education... would have in multivariate regression equations). Wetstein finds that “For every 1 point increase in the SES scale, there was an increase of just over 6 percent in support for abortion rights” ( $\beta = 0.66$ , significant at  $p < 0.05$ ).  $R^2$  for the model was 0.601. A multiple regression equation ( $R^2 = 0.307$ ) on page 69 shows that education had a significant effect ( $\beta = 0.20$ ,  $p < 0.05$ ) on a six-point scale representing abortion attitudes from 1988-9 General Social Survey data.

Using the same measure of support for abortion rights, Elizabeth Adell Cook, Ted G. Jelen, and Clyde Wilcox, *Between Two Absolutes: Public Opinion and the Politics of Abortion* (Boulder, Colo.: Westview Press, 1992), 51 shows the clear differences: High school dropouts have a mean score of 3.19, compared to a mean score of 4.71 for post-graduates. They note on page 50 that “even after controls for all types of social characteristics, attitudes, and religious beliefs, education remains a strong predictor of liberal attitudes on abortion.” On pages 62-3, multivariate analysis finds that education is the most important included demographic predictor of abortion attitudes (beta > 0.2, with “urban roots” being the next highest, with beta being little over 0.1). However, the 9 included variables together explain only 9% of the variation in abortion attitudes in the General Social Survey.

<sup>336</sup> College enrollment in the United States from 1965 to 2016 and projections up to 2027 for public and private colleges (in millions)

Shows 10 million in 1973 up to 20 million in 2016

“Public Data,” Google, last updated July 6, 2018, <https://www.google.com/publicdata/>, which uses data from the World bank, shows that total population was 212 million in 1973, which rose to 323 million in 2016. Although total population is not the same as the population at a suitable age to enroll in college, this suggests that 4.5% of the population enrolled in college in 1973 compared to 6.1% in 2016.

<sup>337</sup> This point was made by Karissa Ann Haugeberg, “The violent transformation of a social movement: women and anti-abortion activism” (doctoral thesis, 2011), <https://ir.uiowa.edu/etd/1333/>, citing Samuel J. Best and Benjamin Radcliff (eds.), *Polling America: An Encyclopedia of Public Opinion* (Westport, Conn: Greenwood Press, 2005), 4.

- The numbers of Catholics and numbers of evangelicals have declined slightly.<sup>338</sup> There is fairly consistent evidence that Evangelicalism is associated with opposition to abortion, and though evidence is more mixed for Catholicism, one might have expected these changes in religious affiliation to have encouraged a small increase in support for abortion rights.<sup>339</sup>

In contrast, the increasing survival rates of preterm births and the increasingly early point of fetal “viability” (that is, survival) outside the womb could be expected to have provided a substantial advantage to the anti-abortion position.<sup>340</sup> The stagnation of public opinion in spite of this suggests failure by the anti-abortion movement insofar as one believes that these medical arguments should have strengthened the arguments of the anti-abortion movement.

Polling from before *Roe v. Wade* suggests that support for abortion rights was slightly lower than it was later in the 1970s. For example, a 1970 survey by National Fertility Studies found that only 16% of Americans supported the right to elective abortion.<sup>341</sup> GSS data suggests that support rapidly increased for abortion rights in the years 1965-73.<sup>342</sup> A series of surveys from 1972 to 1979 indicate that support for the Supreme

<sup>338</sup> “Trends: Religious Preference,” National Opinion Research Center, accessed April 25, 2019 [https://gssdataexplorer.norc.org/trends/Religion%20&%20Spirituality?measure=relig\\_rec](https://gssdataexplorer.norc.org/trends/Religion%20&%20Spirituality?measure=relig_rec) shows that 23% of respondents marked their religious preference as Catholic in 2018, compared to 27% in 1972. For “Christian: FndPrtstnt,Orthdx,ChrOth,” the percentages are 25% for 2018 and 28% for 1972, though numbers were higher in the 1980s and 1990s, with a peak of 36%.

“Religious Landscape Study,” Pew Research Center (2014) <https://www.pewforum.org/religious-landscape-study/> similarly found 25.4% evangelical Protestant and 20.8% Catholic. Comparing the 2007 and 2014 studies, “America’s Changing Religious Landscape,” Pew Research Center (May 2015) notes that the share of the population that is evangelical Protestant stayed roughly the same, at 26.3% and 25.4%, but that the share that is Catholic fell from 23.9% to 20.8%.

Prendergast, *The Catholic Voter*, 1-2 notes that *The Official Catholic Directory* suggests that the percentage of the US population that is Catholic had grown from 15.8% in 1900 to 23.0% in 1997, although Prendergast notes that this data “rests on nothing resembling a census or even on a uniform consistent methodology throughout the nation... This count, based for the most part on estimates supplied by local clergy, is bound to be an underestimate, reflecting only the number of relatively active parishioners.” The Pew Research data suggests a decline since this time point anyway.

<sup>339</sup> See the paragraphs beginning “The Catholic Church has strongly opposed...” and “One paper found that ‘for every increase of 5 percent...’ in the section on Movement Composition.”

<sup>340</sup> For recent evidence on these developments, see Mats Blennow et al., “One-Year Survival of Extremely Preterm Infants After Active Perinatal Care in Sweden,” *JAMA* 301, no. 21 (2009), 2225-33. For an example of how this can affect debate, see Susan Okie, “Medical advances complicate abortion debate” (April 1989), [https://www.washingtonpost.com/archive/politics/1989/04/24/medical-advances-complicate-abortion-debate/3ea1bab4-7d3b-4410-84bb-6860fe4d2768/?utm\\_term=.bd142e6bd7ca](https://www.washingtonpost.com/archive/politics/1989/04/24/medical-advances-complicate-abortion-debate/3ea1bab4-7d3b-4410-84bb-6860fe4d2768/?utm_term=.bd142e6bd7ca).

<sup>341</sup> Cited in Tatalovich and Daynes, *The Politics of Abortion*, 118. However, on pages 117-9 they note that this survey “was based on women only, whereas all Gallup polls are nationwide surveys of adult men and women... Levels of support for abortion in the National Fertility Study were generally lower than those found in Gallup polls.”

<sup>342</sup> Tatalovich and Daynes, *The Politics of Abortion*, 118. Support for the right to abortion when there was a risk to maternal health rose from 73% in 1965, to 87% in 1972, to 92% in 1973. Even more dramatically, support for the right to abortion when a woman didn’t want any more children rose from 16% in 1965 to 40% in 1972 to 48% in 1973. GSS surveys for the rest of the decade show that levels of support for abortion rights in these contexts remained stable, with each measure usually varying by only 1%, 2% or 3% from year to year across each measure, with only a few exceptions, and with no clear trends.

Court decision itself rose after the ruling.<sup>343</sup> Some polls found stronger agreement with specific statements that imply strong support for abortion rights, though the wording makes comparison between these questions and later polls unclear.<sup>344</sup> Given these results, if the anti-abortion movement's success is measured from the late 1960s, as opposed to from 1973, then it can be judged to have performed poorly at preventing attitude change.

Although polling on identity has not been going for as long, Gallup polls found that 56% of respondents considered themselves to be “pro-choice” in 1996 and this has fallen to 49% in 2019, while those identifying as “pro-life” rose from 33% to 46% in the same time period. However, most of this change occurred narrowly in the years 1995-8, with some fluctuation but no clear change since then.<sup>345</sup>

These polls should be taken with a grain of salt, since variations in the wording of polls has produced responses to similar questions that vary by 10% or more, even with similar samples.<sup>346</sup> Nevertheless, when wording has remained consistent in particular surveys, changing answers still provide indications of changing values.

## Changes in the Importance and Salience of the Issue

There may have been some increased sense of importance on the topic, distinct from support or opposition to specific policies or viewpoints. Asked to think about “how the abortion issue might affect [their] vote for major offices,” Gallup polls show that 75% of registered voter respondents in 2019 saw abortion as an important issue, compared to 59% in 1992.<sup>347</sup> Other polls also suggest an increased attachment to the issue.<sup>348</sup>

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<sup>343</sup> Tatalovich and Daynes, *The Politics of Abortion*, 130 note that the surveys each asked: “In general, do you favor or oppose the U.S. Supreme Court decision making abortions up to three months of pregnancy legal?” Support in polls in June 1972, August 1972, and February 1973 was 48%, 42% and 52% respectively. By February 1979, support had risen to 60%. The only survey where more people opposed than supported the decision was August 1972 (42% in favor, 46% in opposition).

<sup>344</sup> Marvin Olasky, *The Press and Abortion, 1838-1988* (Hillsdale, New Jersey: Lawrence Erlbaum, 1988), 97 cites an earlier Gallup poll from 1962 that found that 52% thought that Sherri Finkbine (who travelled to Sweden to have an abortion after taking thalidomide) had “done the right thing,” 32% thought she had done wrong, and 16% had no opinion. Given that support rates for abortion in cases of fetal deformity reached around 80% in the 1970s, this shows lower levels of support.

Tatalovich and Daynes, *The Politics of Abortion*, 121 note that in summer 1972, a Gallup poll reported that “Two out of three Americans think abortion should be a matter for decision solely between a woman and her physician.” However, they note that “reference to a physician involved in making the decision along with the woman may have biased the results in a positive fashion. Moreover, as Blake suggested, ‘there is the initial reference to laws having already been changed and made more ‘liberal’. It is well known that respondents tend to agree with something that is presented as a legislative or judicial *fait accompli*.’” This survey therefore cannot be taken as an indication that the state had no right to intervene to prevent elective abortion.

<sup>345</sup> “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>.

<sup>346</sup> For a discussion of this problem, see Nancy Felipe Russo and Jean E. Denious, “Why is abortion such a controversial issue in the United States?” in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 45-52.

<sup>347</sup> “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>. The figures for “important” were taken by combining the answers

Newspaper, magazine, and social science articles increased their coverage of abortion issues in the 1960s and 70s.<sup>349</sup> Another count of newspaper and magazine articles on abortion issues shows a steep rise in the period after 1985.<sup>350</sup>

Counts of the total number and length of congressional hearings and of the number of congressional committees addressing abortion issues all jump up markedly in the years 1995-2000 when compared to the years 1970-1995.<sup>351</sup> The yearly average number of paragraphs in presidential papers on the topic of abortion under Nixon (1969-74) was 1; this rose to 13 for Ford (1974-7), 11 for Carter (1977-81), 25 for Reagan (1981-9), 36 for Bush (1989-93), and 35 for Clinton (1993-2001).<sup>352</sup>

There seems to have also been an increased focus on abortion issues in appointments to the Supreme Court.<sup>353</sup>

“Candidate must share views” and “One of many important factors” and were contrasted to “Not a major issue” and “No opinion.” The figure fluctuated between 59% and 76%.

<sup>348</sup> Prendergast, *The Catholic Voter*, 197 notes that “Several surveys suggest that abortion policy was more important in affecting voting behavior in 1988 than in any prior presidential campaign and that it worked to Bush’s benefit. The poll conducted by ABC provided the most impressive evidence of these conclusions. Given an unlimited number of choices to name important issues, more respondents (33 percent of the total) cited abortion than any other single issue. In 1984, in response to a parallel question, somewhat differently phrased, 15 percent of those surveyed included abortion among the important issues. This poll reported that Bush received the vote of 57 percent of those who regarded abortion as important and Dukakis the vote of 42 percent. In 1984 Reagan was the choice of 63 percent of voters considering abortion important.” Two other surveys are cited as providing some further support for this.

<sup>349</sup> See footnote 47.

<sup>350</sup> See footnote 246.

<sup>351</sup> Doan, *Opposition & Intimidation*, 160-1. At a glance, it seems likely that the mean figure for each of these metrics is two to four times higher per year in the period 1995-2000 than per year in the period 1970-1995. There was a sharp rise in 1994-6 for each of these metrics.

<sup>352</sup> Ibid, 160-1.

<sup>353</sup> Greenhouse and Siegel, *Before Roe v. Wade*, 258 note that “The first justice to join the Court after *Roe* was John Paul Stevens, nominated in December 1975. His views on abortion were unknown, yet at his Senate confirmation hearing, he was not asked a single question about abortion.”

In contrast, views on abortion have come to sometimes be referred to as a litmus test for their appointment; this is a metaphor suggesting that their views on abortion are the single issue which might determine whether a candidate is appointed or not. See, for example, Kevin Daley, “Kirsten Gillibrand promises pro-abortion litmus test her judicial nominees” (May 2019), <https://dailycaller.com/2019/05/07/kirsten-gillibrand-supreme-court/>.

## Provider Availability

The number of abortion providers fell substantially in the 1980s and 1990s, though specific figures vary.<sup>354</sup> A 2014 paper noted that 87% of US counties lack an abortion provider, although these counties only account for 38% of women of reproductive age.<sup>355</sup> Nevertheless, the percentage of obstetrics and gynecology residency training programs with routine abortion training has increased from a low of 12% in 1992 to 64% in 2014, plus 31% having opt-in training, according to surveys of graduates.<sup>356</sup>

## Organizational Resources

The Wikipedia page for “List of anti-abortion organizations in the United States” contains sixty-seven national organizations in total, plus a handful of local organizations.<sup>357</sup>

Ziad Munson notes that the NRLC “has an annual budget of nearly \$14 million” and suggests that, though they have claimed a membership of 1.6 million members in the past, its claimed 400,000 subscribers to its regular newsletter is probably a more accurate representation of its membership numbers. Munson also notes that the American Life League, Human Life International, and Life Dynamics all “have thousands of members and annual budgets in excess of \$1 million.”<sup>358</sup> One author calculated that abortion advocacy organizations spent “almost \$250 million nationally in 2004 alone”; this figure appears to cover both abortion rights and anti-abortion groups.<sup>359</sup>

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<sup>354</sup> Melody Rose, *Safe, Legal, and Unavailable? Abortion Politics In the United States* (Washington, DC: Congressional Quarterly Press, 2006), 89 notes that abortion providers fell by 11% 1992-2000.

Cozzarelli and Major, “The Impact of Antiabortion Activities,” 87 noted that “the number of facilities providing abortions nationally has been decreasing at a rate of about 65 facilities per year since 1988. The overall number of providers dropped 8% between 1988 and 1992 and 18% between 1982 and 1992.

Sarah Hudson, "The Marginalization of Abortion in Medicine" (honors thesis, 2018), <https://repository.wellesley.edu/thesiscollection/532>, 24 implies that the number of abortion providers fell 11% 1992-6, another 11% 1996-2000, and another 2% 2000-5, citing Lori Freedman, *Willing and Unable: Doctors' Constraints in Abortion Care* (Nashville: Vanderbilt University Press, 2010), 35

<sup>355</sup> Rachel K. Jones and Jenna Jeman, “Abortion Incidence and Service Availability, 2011,” *Perspectives on Sexual and Reproductive Health* 46, no. 1 (2014), 3-14, cited in Sarah Hudson, "The Marginalization of Abortion in Medicine" (honors thesis, 2018), <https://repository.wellesley.edu/thesiscollection/532>.

<sup>356</sup> Jema K. Turk et al., “Availability and characteristics of abortion training U.S. ob-gyn residency programs: a national survey,” *Contraception* 89, no. 4 (2014), 271-7 and Jody E. Steinauer, Jema K. Turk, Tali Pomerantz, Kristin Simonson, Lee A. Learman, and Uta Landy, “Abortion training in US obstetrics and gynecology residency programs,” *American Journal of Obstetrics and Gynecology* 219, no. 1 (July 2018), 86.e1–86.e6.

<sup>357</sup> Wikipedia, “List of anti-abortion organizations in the United States,” last edited January 2019, [https://en.wikipedia.org/wiki/List\\_of\\_anti-abortion\\_organizations\\_in\\_the\\_United\\_States](https://en.wikipedia.org/wiki/List_of_anti-abortion_organizations_in_the_United_States). Note that this list is not necessarily comprehensive.

<sup>358</sup> Munson, *The Making of Pro-life Activists*, 91 and 209.

<sup>359</sup> John Daniel Childress, “Advocacy, Abortion, and Public Policy: Towards a Better Understanding of the Determinants of Abortion” (2010), <https://repository.library.georgetown.edu/bitstream/handle/10822/553687/childressJohn.pdf>. Childress explains in a footnote that “Unless otherwise noted sums expended by advocacy organizations are calculated by the author using data from the National Center for Charitable Statistics. This database, which forms part of the

Munson also collected data on all the local and state-wide anti-abortion activist groups that he could identify in four US cities. He identified a total of 32 organizations. The total annual budget for the 22 of these organizations for which he had data was over \$6.5 million.<sup>360</sup>

In 1971, Alesha Doan notes that there were 75 crisis pregnancy centers (CPCs) and that this had grown to 3,400 by 2003.<sup>361</sup> Another source claims that there are now approximately 3,000 CPCs in the US.<sup>362</sup> A survey of US CPCs found that each center had on average 6 paid employees and 39 volunteers; this survey had responses from 514 centers, covering “37.7% of Care Net, Heartbeat International and NIFLA affiliates,” and possibly about one-sixth of the total number of centers. It probably over-represents larger centers that are more likely to participate in a survey.<sup>363</sup>

## Features of the Anti-Abortion Movement

As noted in Sentience Institute’s report on the British antislavery movement, the more similar the context and content of two movements, the more we should expect what worked for one movement to work for another. Today’s farmed animal movement bears many similarities to the anti-abortion movement, meaning advocates for the former can learn from advocates of the latter.<sup>364</sup> This section highlights features of the anti-abortion movement that affect its comparability with other movements.

### Intended Beneficiaries of the Movement

- Human fetuses share the same species as their mothers and other human adults. This makes empathy for them easier.<sup>365</sup> Other factors that might make empathy for them easier include the ultrasound and

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dataset used to calculate my results, contains expense data as reported by non-profits on their IRS Form 990. Nationally, in 2004, organizations identified by NTEECC codes R61, R62 and E40 spent \$249,334,114.”

<sup>360</sup> Munson, *The Making of Pro-life Activists*, 92-3; see the spreadsheet “[Munson’s data on organization resources in four cities](#).” The mean budget was around \$300,000, the median around \$225,000. Among 29 organizations, there were 144 employees in total (mean 5, median 3). 19 organizations had a combined mailing list total of over 400,000 (mean 21,000, median 5,000) although presumably this double-counts those who subscribed to multiple mailing lists.

<sup>361</sup> Doan, *Opposition & Intimidation*, 92.

<sup>362</sup> Hussey, “The Pro-Life Pregnancy Help Movement,” 3 notes “While no one knows exactly how many pregnancy centers exist in the United States, a common estimate is 3,000 (Family Research Council 2009).”

<sup>363</sup> Cited in Hussey, “The Pro-Life Pregnancy Help Movement,” 17.

<sup>364</sup> Kelly Witwicki, “Social Movement Lessons From the British Antislavery Movement: Focused on Applications to the Movement Against Animal Farming” (December 2017), <https://www.sentienceinstitute.org/british-antislavery>.

<sup>365</sup> For example, Maxwell, *Pro-Life Activists in America*, 120-43 describes how personal bereavement has encouraged dedication among some activists. Although advocates in both the anti-abortion and farmed animal movements work, in part, to prevent the perceived unnecessary “deaths” of the intended beneficiaries of their movements, personal bereavement does not seem to inspire individuals to advocate for farmed animals to the same degree.

other images used by the anti-abortion movement<sup>366</sup> and the fact that aborted fetuses are not turned into goods or products.

- Human fetuses have little to no way of communicating with the general public without the help of allies, cannot directly participate in the politics of adult humans, and are not able to resist abortions.
- The ratio of abortions to live births in the US is less than 1 to 5.<sup>367</sup>
- To fully and appropriately account for the needs and expected wellbeing of the human life that will result from a completed pregnancy, it is necessary to project into the future and overcome a bias towards the present.<sup>368</sup>

## Institution

- In the decades before the anti-abortion movement began, abortion had been illegal in the US, and before that may have been seen as undesirable by many.<sup>369</sup> Some scholars and abortion rights advocates argue that abortion was practiced extensively in the past, even when illegal, although these claims are disputed.<sup>370</sup>
- One paper finds that “the fundamental law of demand holds for abortions, with the price elasticity of demand equal to -.81. Abortions are a normal good with an income elasticity of demand equal to .79.”<sup>371</sup> By comparison, Animal Charity Evaluators estimate the “cumulative elasticity factor” for

<sup>366</sup> On ultrasound, see the paragraph beginning “Some states enforce mandatory ultrasound...” in the section on “Messaging.”

On symbolic imagery, see Rosalind Pollack Petchesky, “Fetal Images: The Power of Visual Culture in the Politics of Reproduction,” *Feminist Studies* 13, no. 2 (Summer 1987), 263-92. For example, on page 270, Petchesky notes that “The fetus as we know it is a fetish. Barbara Katz Rothman observes that ‘the fetus in utero has become a metaphor for ‘man’ in space, floating free, attached only by the umbilical cord to the spaceship. But where is the mother in that metaphor? She has become empty space.’ Inside the futurizing spacesuit, however, lies a much older image. For the autonomous, free-floating fetus merely extends to gestation the Hobbesian view of born human beings as disconnected, solitary individuals. It is this abstract individualism, effacing the pregnant woman and the fetus’s dependence on her, that gives the fetal image its symbolic transparency, so that we can read in it ourselves, our lost babies, our mythic secure past.”

<sup>367</sup> Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel; Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, “Abortion Surveillance — United States, 2015,” *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, No. SS13 (2018), 1-45.

<sup>368</sup> On this bias, see, for example, Jess Benhabib, Alberto Bisin, and Andrew Schotter, “Present-bias, quasi-hyperbolic discounting, and fixed costs,” *Games and Economic Behavior* 69, no. 2 (July 2010), 205-23.

<sup>369</sup> Marvin Olasky, *The Press and Abortion, 1838-1988* (Hillsdale, New Jersey: Lawrence Erlbaum, 1988) shows, for example, that though abortion services were widely publicized in the nineteenth century, this was often done indirectly, such as pills with a, irrelevant stated purpose but with prominent warnings that they were certain to result in “miscarriage.”

<sup>370</sup> See footnote 17. For a summary—and criticism—of some of this literature, see Keith Cassidy, “The Road to Roe: Cultural Change and the Growth of Acceptance of Abortion Prior to 1973,” *Life and Learning* 7 (1998), 1-16.

<sup>371</sup> Marshall H. Medoff, “An Economic Analysis of the Demand for Abortions,” *Economic Inquiry* 26, no. 2 (1988), 353-9.

Similarly, S. F. Gohmann and R. L. Ohsfeldt, “Effects of price and availability on abortion demand,” *Contemporary Policy Issues* 11, no. 4 (October 1993), 42-55 summarize that “The estimated coefficient of per capita income is positive with a point elasticity ranging from 0.62 to 1.0. The model with the most complete specifications has an abortion price elasticity range from -0.75 to -1.3 and is statistically significant when religion measures are excluded.”

chicken to be 0.3, and for eggs to be 0.91.<sup>372</sup> However, there is much uncertainty in these figures, and intuitively, abortion demand seems like it would be much less elastic than demand for most animal products.<sup>373</sup>

- Technological developments, such as improved contraception, could reduce the need for abortion.
- Abortion clinics provide physically accessible and emotionally salient targets for advocacy.<sup>374</sup>
- Although a combined category for health care and social assistance makes up 7.45% of US GDP,<sup>375</sup> abortion probably makes up only a tiny proportion of this value. The CDC notes that “A total of 638,169 abortions for 2015 were reported to CDC from 49 reporting areas.”<sup>376</sup> Planned Parenthood notes that “the cost of an abortion can range anywhere from \$0-950.”<sup>377</sup> This would suggest a combined cost of under \$1 billion for all US abortion procedures (compared to \$18,219.3 billion total GDP in the US in 2015).<sup>378</sup>
- The health industry spends large sums on lobbying (\$563 million in 2018), though lobbying related specifically to abortion is probably much lower. In comparison to this, anti-abortion advocates spend little on lobbying (\$1 million in 2018).<sup>379</sup>
- Medical professional roles tend to be respected and desirable, although work focusing on abortion may be an exception to this.<sup>380</sup>

<sup>372</sup> “The Effects of Diet Choices,” last updated March 2016,

<https://animalcharityevaluators.org/research/dietary-impacts/effects-of-diet-choices/>

<sup>373</sup> A single decision to have an abortion or not will, in most cases, change the life of a mother (and likely the lives of family members or partners) for years to come, if not forever. A single decision to eat or avoid animal products only has, in most cases, immediate consequences that last a few minutes, if effects on animals, health, and the environment are not counted. Relatedly, since eating behaviors are much more regular, it is more difficult to legally circumvent state laws by going to a different state to purchase the product or service. If animal product demand is more elastic, this means that increases in the price and disruptions in the supply of animal products (whether through legislative change or direct activism) would be more likely to be effective in reducing consumption, although this also means that changes in the opposite direction could have a stronger effect on increasing consumption.

<sup>374</sup> See, for example, Isabel Wilkerson, “Drive Against Abortion Finds a Symbol: Wichita” (August 4, 1991), <https://www.nytimes.com/1991/08/04/us/drive-against-abortion-finds-a-symbol-wichita.html>.

<sup>375</sup> “GDP-by-Industry,” US Department of Commerce Bureau of Economic Analysis, last updated April 19, 2019, <https://www.bea.gov/iTable/iTable.cfm?ReqID=51#reqid=51&step=51&isuri=1&5114=a&5102=1>

<sup>376</sup> Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel; Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, “Abortion Surveillance — United States, 2015,” *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, No. SS13 (2018), 1-45.

<sup>377</sup> “How much does an abortion cost?” Planned Parenthood (December 2014),

<https://www.plannedparenthood.org/learn/teens/ask-experts/how-much-does-an-abortion-cost>.

<sup>378</sup> “GDP-by-Industry,” US Department of Commerce Bureau of Economic Analysis, last updated April 19, 2019, <https://www.bea.gov/iTable/iTable.cfm?ReqID=51#reqid=51&step=51&isuri=1&5114=a&5102=1>.

<sup>379</sup> See the relevant subheadings in “Alphabetical Listing of Industries,” OpenSecrets.org, accessed May 3, 2019, [https://www.opensecrets.org/lobby/alphalist\\_indus.php](https://www.opensecrets.org/lobby/alphalist_indus.php).

<sup>380</sup> Debra B. Stulberg et al., “Abortion provision among practicing obstetrician-gynecologists,” *Obstetrics and Gynecology* 118, no. 3 (2011), 609 cited in Sarah Hudson, “The Marginalization of Abortion in Medicine” (honors thesis, 2018), <https://repository.wellesley.edu/thesiscollection/532>, found that 97% of surveyed obstetrics and gynaecology professionals had seen at least one patient who requested an abortion although only 14% of surveyed professionals actually performed an abortion.

## Advocacy

- The anti-abortion movement is necessarily entirely made up of allies rather than of the intended beneficiaries of the movement.
- Anti-abortion advocates can be conceptualized as supporting, at least in part, an expansion of the moral circle, to encompass unborn humans.
- The anti-abortion movement is directly opposed by an active social movement—the abortion rights movement.<sup><sup>381</sup></sup> This has some effects on social movement dynamics and the tactics that are appropriate.<sup><sup>382</sup></sup> The debate on abortion involves a loose coalition of contentious social values on both sides and there will be both entities benefited and entities harmed by either increased or decreased abortion rights. The main tradeoff, as phrased by the two sides, seems to be whether the protection and rights of human fetuses should be prioritized or whether the autonomy and rights of women to make decisions regarding the fetuses inside them should be prioritized.

<sup>381</sup> See, for example, Staggenborg, *The Pro-Choice Movement*.

<sup>382</sup> On stagnation, see the minor progress made on the movement's goals in the section "The Extent of the Success of the Anti-Abortion Movement in US."

On the possibility of a war of attrition breaking out, Staggenborg, *The Pro-Choice Movement*, 71 describes how NARAL "felt compelled to respond with a picket and boycott of the corporate sponsors of 'Maude,'" a television show whose sponsors had withdrawn their support after anti-abortion activists pressured them to do so following an episode in which Maude chose to have an abortion. In this sense, the abortion rights movement was not free to choose how to spend its own resources but was compelled to use its resources to directly counter the activities of the anti-abortion movement, using similar methods.

Additionally, Joshua C. Wilson, *The Street Politics of Abortion: Speech, Violence, and America's Culture Wars* (Stanford: Stanford Law Books, 2013), 12 describes the Supreme Court rulings of *Planned Parenthood Shasta-Diablo Inc. v. Christine Williams* (1995), *Schenk v. Pro-Choice Network of Western New York* (1997), and *Hill v. Colorado* (2000) as "secondary movement litigation" because "the cases were not part of a broader, premeditated strategy by either movement. Rather they are unplanned reactions to the current form of the dispute. The second way in which they are secondary relates to the indirect relationship between the litigation and the movements' ultimate goals. Both of these features are rooted in the greater conflict's movement-countermovement dynamic... Taken together, neither side of these disputes necessarily planned to enter or stay in the courts, but they were essentially compelled to by their rival's actions."

However, none of these situations are directly comparable to the farmed animal movement, since that movement is unlikely to face a counter-movement with grassroots organizational strength. The farmed animal movement faces resistance from the animal agriculture industry and stakeholders, through humanewashing (see for instance Rachel Mathews, "Humanewashed: USDA Process Verified Program Misleads Consumers About Animal Welfare Marketing Claims," Animal Welfare Institute, March 2012) and lobbying (see the relevant subheadings in "Agribusiness," OpenSecrets.org, accessed May 3, 2019, <https://www.opensecrets.org/lobby/indus.php>), but these seem more like defensive actions than proactive mobilization to promote particular societal outcomes. Even so, it is plausible that certain tactics used towards companies or institutions could be replicated, or that opponents could simply become wise to the tactics being used by the farmed animal movement and plan for methods to counter these tactics.

The anti-abortion movement is, itself, perceived by some as a counter-movement. See for example David R. Dietrich, *Rebellious Conservatives: Social Movements in Defense of Privilege* (New York: Palgrave Macmillan, 2014).

- Opposition to abortion was initially conceptualized, at least by some, as a progressive, liberal cause.<sup>383</sup> The topic can be seen as intersecting with other issues of privilege. For example, some feminists have held anti-abortion positions, with at least partially feminism-inspired motivations.<sup>384</sup> However, some advocates have unsympathetically used these connections with other issues of privilege to justify their own demands, apparently without much regard to the damage that their actions might cause to other oppressed groups.<sup>385</sup>
- Although the anti-abortion movement had earlier iterations,<sup>386</sup> modern anti-abortion advocacy picked up especially from the late 1960s onwards.<sup>387</sup>
- Much anti-abortion advocacy seems to have been sparked by increasing momentum for abortion liberalization, especially through the *Roe v. Wade* ruling. This seems likely from the general chronology of developments and from localized examples.<sup>388</sup>

<sup>383</sup> On liberalism in the early anti-abortion movement, see, for example, Daniel K. Williams, “The Partisan Trajectory of the American Pro-Life Movement: How a Liberal Catholic Campaign Became a Conservative Evangelical Cause,” *Religions* 6 (2015), 451–75. On pages 451-3, Williams notes that at one protest considered, “All of the speakers... were liberals” and that “Although the annual March for Life had been started by a Catholic liberal Democrat, by the beginning of the Reagan era it had become infused with conservative Protestant evangelicalism and Republican Party politics.”

<sup>384</sup> Nossiff, *Before Roe*, 33 notes that “One reason for the success of the [nineteenth-century] physicians’ antiabortion campaign was the absence of opposing groups. Although the nineteenth-century women’s movement was organized by the 1860s, the majority of feminists were primarily concerned with securing the vote for women. Like the antiabortion physicians, many of them considered abortions to be a degrading procedure that exploited women, and they supported the [American Medical Association’s] attempts to criminalize it.”

Note also the existence of the group Feminists for Life. The Susan B. Anthony List, an anti-abortion non-profit and Political Action Committee, is named after a nineteenth-century Suffragist, although there has been some dispute about her anti-abortion views. See, for example, the eight citations listed in the section “Susan B. Anthony and early feminist connection” on Susan B. Anthony List’s Wikipedia page, accessed May 6, 2019.

<sup>385</sup> For example, Carol Mason, “From Protest to Retribution: The Guerilla Politics of Pro-Life Violence,” in Kenton Worcester, Sally Avery Bermanzohn, and Mark Ungar (eds.) *Violence and Politics: Globalization’s Paradox* (New York: Routledge, 2002), 127-45 analyzes “an underground manual circulated in 1992 by Mark Crutcher... called *Firestorm: A Guerilla Strategy for a Pro-Life America*.” Page 139 notes that “Crutchcr prescribes that... All guerrilla ‘legislation should be sold as ‘pro-women’ and/or ‘consumer protection’ legislation,’ and admits that this rhetoric is used to disarm criticism from abortion rights advocates, rather than out of genuine concern.

<sup>386</sup> On anti-abortion, see the first paragraph in the section on “A Condensed Chronological History of the Anti-Abortion Movement”

<sup>387</sup> See the subsection on “1966-73: Legalization of abortion in some states and initial anti-abortion resistance” in the section on “A Condensed Chronological History of the Anti-Abortion Movement”

<sup>388</sup> For example, Karrer, “The National Right to Life Committee,” 540 notes that the New York State Right to Life Committee, founded by Edward Golden in 1967, “remained small for the first few years. Rosemary Nossiff notes that in the first year its budget was only \$400 and that activity centered on writing letters to lawmakers and newspapers. By 1968, New York Right to Life members testified against a second bill introduced by Assemblyman Albert H. Blumenthal (D-69th District). Generally, however, the organization remained fairly unproductive until 1970 when the New York legislature repealed the state’s century-old abortion law. After passage of the new statute, the group experienced tremendous growth through 1972 with thousands joining and new statewide affiliates forming from Buffalo to Long Island. In 1972 the state’s pro-life organization had its moment of glory when it collaborated with legislators to repeal the 1970 Abortion Act. New York Right to Life raised money, sent lobbyists to Albany, demonstrated, and even warned lawmakers of political retribution if they failed to cast a pro-life vote.”

See also footnote 65.

- Categorizing a sample of 82 activists into the stream of the anti-abortion movement that they are most involved in, Ziad Munson categorizes 23% as focused on politics, 26% on direct action, 33% on individual outreach, and 18% on public outreach.<sup>389</sup> Presumably this count downplays the movement's involvement in institutional tactics, since such tactics rely more on financial resources and full-time employees than on volunteers. One survey of 104 activists found that more (39.4%) had given money to an anti-abortion political candidate on multiple occasions than had ever picketed (30.8%), and voting for an anti-abortion candidate was the second most popularly chosen form of activism on the survey (after signing petitions).<sup>390</sup> Despite working more directly with the intended beneficiaries, CPCs are largely independent of the rest of the movement, playing only a limited role in advocacy for wider systemic change.<sup>391</sup>
- Individual advocates may tend to focus on a single form of advocacy, without supporting the anti-abortion movement in other ways. From a sample of 82 activists, sociologist Ziad Munson found that 77% were only active in one stream of the movement out of the four stream categories used (politics, direct-action, individual outreach, or public outreach), 17% were involved in two, and 6% were involved in three.<sup>392</sup> Anti-abortion groups seem to often specialize in one or two areas; for example, NRLC focuses on politics and education, AUL focuses on legal work and public outreach, and CareNet focuses on Crisis Pregnancy Centers.
- Anti-abortion advocates have faced schisms over fundamental questions of tactics, including whether to press for incremental measures or more comprehensive measures.<sup>393</sup> Similarly, some advocates have resisted any form of compromise, seeing it as a threat to the desired goals of the movement.<sup>394</sup>

<sup>389</sup> Munson, *The Making of Pro-life Activists*, 124.

<sup>390</sup> Jacoby, *Souls, Bodies, Spirits*, 17-25. The survey was sent to a random sample of 50 (out of a total 500 identified) anti-abortion organizations; these 104 activists represent a response rate of 21%, although they come from 29 different states. Given selection bias, this survey probably represents some of the most engaged and opinionated anti-abortion activists who were contacted (the methodology is detailed on pages 200-1).

<sup>391</sup> Hussey, “The Pro-Life Pregnancy Help Movement,” summarizes that “when I asked the leaders I interviewed about where pregnancy centers fit into the wider pro-life movement and about the ties between pregnancy centers and other pro-life organizations, leaders consistently characterized pregnancy centers as a separate branch of the pro-life movement that, with some exceptions, had developed independently of the other branches... Centers largely distanced themselves from the “direct action” wing of the pro-life movement. 55 percent of centers [responding to Hussey’s survey] reported having an explicit policy forbidding their employees and volunteers from engaging in “sidewalk counseling” or demonstrations outside of abortion clinics. This figure probably greatly understates the distance between these wings, however, as many centers chose to clarify their responses in an open-ended comments section.”

<sup>392</sup> Munson, *The Making of Pro-life Activists*, 124.

<sup>393</sup> See, for example, Erik Eckholm, “Anti-Abortion Groups are Split on Legal Tactics,” *New York Times* (December 2011), accessed March 4, 2019,

<https://www.nytimes.com/2011/12/05/health/policy/fetal-heartbeat-bill-splits-anti-abortion-forces.html>.

<sup>394</sup> James R. Kelly, “Beyond Compromise: *Casey*, Common Ground, and the Pro-Life Movement,” in Mary C. Segers and Timothy A. Byrnes (eds.), *Abortion Politics in American States* (Abingdon: Routledge, 2015; first published 1995), paragraph 18.24 notes that “leaders of prominent social-movement organizations opposing abortion have regarded ‘common ground’ as a euphemism for morally compromising ‘middle-ground’ political efforts to end the abortion controversy. No official representative of a social-movement organization opposing abortion ‘common ground.’ The *National Right to Life* president, Wanda Frantz, warned activists in NRLC’s 3,000 chapters that ‘common ground’ was a ‘clever pro-choice’ strategy seeking ‘to gain acceptance of the pro-abortion position as morally equivalent (or morally superior!) to the pro-life position.’ Randal Terry likened common ground to blacks negotiating with the Ku Klux Klan and Jews cooperating with Nazis. In a special issue of *Sisterlife*, the quarterly of *Feminists for Life*, Marilyn Kopp defended the ‘common-ground movement’ while Mary Bea Stout had doubts.” Note that while Terry (of Operation Rescue)

Amongst activists pursuing direct action tactics, there has been some disagreement over the extent to which such protests should focus on positively shaping public discussion of the issue or on personal conscience.<sup>395</sup>

- Surveys and studies suggest that the anti-abortion movement has remained almost exclusively white and majority female (at least until 1992),<sup>396</sup> despite there being relatively little difference between men and women in abortion attitudes nationally<sup>397</sup> and African Americans being slightly more opposed to

represents a radical wing of the anti-abortion movement, the NLRC is one of the largest and most mainstream anti-abortion organizations.

<sup>395</sup> Maxwell, *Pro-Life Activists in America*, 42 describes one such debate at the local level, in St. Louis: “Ella remembered criticizing Dylan’s willingness to allow ‘pregnant women and manic depressives’ to sit-in. She had argued that e should choose tactics that would promote ‘good press’ and persuade the public to oppose abortion. This position suited her pragmatic approach to activism intended not only to stop abortions, but to persuade the public to disapprove of abortion... Dylan, guided by purist ideals, defended his tactics. He argued that rescue was an act of conscience, and he could not tell anyone to violate their conscience, regardless of their health conditions. But he took away from the argument a conviction to eschew publicity. After that argument, Dylan stopped calling the press before sit-ins because, he explained, his activism was a ‘witness’ that should compel others to join him.” From the “snowball sample” of activists (that is, they were mostly identified by other activists, rather than selected using a random method; the methodology is described on pages 4-5) in St. Louis, on page 203 Maxwell categorized 21% (17) as “pragmatists” and 75% (60) as “purists.”

<sup>396</sup> Munson, *The Making of Pro-life Activists*, 23 summarizes four studies by Luker, Granberg, Maxwell, and Jacoby. Studies from 1980 and 1981 have found 98% and 99% of anti-abortion activist participants to be white. In studies from 1979, 1980, 1991, and 1992, 38%, 37%, 40%, and 54% respectively were male. Over 50% had college degrees in all four surveys, representing rates more than double the national average at each time point, according to Ziad Munson’s analysis. Over two-thirds were married in all three studies that measured this. Munson’s own interviews with 82 anti-abortion activists found that 93% were white, 43% were male, and 71% had a college degree.

Maxwell, *Pro-Life Activists in America*, 23 found in a “snowball sample” of direct activists surveyed in St. Louis that 51% had a college degree or graduate/professional education, compared to 45% in a sample of the members of Missouri Citizens for Life. Maxwell notes on page 253 that the sample of 80 activists “included the only nonwhite individual anyone remembered participating in St. Louis’s sit-ins. She described her mother as white and her father as African American. Only one self-identified African American, a man, regularly demonstrated at clinics during my two years of fieldwork... echoing the ethnic makeup both Luker and Ginsburg described... However, since St. Louis was 51% African American, the preponderance of white activists is noteworthy.”

Note that none of these surveys were perfectly representative of the anti-abortion movement, however, since none take a random sample of activists.

<sup>397</sup> Cook, Jelen, and Wilcox, *Between Two Absolutes*, 51 using data from the General Social Survey, 1987-91, note that the mean value on a six-point legal abortion scale is 4.08 for men and 3.84 for women, though they are lower (3.52) for housewives specifically. Categorized as “pro-choice,” “situationalist,” or “pro-life,” men are 41%, 53%, and 6% respectively, compared to 37%, 54%, and 9% respectively for women, but 29%, 60%, and 11% respectively for housewives. Note, that the table 2.2 appears to have mistakenly reversed the labels “pro-choice” and “pro-life”; they are reported here as their meaning is intended, rather than as is printed.

<sup>398</sup> abortion than whites.<sup>398</sup> Nevertheless, women seem to have been underrepresented in leadership roles in the anti-abortion movement, at least historically.<sup>399</sup>

- Some activism (notably direct action protests) is met with rage, violence, and threats. For example,<sup>400</sup> anti-abortion clinic protests have turned into emotional confrontations on multiple occasions.

## Society

- One method of social movement mobilization is to create organizations or framings that tap into “latent constituencies”: groups with pre-existing beliefs and attitudes well-matched to those of the social movement.<sup>401</sup> America’s roughly 20-25% Catholic and 20-25% evangelical Protestant

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<sup>398</sup> Cook, Jelen, and Wilcox, *Between Two Absolutes*, 51 using data from the General Social Survey, 1987-91, note that the mean value on a six-point legal abortion scale is 3.71 for “Blacks” and 3.99 for “Whites.” Categorized as “pro-choice,” “situationalist,” or “pro-life,” blacks are 33%, 58%, and 9% respectively, compared to 40%, 52%, and 8% respectively for whites. Note, that the table 2.2 appears to have mistakenly reversed the labels “pro-choice” and “pro-life”; they are reported here as their meaning is intended, rather than as is printed. On page 46, they note that “Why are blacks more likely than whites to oppose abortion? Several factors come into play. First, African-Americans are much more likely to oppose euthanasia (mercy killing), which is shown in Chapter 3 to be a strong predictor of abortion attitudes. Finally, blacks are more likely to hold orthodox religious beliefs, to attend doctrinally conservative churches, to attend church regularly, and to pray frequently... religious attitudes and behaviors are the strongest predictors of abortion attitudes... Indeed, after we control for attitudes and religion, African-Americans are significantly *more* supportive of legal abortion than whites.”

On page 46 they also note that “African-American women are twice as likely to have abortions as are white women, although this is primarily because they are more likely to become pregnant. A similar percentage of white and black pregnancies end in abortion.”

<sup>399</sup> Karrer, “The National Right to Life Committee,” 545 notes that at the June 1971 second NLRC conference, “Women composed 56 percent of the total, although they generally did not serve in leadership roles.”

Flowers, “Fighting the ‘Hurricane Winds,’” 5 notes that “Before and after Roe, women constituted the vast majority of the right-to-life grassroots (although the leadership was often male). As Kristin Luker argues, many framed their political activism through their status as concerned housewives and mothers, viewing abortion liberalization as an attack on the natural role of the mother in the home. In contrast, AUL’s [Americans United for Life’s] board was heavily dominated by men who grounded their activism with reference to their professional or leadership qualifications. All three women on the board led influential right-to-life groups, and one of them was a Harvard educated doctor. They used the same types of appeals to expertise and authority as the men. The large number of white-collar professionals and right-to-life leaders positioned AUL as a respectable, mature organization.”

However, Hussey, “The Pro-Life Pregnancy Help Movement,” 19 found that 92% of the crisis pregnancy centers that replied to a survey “reported having a woman as their executive director or chairman of the board,” and “national office staff at Care Net, Heartbeat International, and NIFLA are also over 80 percent female.”

<sup>400</sup> See, for example Wayne Drash and Curt Merrill, “Opposing groups protest outside abortion doctor’s clinic” (August 2009), <http://edition.cnn.com/2009/US/08/29/nebraska.abortion.protests/index.html> and Brian Erway, “When Buffalo sent Operation Rescue packing” (April 2017), <https://socialistworker.org/2017/04/27/how-buffalo-sent-operation-rescue-packing>.

<sup>401</sup> John H. Evans, “Polarization in Abortion Attitudes in U.S. Religious Traditions, 1972–1998,” *Sociological Forum* 17, no. 3 (September 2002), 398-9 characterizes this as the assumption of social movement scholars, and cites David A. Snow, E. Burke Rochford, Steven K. Worden, and Robert D. Benford, “Frame alignment processes, micromobilization, and movement participation,” *American Sociological Review* 51 (1986), 464–481.

population<sup>402</sup> may provide large potential latent constituencies for the anti-abortion movement. However, views within these groups are diverse, and it is not clear that either group formed a strong latent constituency in the early years of the US anti-abortion movement.<sup>403</sup>

- Catholic historical precedent seems to be mostly on the side of protecting fetuses.<sup>404</sup> However, there is some ambiguity in the theological position of various Christian traditions on abortion issues.<sup>405</sup>
- Using data from the General Social Surveys of 1989 to 1991, Elizabeth Adell Cook, Ted G. Jelen, and Clyde Wilcox use a multivariate regression analysis to show that measures of self-identified ideology ( $\beta < -0.1$ ), public feminism ( $\beta < 0.05$ ,  $p > 0.05$ ), and private feminism ( $\beta < 0.05$ ,  $p > 0.05$ ) each had a lower correlation with abortion attitudes than measures of sexual morality ( $\beta < -0.25$ ) and views on euthanasia ( $\beta < -0.3$ ).<sup>406</sup> Survey data from elsewhere also suggests that anti-abortion views are not consistently and strongly correlated with conservative attitudes<sup>407</sup> and that views on feminism are only weakly correlated with views on abortion.<sup>408</sup> The moderate correlation between right to life (or sanctity of life) views and anti-abortion views but weak correlation between feminist views and

<sup>402</sup> See footnote 338.

<sup>403</sup> See the section on “Movement composition” for discussion of some of the relevant considerations. In summary, many Catholics differ from the views of the Catholic leadership, and evangelical leaders did not initially take a strong stance on the abortion issue.

<sup>404</sup> See footnote 69.

<sup>405</sup> On Christian perspectives on abortion, see the section on “Movement Composition.”

<sup>406</sup> Cook, Jelen, and Wilcox, *Between Two Absolutes*. Views on “Ideal Family Size” were also included, and had a similar coefficient to ideology. 7 demographic variables are also included. Overall, the model has an  $R^2$  value of 0.34.

<sup>407</sup> Wetstein, *Abortion Rates*, using data from the GSS of 1988 and 1989, modeled various survey answers as representing a single latent construct of abortion attitude. In multiple regression, views on premarital sex had a correlation of  $\beta = 0.32$ . This was greater than religious intensity ( $\beta = 0.13$ ) or Church attendance ( $\beta = 0.11$ ), though views on teen sex had a lower correlation ( $\beta = 0.07$ ). Conducting a principal components analysis and using this to guide a LISREL structural equation model, Wetstein found that a “religious/moral factor has the greatest influence on the abortion attitude factor (Beta = .32). Next in importance are the socioeconomic factor (Beta = .30) and the sexual liberalism factor (.29), with the urban/rural factor having the smallest impact (.19).” This suggests that religious values and conservative values on sexuality are similarly important in determining abortion attitudes, but does not provide insight in how these issues compare to the value that individuals place on the protection of life and incorporating fetuses in humanity’s moral circle. The multiple regression model had an  $R^2$  value of .307 and all these variables were significant at  $p = 0.05$ . The LISREL model had an  $R^2$  value of 0.43. Although this covers a large amount of variance, it suggests that there is a large amount of variance left unexplained by the included 4 factors and 8 indicators.

Jacoby, *Souls, Bodies, Spirits*, 17-25 notes the results of a survey of 104 activists from a random sample of 50 (out of a total 500 identified) anti-abortion organizations; these 104 activists represent a response rate of 21% although they come from 29 different states. Given selection bias, this survey probably represents some of the most engaged and opinionated anti-abortion activists who were contacted (the methodology is detailed on pages 200-1). Jacoby notes that for one question about the role and size of government, “The traditional conservative response that ‘Government should act to PRESERVE the SOCIAL ORDER, but allow the ECONOMY to regulate itself’ meets with the approval of only 21.2% of respondents. Only 7.7% chose the liberal response that ‘Government should PROMOTE ECONOMIC EQUALITY, but allow INDIVIDUALS to regulate their SOCIAL BEHAVIOR.’” However, the respondents were closely aligned to the Republican Party; in 1992, only 2.9% of respondents voted for Clinton. Other questions showed support for balancing the federal budget, but also for national health insurance.

<sup>408</sup> See, for example, Ted G. Jelen, “Gender role beliefs and attitudes toward abortion: A cross-national exploration,” *Journal of Research in Gender Studies* 5, no. 1 (2015), 11-22.

abortion views provide tentative evidence that the moral resistance to the anti-abortion movement is weak.<sup>409</sup>

- The moral aspects of the abortion debate tend to be “technically simple,” in the sense that “everyone can legitimately claim to be well-informed,”<sup>410</sup> but there are also technical aspects of abortion policy that could potentially be modified through campaigns or legislation without arousing as much controversy.<sup>411</sup>
- James Davison Hunter has argued that abortion issues form part of a wider set of “culture wars” that stem from “different and opposing bases of moral authority,” either “orthodoxy” and a commitment to “external, definable, and transcendent authority” (such as religious texts or “natural law”) or to “progressivism,” with moral authority being defined “by the spirit of the modern age, a spirit of

<sup>409</sup> The more strongly we believe that the farmed animal advocacy movement faces weaker moral opposition than the anti-abortion movement does, the more we should expect that change through farmed animal advocacy is relatively more tractable. There may be some nonobvious, indirect mechanisms through which this makes change in the farmed animal movement even more tractable, such as if it makes a “radical flank effect” that benefits moderate advocacy groups more likely.

For example, Suzanne Staggenborg, “The Survival of the Pro-Choice Movement,” in Donald T. Critchlow (ed.) *The Politics of Abortion and Birth Control in Historical Perspective* (University Park, Pennsylvania: Pennsylvania State University Press, 1996; first published 1995), 176 notes in a footnote that a “radical-flank effect” is the impact of more radical groups within a movement on more moderate groups. As Herbert Haines shows in *Black Radicals and the Civil Rights Mainstream*, 194-70 (Knoxville, 1988), this effect can be either negative or positive. In the case of the civil rights movement, Haines found a positive radical-flank effect when black power groups came into the movement. As a result of their presence, the resources of moderate civil rights organizations increased as contributions came in from those who preferred the moderate goals of integration and civil rights to the radical goals of separatism and black power. In this instance, however, the moderate groups had already established the legitimacy of their cause and had gained widespread public sympathy prior to the emergence of the black power movement. Anti-abortion groups, however, have always had to battle with abortion rights groups for the moral upper hand (and there have always been some more radical groups within the anti-abortion movement). Consequently, moderate groups were not able to establish themselves as the proponents of an undeniably just cause like civil rights before a highly visible radical flank entered their movement.”

<sup>410</sup> See, for example, Rebecca J. Kreitzer, “Politics and Morality in State Abortion Policy,” *State Politics and Policy Quarterly* 15, no. 1 (2015), 41-66.

<sup>411</sup> Rebecca J. Kreitzer, “Politics and Morality in State Abortion Policy,” *State Politics and Policy Quarterly* 15, no. 1 (2015), 41-66 found that “The two variables that represent the policy movers in morality policy—public opinion and constituent religious adherence—are both significant predictors of anti-abortion rights policy, but only public attitudes predict pro-abortion rights policy. Kreitzer notes that “This makes theoretical sense. If morality policy is characterized by technical simplicity and framed in terms of core values, the most common liberalizing policies do not really fit the bill... Instead, they are framed in terms of safety, equal access to medical care, or free speech. Despite regulating access to abortion, which is almost universally considered a morality policy, liberalizing abortion policies are not ‘moral’ in nature.”

rationalism and subjectivism.”<sup>412</sup> Certainly, religious fervor is a key motivator for many anti-abortion activists.<sup>413</sup>

- In the US, women seem to be slightly more opposed to abortion than men do.<sup>414</sup> Younger people also seem more opposed to abortion.<sup>415</sup> Lower levels of education are correlated with higher opposition to abortion.<sup>416</sup> Evidence more tentatively suggests that people of color are slightly more opposed to abortion.<sup>417</sup>
- Increasing concern for human fetuses may entail significant societal costs by requiring that society prioritize resources for protecting and raising unwanted children. Some researchers have hypothesized an array of social problems that would arise from this, and modelled various economic

<sup>412</sup> James Davison Hunter, *Culture Wars: The Struggle to Define America* (New York: Basic Books, 1991), 42-6. Hunter defines “cultural conflict very simply as political and social hostility rooted in different systems of moral understanding.” The ideals “always have a character of ultimacy to them. They are not merely attitudes that can change on a whim but basic commitments and beliefs that provide a source of identity, purpose, and togetherness for the people who live by them.”

Referring to a similar phenomenon, Jacoby, *Souls, Bodies, Spirits*, 7-9 describes “The Moral Crusade” as being one way of interpreting the abortion debate, as opposed to as a “Social Movement” or a “Religious Revival.”

<sup>413</sup> This is clear from the various interviews included in Maxwell, *Pro-Life Activists in America*. Ginsburg, “Saving America’s Souls,” 558 quotes Randall Terry, founder of Operation Rescue: “There are a lot of people who believe this is going to be the seedbed of revival in the church, the locomotive to bring reformation in our culture. When the Lord put the vision in my heart, it was not just to rescue babies and mothers but to rescue the country. This is the first domino to fall.”

<sup>414</sup> Cook, Jelen, and Wilcox, *Between Two Absolutes*, 51 using data from the General Social Survey, 1987-91, note that the mean value on a six-point legal abortion scale is 4.08 for men and 3.84 for women, though they are lower (3.52) for housewives specifically. Categorized as “pro-choice,” “situationalist,” or “pro-life,” men are 41%, 53%, and 6% respectively, compared to 37%, 54%, and 9% respectively for women, but 29%, 60%, and 11% respectively for housewives. Note, that the table 2.2 appears to have mistakenly reversed the labels “pro-choice” and “pro-life”; they are reported here as their meaning is intended, rather than as is printed. This suggests relatively little difference between men and women.

Support for feminism seems to be a poor predictor of abortion attitudes (see the paragraph in this section beginning “Using data from the General Social Surveys of 1989 to 1991...”).

<sup>415</sup> On anti-abortion attitudes, see footnote 334.

<sup>416</sup> See footnote 335.

<sup>417</sup> Cook, Jelen, and Wilcox, *Between Two Absolutes*, 51 using data from the General Social Survey, 1987-91, note that the mean value on a six-point legal abortion scale is 3.71 for “Blacks” and 3.99 for “Whites.” Categorized as “pro-choice,” “situationalist,” or “pro-life,” blacks are 33%, 58%, and 9% respectively, compared to 40%, 52%, and 8% respectively for whites. Note, that the table 2.2 appears to have mistakenly reversed the labels “pro-choice” and “pro-life”; they are reported here as their meaning is intended, rather than as is printed. On page 46, they note that “Why are blacks more likely than whites to oppose abortion? Several factors come into play. First, African-Americans are much more likely to oppose euthanasia (mercy killing), which is shown in Chapter 3 to be a strong predictor of abortion attitudes. Finally, blacks are more likely to hold orthodox religious beliefs, to attend doctrinally conservative churches, to attend church regularly, and to pray frequently... religious attitudes and behaviors are the strongest predictors of abortion attitudes... Indeed, after we control for attitudes and religion, African-Americans are significantly *more* supportive of legal abortion than whites.”

On page 46, they also note that “African-American women are twice as likely to have abortions as are white women, although this is primarily because they are more likely to become pregnant. A similar percentage of white and black pregnancies end in abortion.”

<sup>418</sup> costs.<sup>419</sup> Depending on population dynamics, however, it could benefit human adults in the long run.

- A large proportion of adults have children. This might increase empathy with fetuses. There are no regular interactions between live humans and dead human fetuses.
- Since Gallup polls began directly asking the question in 1989, at most 36% of respondents have agreed that they would like “to see the Supreme Court overturn its 1973 Roe versus Wade decision concerning abortion.”<sup>420</sup> The anti-abortion movement partially seems to have abandoned attempts to make radical legislative changes due to the entrenched polarized opinions on the issue.<sup>421</sup> In comparison, Sentience Institute’s 2017 survey found that 42% of respondents supported a ban on factory farming, 42% supported a ban on slaughterhouses, and 29% supported a ban on animal farming.<sup>422</sup> The General Social Survey data shows that a large majority of the population has consistently supported the right to abortion if there is a strong chance of serious defect for the child, the woman’s health is seriously endangered, or the woman is pregnant as a result of rape (70%, 83%, and 72% respectively in 2012).<sup>423</sup>

## Strategic Implications

This section lists a number of strategic claims supported by the evidence in this report. Of course, one’s view of the strength of these claims should depend on all available evidence, not just the evidence provided by this case study.

<sup>418</sup> See, for example, the links and citations at Amelia Stewart, “The Economics of Abortion” (January 2017), <https://www.adamsmith.org/blog/the-economics-of-abortion>.

<sup>419</sup> As noted in “Summary of Evidence for Foundational Questions in Effective Animal Advocacy,” Sentience Institute, last updated June 21, 2018, <https://www.sentienceinstitute.org/foundational-questions-summaries>, “Moral circles may trend towards a setpoint, and if so it seems like that’s most likely a point that includes the most powerful beings and excludes those whose inclusion would not increase the society’s power, or in other words excludes those who are more of a burden and cost more resources to care for than they contribute to the selfish interests of the powerful.”

If population were low and growth were desired, then preventing abortion may bring societal economic benefits. Indeed, various economic arguments seem to have been used on both sides of the debate. For an example an anti-abortion advocacy piece using economic arguments, see “The Economy and Abortion,” National Institute of Family and Life Advocates, accessed May 6th, 2019, <https://nifla.org/the-economy-and-abortion/>. However, for much of the anti-abortion movement, demographic arguments have weighed in favor of abortion rights. For example, in 1972, the Commission on Population Growth and America’s Future recommended “The liberalization of state abortion laws along the lines of the New York State statute.” See “Chapter 11: Human Reproduction,” The Center for Research on Population and Security, accessed May 6th, 2019, [https://www.population-security.org/rockefeller/011\\_human\\_reproduction.htm](https://www.population-security.org/rockefeller/011_human_reproduction.htm). This was later denounced by Nixon and the Catholic bishops.

<sup>420</sup> “In Depth: Topics A to Z: Abortion,” Gallup, accessed May 6, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>.

<sup>421</sup> See footnote 222.

<sup>422</sup> Jacy Reese, “Survey of US Attitudes Towards Animal Farming and Animal-Free Food October 2017” (November 2017), <https://www.sentienceinstitute.org/animal-farming-attitudes-survey-2017#exploratory-demographic-analysis>.

<sup>423</sup> “The General Social Survey 2012 Final Report: Trends in Public Attitudes towards Abortion,” National Opinion Research Center (May 2013), <https://gssdataexplorer.norc.org/documents/878/download>.

## Consumer Action and Individual Behavioral Change

- Disruptive and confrontational tactics seem likely to be effective at reducing the supply of targeted products or services, but direct effects on demand are smaller. They may also increase issue salience. Activists using such tactics should strive to minimize possible negative effects, such as legal restrictions and damage to the credibility and reputation of the movement. Violent tactics seem generally unproductive but some disruptive tactics could be worth the associated risks as measured by activist goals.

Direct action and harassing tactics could reduce abortion incidence by staining the perception of abortions, encouraging a mental association between abortion with discomfort and stress, which could be worthwhile for the anti-abortion movement even if it also creates a negative perception of the activists. By disrupting supply of abortion services, these tactics could also make abortion too difficult to obtain. Sidewalk counseling (a disruptive tactic, discussed more fully below) could reduce abortion incidence by successfully persuading women considering abortion not to go through with the procedure.

Although assessing causation is difficult, it seems unlikely that the widespread use of grassroots and direct action tactics has directly contributed much, if at all, to the decline in the number of abortions. The number of abortions declined especially rapidly from the 1990s,<sup>424</sup> which, at first glance, appears to correlate somewhat with the increase in grassroots and direct action tactics.<sup>425</sup> However, the relationship between the decline in abortion rates and changes in the use of these tactics is difficult to interpret,<sup>426</sup> especially since other factors may have influenced the changes.

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<sup>424</sup> See the spreadsheet “[Abortions and the abortion ratio by year](#).”

<sup>425</sup> See the section “1980-92: Ronald Reagan, the diversification of anti-abortion tactics, and an increasingly anti-abortion Supreme Court” above, especially the paragraph beginning “The years 1984 and 1985 saw the peak...” See also the tab “Comparison of violence to the abortion ratio” in the spreadsheet “[Count of violent and disruptive incidents](#).”

<sup>426</sup> Maxwell, *Pro-Life Activists in America*, 1-3 and 31 notes that direct action tactics first began in the mid 1970s. Looking at the data on abortion incidence, rates, and ratios (i.e. figure 1 above and the data on the spreadsheet “Abortions and the abortion ratio by year”) one could conclude that the slope of the increase began to decrease at this time, slightly before this, or slightly after this. The increase seems to have levelled off entirely and begun to decline some time between 1980 and 1988; the former date seems unrelated to any substantial changes in direct action or sidewalk counseling actions but the latter date seems plausibly consistent with the increase in direct action tactics (see the paragraph beginning “The years 1984 and 1985 saw the peak...” in the section on “[A Condensed Chronological History of the Anti-Abortion Movement](#)”). The decreases in violent activity and arrests but increases in other forms of disruptive activity around 1994 (see the paragraph beginning “In 1994, the Supreme Court ruled unanimously...” in the section on “[A Condensed Chronological History of the Anti-Abortion Movement](#)”) do not seem to have had a substantial effect on the slope of the decline in abortion incidence, rates, and ratios. However, this too, is unclear; the increase in picketing around 1996-8 could be related to sharper drops in abortion incidence and the abortion ratio at that time.

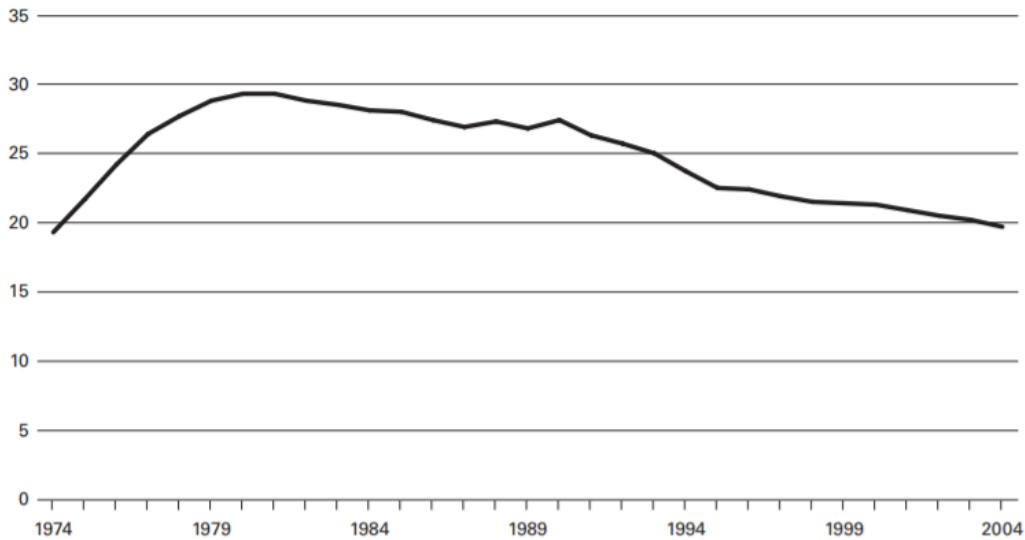
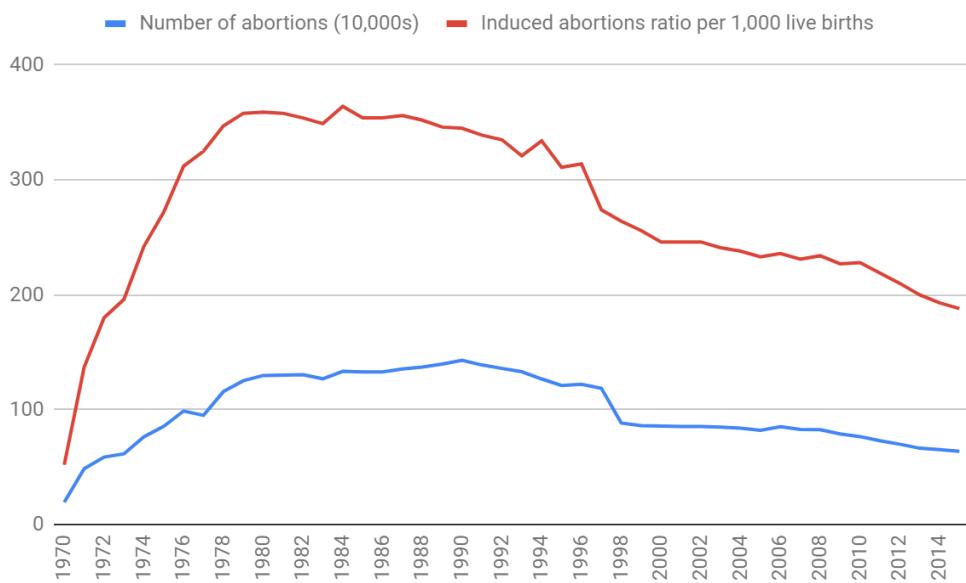


Fig. 1: Abortion rate per 1,000 women aged 15-44 in selected years, 1974-2004.<sup>427</sup>

Data from the CDC shows that the abortion rate per 1,000 women has continued to decline since 2004.<sup>428</sup>



<sup>427</sup> Stanley K. Henshaw and Kathryn Kost, "Trends in the Characteristics of Women Obtaining Abortions, 1974 to 2004" (August 2008), <https://www.guttmacher.org/report/trends-characteristics-women-obtaining-abortions-1974-2004-supplemental-tables>.

<sup>428</sup> Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel, Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, "Abortion Surveillance — United States, 2015," *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, No. SS13 (2018), 1-45.

Figure 2: Abortions and the abortion ratio per 1,000 live births, 1970-2015.<sup>429</sup>

Other factors that may have contributed to the decline, in order of their estimated importance, include:

- A decrease in the number of abortion providers,<sup>430</sup> partially due to high costs of the procedure<sup>431</sup> and possibly partially due to institutional factors.<sup>432</sup> This trend also seems likely to have been encouraged by legislative restrictions at the state level on abortion providers;<sup>433</sup>
- Legislation that may also have reduced the abortion rate through more direct restrictions on individuals' freedom to opt to have an abortion, such as through parental consent requirements;<sup>434</sup>
- Increases in contraceptive prevalence from 71% in 1990 to 73% in 2002.<sup>435</sup> More specifically, increased use of emergency contraception (including RU-486, seen as an abortifacient by anti-abortion advocates) from 1% in 1995 to 4% in 2002 may have been influential,<sup>436</sup> though the FDA did not approve an emergency contraceptive product until 1998;<sup>437</sup>

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<sup>429</sup> See the spreadsheet “[Abortions and the abortion ratio by year](#),” which uses various reports by The Centers for Disease Control and Prevention.

<sup>430</sup> For the numbers in the declines, see the section on “[Provider Availability](#)” in “[The Extent of the Success of the Anti-Abortion Movement in US](#).”

For the importance of this factor, see footnotes 479 and 125.

<sup>431</sup> Stanley K. Henshaw, “Barriers to access to abortion services,” in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 61-80.

<sup>432</sup> Sarah Hudson, “The Marginalization of Abortion in Medicine” (honors thesis, 2018), <https://repository.wellesley.edu/thesiscollection/532>, 47 summarizes that both stigma and the lack of integration between abortion services and private practices seem to have contributed to the difficulties of providing abortions, although Hudson does not note that these factors increased in importance at this time.

<sup>433</sup> See the discussion of “Incremental legislation that restricts access to abortions” in the section on “[Institutional Reform](#).”

<sup>434</sup> See the discussion of “Incremental legislation that restricts access to abortions” in the section on “[Institutional Reform](#).”

<sup>435</sup> “Public Data,” Google, last updated July 6, 2018, <https://www.google.com/publicdata/>, which uses data from the World Bank. The site notes that “Contraceptive prevalence rate is the percentage of women who are practicing, or whose sexual partners are practicing, any form of contraception. It is usually measured for married women ages 15-49 only.” The measurement for 1995 is higher, at 76%, and this forms part of a gradual upwards trend from 68% in 1976 to 77% in 2007. The potential importance of this factor was suggested in Doan, *Opposition & Intimidation*, 124.

Jeanne Snejstrup Jensen, “Changes in the US abortion rate since the 1990s” (student thesis, 2010), <https://studenttheses.cbs.dk/handle/10417/896> notes that “between 1995 and 2002 the use of contraceptives, among Black and White women, actually fell.”

<sup>436</sup> Jeanne Snejstrup Jensen, “Changes in the US abortion rate since the 1990s” (student thesis, 2010), <https://studenttheses.cbs.dk/handle/10417/896>. Jensen also notes that “between 1994 and 2000, experts believe that 43 per cent of the decrease in total abortions can be attributed to increased use of emergency contraceptives.” However, the source of this claim is unclear; neither of the cited Guttmacher Institute reports refer to this figure.

<sup>437</sup> Heather D. Boonstra, “Emergency Contraception: The Need to Increase Public Awareness,” *Guttmacher Report on Public Policy* 5, no. 4 (October 2002), <https://www.guttmacher.org/gpr/2002/10/emergency-contraception-need-increase-public-awareness>

- The growing economy, with GDP per capita having risen from \$23,955 in 1990 to \$59,532 in 2017,<sup>438</sup> which made childcare a more affordable alternative to abortions, though it also made abortion itself more affordable;<sup>439</sup>
- A slight increase in the female labor force participation rate from 56% in 1990 to 59% in 2000, which subsequently declined back to 56% by 2015;<sup>440</sup>
- A decline in the number of high school students reporting to currently be sexually active from 54% to 46%, 1991-2001.<sup>441</sup>

Fertility rates could theoretically have affected the abortion rate, but seem to have changed little.<sup>442</sup>

Other changes might have been expected to increase abortion rates. These factors seem unlikely to have contributed to the decline and provide weak evidence that anti-abortion activism and legislation has succeeded in preventing increases in abortion rates, even if it has not succeeded in causing declines:

<sup>438</sup> “Public Data,” Google, last updated July 6, 2018, <https://www.google.com/publicdata/>, which uses data from the World Bank. However, this trend shows no obvious change in the 1990s, having grown from \$6,741 in 1973.

William R. Cline, “U.S. Median Household Income Has Risen More Than You Think,” (2019), <https://www.cato.org/cato-journal/winter-2019/us-median-household-income-has-risen-more-you-think> argues that household median income has continued to grow as well.

<sup>439</sup> Childress, “Advocacy, Abortion, and Public Policy,” 41-3 found in multivariate regression that “A one standard deviation increase in log median income results in a 14.6% decrease in aggregate abortion rates.” This was consistent with Childress’ expectations, outlined on pages 33-4; “Since women with higher incomes will have to dedicate a smaller proportion of their income to child bearing and other costs, all else equal, increases to median income are expected to decrease aggregate abortion rates.” Childress summarizes relevant previous research on pages 10-2 and 17-8.

Medoff, “An Economic Analysis,” 353-9, who finds that “the fundamental law of demand holds for abortions, with the price elasticity of demand equal to - .81. Abortions are a normal good with an income elasticity of demand equal to .79.

However, New, “Analyzing the Effect of State Legislation” found an insignificant correlation between the dependent variable of the abortion rate among minors and per capita personal income growth in a state (resulting in a reduction in the minor abortion rate by an average of 0.04 abortions per 1,000 females between the ages of 13 and 17,” p > 0.01). The unit for per capita income growth is unclear.

<sup>440</sup> “Labor force participation rate, female (% of female population ages 15+) (modeled ILO estimate),” The World Bank, accessed May 9, 2019, <https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS?locations=US>.

Medoff, “An Economic Analysis,” 353-9 found that “The demand for abortions is also positively related to the labor force participation of women.”

<sup>441</sup> “Key facts about sexual activity among teens,” Child Trends, accessed May 9, 2019, which uses data from “1991-2015 High School Youth Risk Behavior Survey Data,” Centers for Disease Control and Prevention (2016), <http://nccd.cdc.gov/youthonline/>. The potential importance of this factor was suggested in Doan, *Opposition & Intimidation*, 124.

<sup>442</sup> Childress, “Advocacy, Abortion, and Public Policy,” 41-3 found in multivariate regression that “a one standard deviation increase in fertility rates results in a 7.1% increase in aggregate abortion rates.”

However, “Public Data,” Google, last updated July 6, 2018, <https://www.google.com/publicdata/>, which uses data from the World Bank, shows no notable change in the 1990s, from 2.08 births per woman in 1990 (the timeframe is unclear; presumably this is across their whole life) to 2.06 in 2000. Longer-term, there was little change from 1.77 in 1995 to 1.8 in 2016; the mid 1980s to mid 2000s marked a slightly higher rate than the previous or following years.

- The decline in abortion rates occurred principally during the administration of President Clinton, a <sup>443</sup> supporter of abortion rights.
- The proportion of the population that is Hispanic increased in this period, from 9% in 1990 up to 12.5% in 2000. <sup>444</sup> Abortion rates are higher for Hispanic people and “other, non-Hispanic” people than for white, non-Hispanic people. <sup>445</sup>
- There was a slight decline in the marriage rate. <sup>446</sup>
- The percentage of obstetrics and gynecology residency training programs with routine abortion training has increased from a low of 12% in 1992 to 64% in 2014, plus 31% having opt-in training, according to surveys of graduates. <sup>447</sup>

A multivariate regression analysis by Marshall H. Medoff, using survey data from the Feminist Majority Foundation on five different “harassment activities” (picketing, picketing with physical contact, vandalism, bomb threats, and stalking) found that none of the activities had statistically significant correlations with abortion demand in a given state in the year 1992. The same was found for their correlations with out-of-state abortions. Picketing with contact, vandalism, and stalking (but not bomb threats or picketing without contact) were found to have a suggestive but not significant correlation (each  $p < 0.10$ ) with a “reduction in the supply of abortion services by 0.62, 0.72, and 0.26%, respectively,” per 1% increase in the use of the tactic. The power of this analysis was unclear.<sup>448</sup>

Similarly, a multivariate regression analysis by Alesha Doan, using survey data on harassment from the Guttmacher institute, found stronger evidence of impacts on supply of abortion services than on abortion rates. The effects of picketing the homes of staff, of picketing clinics with physical contact, and of bomb threats all had significant negative effects on the existing number of abortion providers per 10,000 population in a state, though the number of acts of vandalism was suggestive but not significant and the number of times clinics were picketed was also insignificant. This model controls for “the number of abortion restrictions, the Catholic population, and NARAL membership” in a state, as well as demographic factors.<sup>449</sup> The analysis

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<sup>443</sup> See the section on “1992-2000: Bill Clinton, declining violence, and declining abortion incidence” in “A Condensed Chronological History of the Anti-Abortion Movement.” The chronology there can be compared to that of the changes in abortion incidence, as shown on the spreadsheet “Abortions and the abortion ratio by year.”

<sup>444</sup> “Historical racial and ethnic demographics of the United States,” Wikipedia, last edited April 7, 2019, [https://en.wikipedia.org/wiki/Historical\\_racial\\_and\\_ethnic\\_demographics\\_of\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Historical_racial_and_ethnic_demographics_of_the_United_States), which uses several data sources.

<sup>445</sup> “Abortion rates by race and ethnicity,” Guttmacher Institute, accessed May 9, 2019, <https://www.guttmacher.org/infographic/2017/abortion-rates-race-and-ethnicity>.

<sup>446</sup> Kim Parker and Renee Stepler, “As U.S. marriage rate hovers at 50%, education gap in marital status widens” (September 2017), <https://www.pewresearch.org/fact-tank/2017/09/14/as-u-s-marriage-rate-hovers-at-50-education-gap-in-marital-status-widens/>. The figures for 1990 and 2000 are not listed separately, but appear to be little different from each other. The longer-term trend is clear, but this appears to bear little relation to the trend in abortion rates.

<sup>447</sup> See footnote 356.

<sup>448</sup> Medoff, “The Impact of Anti-Abortion Activities,” 265-82.

<sup>449</sup> Doan, *Opposition & Intimidation*, 145-7. These reported results are for the model using the impact of one to four incidents on abortion providers. This model indicates, for example, that “a 1 percent increase in picketing at staff members’ homes is associated with a .052 percent decrease in abortion providers, controlling for the demand, political, and control variables.” Modelling the impact of five to nineteen yearly incidents of each activity type separately, Doan found that such additional levels of picketing of staff homes had a further significant negative effect, but this was not the

found that the number of times clinics were picketed in a state had significant effects on abortion rates, but that picketing the homes of staff members, picketing with physical contact, vandalism, and bomb threats each had no effect on abortion rates; this model controls for demographic and access factors, but not the attitude, politics, or level of advocacy in a state.<sup>450</sup> Whereas Doan's analysis suggests that picketing without contact at clinics and at staff's homes are the most effective tactics, Medoff's analysis found the strongest evidence for impact from more aggressive tactics.

One paper using county-level data found that, "in targeted areas, abortion violence modestly reduces the availability of providers by 6-9 percent and leads to declines in abortion rates of 8-9 percent." The authors estimate that two-thirds of these abortions are carried out in other locations, although they note that "statistically we cannot reject a full offset."<sup>451</sup> This supports the findings of Doan and Medoff suggesting that violent behavior has a notable effect on the supply of abortion services, but a small and uncertain effect on the number of abortions actually taking place. However, there is reason to suspect that violent activities might

case for picketing with contact, vandalism, or bomb threats. Oddly, the number of incidents of picketing clinics became significant in this model.

Unlike in some other papers, "the models overall perform well, which is reflected in the range of adjusted R<sup>2</sup>-values from a low of .722 to a high of .731." Perhaps unsurprisingly, "the abortion rate and NARAL membership are the most influential variables included in the models."

<sup>450</sup> Doan, *Opposition & Intimidation*, 140-2. Doan summarizes that "the regression coefficients indicate that a 1 percent increase in facilities experiencing picketing one to four times a year is associated with a .049 decline in the abortion rate per 1,000 women [aged 15-44 (p = .002)], controlling for the resource, access, demographics, and control variables. A 1% increase in the proportion of clinics experiencing five to nineteen yearly incidents had an effect of -.034 (p < .05) on the abortion rate.

Doan notes that "All of the models perform pretty well, reflected by the adjusted R<sup>2</sup>-value, which ranges from .796 to .804 in the models."

<sup>451</sup> Jacobson and Royer, "Aftershocks," 191. They add that "The response varies by type of attack, e.g., damage-related acts (typically arson) versus murders of abortion providers. In areas where a murder has occurred, we observe declines in abortions and providers nearly 10 times the size of the average effect, albeit imprecisely measured due to the infrequency of murders. Because murder generates substantially less property damage than arson and bombing, one might infer that the effects of violence we measure are not purely mechanical (i.e., effects due to clinic closings). Additionally, the effect size is not correlated with the dollar value of damage, suggesting that our estimates capture some behavioral response, rather than an incapacitation response, to terror. The reductions in abortions and providers persist for several years after an attack." They note that "In the 7-11 months following an anti-abortion attack, births increase by about 1 percent among women residing in targeted areas. In the long run, births are unaffected. The short-run rise in births accounts for only 10 percent of the decline in abortions in affected areas. We look more explicitly for displacement effects by analyzing the abortion market in counties neighboring the violence. Abortion and provider rates rise in counties nearest to the violence."

On page 191 they explain that they "combine detailed violence data with pre-existing county-level abortion and birth data. We compare within-county provider rates, abortion rates, and births before and after an act of extreme violence. We also investigate whether and how the violence impacts abortion services in counties adjacent to but not directly targeted by an attack."

have a greater effect on more elastic behaviors<sup>452</sup> and that the consumption of animal products may be more elastic than the use of abortions.<sup>453</sup>

There are limitations to the methodologies of each of these papers. Notably, none of them control for all of the more indirect factors that could plausibly have influenced the abortion rate.<sup>454</sup> Doan also provides interview and anecdotal evidence that the prevalence of harassment activities “frequently creates problems with hiring and retaining staff members at facilities” and “discourages physicians from providing services at clinics.”<sup>455</sup> A paper from 1991 found that the mean direct cost was \$141,000 per arson incident, \$127,100 per firebombing incident, and \$68,200 per explosive bombing incident.<sup>456</sup>

Several measures of the salience of abortion changed in the 1990s, which could have been partially due to the use of violence and disruptive tactics.<sup>457</sup> Visual inspection of the data suggests that there may have been an association between rising newspaper coverage of abortion issues and the rise in violent incidents. The increase in press coverage seems to start in around 1985, and 1984-5 saw a spike in the number of bombings and arsons (29 and 28 incidents in 1984 and 1985 respectively, compared to 2 in 1983). Newspaper coverage peaked in 1992 with over 10,000 articles, compared to between about 5,000 and just over 9,000 in the other years 1989-2003; 1992 was the same year that violent behavior peaked, with 51 incidences of arson, bombings, or acid attacks compared to 11 the previous year.<sup>458</sup> However, this same year saw the *Planned Parenthood v. Casey* ruling and the “Spring of Life” at abortion clinics in Buffalo, New York, which utilized direct action tactics but was not intended to be violent (at least not to the same degree). Additionally, there

<sup>452</sup> Gary S. Becker and Yona Rubinstein, “Fear and the Response to Terrorism: An Economic Analysis,” *Centre for Economic Performance Discussion Papers* (2011) found that “the overall impact of [suicide bombing] attacks on the usage of goods and services subject to terror attacks (e.g. bus services, coffee shops) reflects solely the reactions of occasional users. We find no impact of terrorist attacks on the demand for these goods and services by frequent users. Education and the exposure to media coverage also matters. We find a large impact of suicide attacks during regular media coverage days, and almost no impact of suicide attacks when they are followed by either a holiday or a weekend, especially among the less educated families and among occasional users.”

<sup>453</sup> See the paragraph beginning “One paper finds that ‘the fundamental law...’ in the section on “Features of the Anti-Abortion Movement.”

<sup>454</sup> See the list above of “Other factors that may have contributed to the decline” in abortion rates.

<sup>455</sup> Doan, *Opposition & Intimidation*, 117-8 notes that in Bryan, Texas, Planned Parenthood’s newly opened facility in 1999 was “ushered in with continual pro-life protesting... Within three years, the clinic’s director was the only employee remaining from the original facility. All other employees had left largely as a result of the strains of the weekly, and often daily, harassment.”

<sup>456</sup> David A. Grimes, Jacqueline D. Forrest, Alice L. Kirkman, and Barbara Radford, “An epidemic of antiabortion violence in the United States,” *American Journal of Obstetrics and Gynecology* 165, no. 5 (November 1991), 1266. On page 1267 they add that “The true cost of this epidemic is hard to estimate. As noted, the direct cost of \$7.6 million is a substantial underestimate because of the exclusion of a number of facilities that were completely destroyed. The related costs of increased expenses for legal and security services, increased fire and casualty insurance, new licensing requirements, and staff recruitment have not been estimated but are large. In addition, the indirect costs of time lost from work during repair and reconstruction are substantial. Patients seeking abortion or other services were forced to postpone care or transfer to another provider. The cost of investigation, prosecution, and incarceration of perpetrators also is large. These costs may translate into higher fees for patients and rising costs of law enforcement.”

<sup>457</sup> See the section on “Changes in the Importance and Salience of the Issue.”

<sup>458</sup> On violence, see the spreadsheet “Count of violent and disruptive incidents.”

On newspaper and magazine coverage, see Doan, *Opposition & Intimidation*, 158-9.

was no particular increase in media coverage in the late 1970s, when radical and disruptive tactics first began. Most importantly, the trends in the levels of violent activity spikes do not seem related to measures of political salience or popular perception of the importance of the topic, which may be critical to long-term, substantial change.<sup>459</sup>

Even if this provides evidence that disruptive and violent tactics have had some impact on the supply of abortion services, there is some reason to think that they may have been counterproductive in other ways:

- The anti-abortion movement seems to have gained a worse (and arguably, more distorted) reputation than the abortion rights movement has,<sup>460</sup> which may be partially due to its use of disruptive and violent tactics.<sup>461</sup> Gallup polls show that there was an increase in the percentage of people identifying as pro-life from 33% in 1995 to 44% in 1997; anti-abortion violence was declining during this period, though it remained high for several years, and the relevant question in the Gallup polls was first asked

<sup>459</sup> This comment is based on a comparison of the data in the spreadsheet “[Count of violent and disruptive incidents](#)” and Doan, *Opposition & Intimidation*, 159 to the information in the section on “[Changes in the Importance and Salience of the Issue](#).”

<sup>460</sup> Cassidy, “The Right to Life Movement,” 128 notes that the mass media has created stereotypes and impressions of the movement; it has been “the subject of numerous television dramas, documentaries, and news accounts. Television portrayals in particular have created a number of negative images. The movement is seen as violent, irrational, insensitive to women, religiously fundamentalist in character, and extremist.” On pages 130-1 Cassidy notes that even in the academic literature, scholars such as Kristin Luker have characterized the anti-abortion movement as interested more in defense of traditional gender roles than protection of life. In contrast, Cassidy argues that this is an oversimplification, ignoring the aspects of the movement most focused on altruism and civil rights issues. He cites surveys suggesting that more people who oppose gender equality favor legal abortion than oppose it.

James Davison Hunter, “What Americans Really Think About Abortion,” *First Things* 24 (June-July 1992), using the results of several surveys commissioned by anti-abortion groups in 1990, summarizes that both abortion rights and anti-abortion advocates view their own movement “as being much more concerned about values, morality, and the family.” However, “Outside of the rank-and-file of the anti-abortion movement, the average American, even when numbered among the closest allies of the anti-abortion movement, i.e., the secretly and conveniently pro-life groups, tends to view the anti-abortion movement in the same negative way that the pro-choice coalitions do. The average American is much more likely to view the anti-abortion movement as unconcerned about women and the poor, and marked by judgmentalism, extremism, and intolerance... The success of the activists of the abortion rights movement in demonizing the anti-abortion movement is all the more surprising when one compares image to reality. When asked in the surveys to express their personal concerns on a wide range of issues, individuals who identified themselves as being ‘pro-life’ were, with but a few exceptions, as ‘liberal’ as, and in most cases even more ‘liberal’ than, the so-called socially progressive abortion rights groups. On average, pro-lifers were significantly more likely to express concern about child abuse, drug abuse, poverty and homelessness, and population growth than were the pro-choice. They also consistently showed as much concern for the issues of racial discrimination, minority rights, and women’s rights as their opponents. It was only the consistently pro-choice who were more likely to express more concern for women’s rights.”

Donald Granberg, “The Abortion Activists,” *Family Planning Perspectives* 13, no. 4 (July-August 1981), 157-63 found in a survey sent to 750 members of each of NARAL and NRLC that “The majority of NLRC members oppose the Equal Rights Amendment; majority of NARAL supports it. The majority of members of both organizations support political, social and economic equality of women in other respects.”

<sup>461</sup> Doan, *Opposition & Intimidation*, 87 notes about rescue tactics that “As pro-choice groups organized and had counterprotesters at clinics, the blockades started to become more antagonistic. Arguing repeatedly erupted between the two sides and often deteriorated into shoving, grabbing, and screaming matches. The physical and verbal aggression was recorded by the media, and Operation Rescue was beginning to be portrayed as the victimizer, particularly as OR members became more aggressive against women trying to enter clinics.

in 1995, so it is hard to assess whether the change in identity is closely correlated with the decline in violence, which seems to have begun some time in 1992-4.<sup>462</sup> Research for this case study did not reveal other relevant factors that seem likely to have influenced this trend,<sup>463</sup> but longer-term changes in amounts of violence don't correlate very closely with Gallup poll results for public support or opposition to the legality of abortion.<sup>464</sup> The steep rise in the use of hate mail, harassment, trespassing, and picketing conducted by anti-abortion activists in 2015-18 does not seem to have had any notable effect on public opinion, nor do the temporary rises in reports of anthrax and other bioterrorism threats in 2001 or of trespassing in 2005.<sup>465</sup> In contrast, one paper found evidence that "each pro-life public activity" reported in the *New York Times* during the period 1985-9 "produces more than a one-percent backlash" against public support for anti-abortion goals, measured through support for maintaining abortion law as it was at the time.<sup>466</sup>

- Such tactics seem likely to have alienated political and governmental decision-makers.<sup>467</sup> Insofar as social movements seek to make political and institutional changes, alienating decision-makers could be costly. However, theoretically it is possible that decision-makers' disapproval remains focused on the worst offending groups and that a radical flank effect will cause greater engagement with less disruptive groups.
- Disruptive tactics, even if not inherently violent, may be linked together with violent tactics in terms of public perception and issue framing when movements endorse both simultaneously. Though this association may, at times, enhance the coercive power of disruptive tactics, it may also cause difficulties for the movement by encouraging restrictive legislation or negatively affecting perceptions

<sup>462</sup> On polling, see "In Depth: Topics A to Z: Abortion," Gallup, accessed March 20th, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>. The question asked was: "With respect to the abortion issue, would you consider yourself to be pro-choice or pro-life?" Note that the FACE Act was passed in 1994, and violence began to decline around this time.

On violence, see the spreadsheet "Count of violent and disruptive incidents."

<sup>463</sup> The most plausible other factors are a backlash against the administration of Bill Clinton, who was favorable towards abortion rights, or the declining rates of abortion during this period. The author of this report would not expect either of these trends to have a particularly large effect of "pro-life" identification, however. See the section on "1992-2000: Bill Clinton, declining violence, and declining abortion incidence" in "A Condensed Chronological History of the Anti-Abortion Movement" for some detail on these developments.

<sup>464</sup> See the tab "Comparison of violence to public opinion" on the spreadsheet "Count of violent and disruptive incidents." There is quite a strong correlation between the decline in the number of people identifying as "pro-choice" in the years 1995-7 and the decrease in percentage of clinics reporting moderate or severe violence, but the count of "violent incidents" is much more erratic in this period.

<sup>465</sup> See "In Depth: Topics A to Z: Abortion," Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx> and footnote 284.

<sup>466</sup> Wlezien and Goggin, "The Courts," 396. For context, see the paragraph beginning "In 1989, the five-to-four..." in "A Condensed Chronological History of the Anti-Abortion Movement." Unlike the activities of anti-abortion groups, the activities of abortion rights groups seem to have had no effect on public opinion.

<sup>467</sup> Doan, *Opposition & Intimidation*, 87 notes that "Various cities also began to tire of Operation Rescue's antics because they were costing cities considerable amounts of money as well as redirecting law enforcement efforts away from their regular beats to monitor, control, and disperse blockades. One city paid around \$10,000 in law enforcement and vehicle fees resulting from one day of protesting."

of the movement.<sup>468</sup> Similarly, advocates using non-disruptive tactics may be linked together with those using disruptive tactics.<sup>469</sup>

- Both the Supreme Court and Congress clamped down on these activities in 1994, which led to a decrease in the feasibility and regularity of the use of these tactics.<sup>470</sup> Local courts also acted to restrict direct action protests.<sup>471</sup>
- Abortion rights activists developed counter-tactics that diminished the effectiveness of disruptive tactics, such as clinic escort services and legal challenges.<sup>472</sup>

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<sup>468</sup> A similar point is made by Doan, *Opposition & Intimidation*, 3: “Devoid of context, protesting at clinics is not inherently threatening; however, anti-abortion activity exists within a backdrop of inflammatory rhetoric, physical threats, and executed threats in the form of chemical attacks, arson, and murder, which have been carried out in the name of saving babies. Contextualizing anti-abortion protest and coupling it with its intended targets (clinic employees, women seeking abortion services, and potential women in need of abortion services) changes the scope and meaning of the protest altogether. Rather than benign political protest, much of the activity outside of clinics takes on a threatening element that transcends political protest and becomes harassment.”

On pages 106-8 Doan quotes several leaders of anti-abortion groups disavowing violent tactics.

Maxwell, *Pro-Life Activists in America*, 80-9 similarly argues that “[v]iolent and extremely aggressive acts appear to have discredited direct action, alienated the majority of potential recruits, and exacerbated divisions within the pro-life movement.”

Additionally, Feminist Majority Foundation, “2018 National Clinic Violence Survey” (2019), <https://www.feminist.org/anti-abortion-violence/images/2018-national-clinic-violence-survey.pdf> groups “blocking clinic access” alongside “severe violence and threats of violence,” though this comes from a partisan source.

The author of this report has not seen evidence that the association between disruptive and violent tactics has led to legal or legislative restrictions on nonviolent disruptive tactics, although it is plausible that this could happen. In the 1997 court case, *Schenck v. Pro-Choice Network of Western New York*, buffer zones around abortion clinics were upheld, preventing protestors from getting too close. It seems plausible that this decision was influenced by the violent tactics of the movement, though the author of this report has not seen evidence for or against this hypothesis.

<sup>469</sup> Maxwell, *Pro-Life Activists in America*, 50 describes an incident where a group that had planned “a silent prayer vigil outside a hospital administrator’s home” were “slapped with lawsuits for millions of dollars” after activists from a local direct action group arrived, uninvited, “with bullhorns and picket signs.”

<sup>470</sup> See the paragraph beginning “1994, the Supreme Court ruled...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>471</sup> Maxwell, *Pro-Life Activists in America*, 40-1 notes that “Injunctions for separate clinics were issued one at a time by different judges. St. Louis had four abortion clinics when pro-life direct action began; after injunctions had been issued against sit-ins at the two most frequently targeted clinics, Meadow Park and Women’s Health Center, the activists saw two options. They could continue sitting-in at Meadow Park, their primary site, in spite of the injunction and risk the relatively certain penalties such action would bring, or they could redirect their activism toward a different clinic. After intense debate, they chose to do the latter... This choice was repeated later, when an injunction prohibited sit-ins at a third clinic.”

Ginsburg, “Saving America’s Souls,” 568-71 notes the various “legal setbacks” faced by Operation Rescue in 1989-90. On page 570, Ginsburg notes that “By the fall of 1990, there was a noticeable decline in the mention of abortion in Terry’s rhetoric, and a former political liaison for Operation Rescue ran for a seat on the New York state assembly from the Binghamton area. It appeared that Operation Rescue’s anti-abortion activities had been stymied by the multiple legal actions brought against the organization and its followers.”

<sup>472</sup> Doan, *Opposition & Intimidation*, 86 notes that “By 1990, Operation Rescue’s activities had significantly diminished—a paltry 34 blockades were held that year, and only 1,363 protesters were arrested [compared to 201 and 12,358 respectively in the previous year]. The quick decline in activity can be attributed to pro-choice counter-activity. Although

- Direct action tactics and their accompanying rhetoric may be attractive to some advocates and may have movement building benefits, bringing in new activists and other resources, at least temporarily.  
<sup>473</sup> However, transgressions of the law led to financial costs,<sup>474</sup> as well as emotional and practical difficulties for activists, presumably accelerating activist burnout. For example, anthropologist Carol J. C. Maxwell notes that in the St. Louis direct action community, when four activists were arrested and sentenced to between 225 to 314 days in jail each, “[t]hese long sentences were the first issued for anti-abortion sit-ins in St. Louis, and they shocked the activists. Almost two years passed before another group coalesced.”<sup>475</sup>

abortion rights activists were initially taken by surprise, after a couple of years they had developed fairly successful counterstrategies such as implementing clinic escort services and challenging the legality of Operation Rescue’s blockades.”

<sup>473</sup> Doan, *Opposition & Intimidation*, 84-6 notes that “The pro-life movement was reinvigorated in the mid-1980s by the emergence of new leaders. These new leaders turned the focus away from national politics to grassroots direct action, bringing new enthusiasm (grounded in scriptural language) and a youthful edge to the movement... Randall Terry... was a dynamic, charismatic leader who was able to attract thousands of members to [Operation Rescue]. He knew how to finesse the media and became a master at issuing colorful sound bites, guaranteeing him time in the press... The Siege of Atlanta garnered much media attention leading to a substantial influx of resources into Operation Rescue.... Other rescues were planned throughout the country... Operation Rescue took its blockades to New York, Philadelphia, Wichita, and Los Angeles, to name a few. These rescues attracted hundreds and oftentimes thousands of protesters to a single abortion clinic. Activists were able to physically shut down the clinic by blockading the building, thereby making it impossible for clinic staff or clients to enter the building. Operation Rescue’s blockades eventually peaked. In 1988 it held 182 blockades, resulting in 11,732 arrests, and in 1989, 12,358 people were arrested at approximately 201 blockades.”

On page 88, Doan notes that Operation Rescue had “a staff of 23 and received over one million dollars in annual donations” at its peak. These numbers seem quite small compared to some farmed animal advocacy organizations, however.

On pages 88-9, Doan also notes several examples of radical activists who first connected with each other through Operation Rescue.

Maxwell, *Pro-Life Activists in America*, 31-40 describes the activists who were inspired to join direct action protests in St. Louis, which were described to Maxwell by later activists. For example, Maxwell writes on page 32 that “representatives remained hours after official exhibits [at anti-abortion conventions] closed explaining their philosophy and tactics to keenly interested individuals.” Maxwell describes the activists as mostly Catholic, including students, those frustrated by the slow progress of the “mainstream” anti-abortion movement, and those feeling betrayed by Democrat politicians or Catholic bishops.

<sup>474</sup> Doan, *Opposition & Intimidation*, 87 notes that In New York City, a trial court ordered Operation Rescue to pay a \$50,000 contempt fine after it ignored the court’s order prohibiting blockades of clinics in New York City. When Operation Rescue refused to pay the fine it continued to increase. By 1990, Operation Rescue owed \$450,000 in fines.”

<sup>475</sup> Maxwell, *Pro-Life Activists in America*, 44. On page 41, Maxwell notes that, in the early 1980s (before these arrests occurred), “activism changed locus three times. The activists also switched the timing of sit-ins from weekends to weekdays and back again as abortionists adjusted their schedules, apparently in response to the pressures of activism. Each change of location or timing reduced the number of people sitting-in. Scheduling conflicts undoubtedly accounted for some reduction in participation; however, many people welcomed changes as an excuse to stop doing something that was personally costly, frightening, and difficult. As one activist put it, ‘This stuff is so uncomfortable personally — it’s terrifying. We’re all scared, especially where people had families and children and jobs in the lurch. I think all of us wanted a way out’... When the third injunction restricted activism to the sole unprotected facility, the 12 to 15 people who persisted doubted they could hold out for long... when that clinic reopened after closing for the Christmas holidays of 1980, it no longer performed abortions on Saturdays. The switch to weekdays severely reduced the activists’ numbers.

- Use of radical, disruptive tactics led to disagreements and factionalism within the movement.<sup>476</sup>  
Factionalism can provide benefits to a movement by encouraging dynamicism, but can also split resources and create weaknesses that opponents can exploit.

It is also plausible that short-lived, targeted use of disruptive tactics would minimize these negative effects while the movement still receives some of the positive benefits; the history of the anti-abortion movement does not provide direct evidence for or against this hypothesis, however, given disruptive tactics were not used in this way.

The failure of Operation Rescue to maintain its high momentum and engagement from large numbers of volunteer activists<sup>477</sup> suggests that, if mass participation tactics that provoke arrest and confrontation with the law are ever seen to be desirable, they can only be sustained for a limited time. This suggests that such tactics should be used sparingly and timed carefully. For instance, they could be used to support a specific radical institutional demand, following a national scandal or other form of triggering event.

- **There is indirect evidence that proactive, often confrontational, face-to-face “counseling” outreach causes a backfire effect, making individuals less supportive of a movement’s goals.**

“Sidewalk counseling” is where anti-abortion activists stand outside abortion clinics and attempt to dissuade pregnant women from entering the clinic or choosing to have an abortion.<sup>478</sup> Given its disruptive and often confrontational nature (that is, by challenging a pregnant woman’s decision to have an abortion and by disrupting the access and operation of the clinics), sidewalk counseling is sometimes considered as comparable to other forms of direct action and confrontational tactics used by the anti-abortion movement.

<sup>479</sup> However, sidewalk counseling differs from these other intervention types in that it is targeted primarily at the pregnant woman, rather than the abortion providers.

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Five or six people continued to sit-in for a while. Some moved away, their numbers dwindled. Eventually only one remained.”

Doan, *Opposition & Intimidation*, 88 notes that “Many rank-and-file members [of Operation Rescue] could not keep up with the hectic pace of blockades, arrests, and imprisonment, especially as jail sentences were stiffened. By 1990, Operation Rescue was down to a core of ‘professional rescuers’ who traveled from city to city living off free food and lodging provided by pro-life sympathizers.” On page 86, Doan notes that, “[b]y 1990, Operation Rescue’s activities had significantly diminished—a paltry 34 blockades were held that year, and only 1,363 protesters were arrested [compared to 201 and 12,358 respectively in the previous year].”

<sup>476</sup> Doan, *Opposition & Intimidation*, 87 notes that “Operation Rescue suffered a significant blow from religious leaders. The group’s blockades became more outlandish, prompting dozens of Protestant ministers to denounce OR’s antics.”

<sup>477</sup> See footnote 475.

<sup>478</sup> See, for example, “Save babies with compassionate sidewalk counseling,” Pro-Life Action League, accessed July 19, 2019, <https://prolifeaction.org/action/swc/>.

<sup>479</sup> See, for example, various discussion of sidewalk counseling and clinic protests in Doan, *Opposition & Intimidation*. Although clear definitions of “picketing” are not given in the various sources of statistics used in the section on direct action tactics above, instances of sidewalk counseling were probably counted as “picketing” in most instances and hence were also included as part of the analyses of the effects of such protests on abortion incidence at the state level.

In her book *Opposition & Intimidation: The Abortion Wars & Strategies of Political Harassment*, political scientist Alesha Doan includes two interviews where clients of clinics expressed anger at being confronted by sidewalk counseling.<sup>480</sup> This raises the concern that individual outreach that makes behavioral demands of people — especially on sensitive personal choices — can contribute to a backfire effect. This has been a concern about individual outreach in the farmed animal movement, such as with Animal Charity Evaluators' meta-analysis of leafleting interventions.<sup>481</sup>

In a study of one abortion clinic, coders outside the clinic noted that pro-life protesters confronted 96% of women seeking services, though none of the confronted women (out of approximately 400) was seen to turn back after the confrontation. In a survey inside the clinic, 66% of respondents indicated that they were upset by the interaction to some degree (mean 2.68 on a 5 point scale, “where 5 indicates the greatest degree of upset”),<sup>482</sup> though it is unclear whether this self-reported upsetness would contribute to an increase or decrease in the likelihood of abortion. There is also some evidence from this study that anti-abortion protests and harassment of women attending clinics may cause distress and damage women’s “postabortion adjustment.”<sup>483</sup> The strategic implications of these findings are unclear: distress could cause alienation from

<sup>480</sup> Doan, *Opposition & Intimidation*, 123-4. Quotes from one interview include: “How egotistical of them to decide what is right and what is wrong... They love to judge.” The other interviewee said: “You know, shit happens... They need to spend less time talking about abortion and go help and worry about the kids that are out there who are messed up because their parents don’t want them.”

<sup>481</sup> Animal Charity Evaluators, “Leafleting” (November 2017), <https://animalcharityevaluators.org/advocacy-interventions/interventions/leafleting/#report> concluded that “With the available evidence, we certainly can’t reject the null hypothesis that leaflets have no effect on short-term consumption of animal products. If anything, our meta-analysis of the available evidence instead causes us to update towards thinking that leaflets may actually cause short-term increases in animal product consumption rather than decreases.”

<sup>482</sup> Cozzarelli and Major, “The Impact of Antiabortion Activities,” 88-91, citing Catherine Cozzarelli and Brenda Major, “The Effects of Anti-Abortion Demonstrators and Pro-Choice Escorts on Women’s Psychological Responses to Abortion,” *Journal of Social and Clinical Psychology* 13 (1994), 404-27.

On page 89 they explain that “all English speaking women seeking a first-trimester abortion at the clinic were asked to participate in our study; 88% agreed to do so.” The women were “asked the degree to which they had been upset by the demonstrators (on a scale ranging from 1 [they did not upset me at all] to 5 [they upset me a great deal].” It seems likely that this methodology would lead to some over-reporting on the level of upsetness, since there is a small amount of selection bias involved and since the question itself suggests that upsetness is an emotion that many respondents would feel. However, they also report that in a longitudinal study of “615 women who obtained an abortion at one of three facilities in Buffalo, New York, during a 6-month period in 1993,” factor analysis suggested that women who had seen antiabortion demonstrators were made to feel anger (mean = 2.63 on a scale of 1 to 5) and guilt (mean = 2.00) but also strength (mean = 1.95). Most women did not report feeling at all happy (mean = 1.12).

<sup>483</sup> Cozzarelli and Major, “The Impact of Antiabortion Activities,” 92-3, citing Catherine Cozzarelli and Brenda Major, “The Effects of Anti-Abortion Demonstrators and Pro-Choice Escorts on Women’s Psychological Responses to Abortion,” *Journal of Social and Clinical Psychology* 13 (1994), 404-27, ask: “Does exposure to antiabortion demonstrators have a detrimental effect on women’s postabortion adjustment? Anecdotal evidence suggests that this may indeed be the case. For example, on the basis of observations at abortion clinics, Hern (1991) asserted that some women show obvious signs of physical distress (including sweating, palpitations, anger, crying, or hyperventilation) after encountering antiabortion demonstrators. Our own observations made during the process of collecting data at abortion clinics are consistent with Hern’s. It is plausible to hypothesize that women who are more agitated prior to their abortions may be at increased risk for problems both during and after the abortion procedure.”

On pages 92-3, citing Catherine Cozzarelli and Brenda Major, “The Effects of Anti-Abortion Demonstrators and Pro-Choice Escorts on Women’s Psychological Responses to Abortion,” *Journal of Social and Clinical Psychology* 13 (1994),

the goals of a movement or could facilitate changes in attitude and behavior. The study also found that having seen anti-abortion demonstrators made some women feel strength (mean = 1.95 on a five-point scale where 1 represents “not at all” and 5 represents “a great deal”). Feeling strong was correlated with increased decision satisfaction ( $r = .15$ ,  $p < .01$ ) and positive well-being ( $r = .12$ ,  $p < .01$ ). This also provides evidence that some of those being handed leaflets or receiving other forms of individual vegan outreach may experience a backfire effect, becoming more confident in their pre-existing beliefs.<sup>484</sup> Another survey of 142 women obtaining abortions and 51 people accompanying them found that 82% of respondents thought the protesters were invading their privacy, 81% thought the protesters should mind their own business; 15% felt that the protesters were trying to help, and only 1% reported interest in what the activists had to say.<sup>485</sup> Of course, this is a particularly difficult topic to survey in an objective manner.

- **Reactive behavioral support services (e.g. CPCs) may have some direct effects on the behavior of their clients, though this is unclear. Such services seem more likely to gain public acceptance than other forms of advocacy.**

There is reason to think that crisis pregnancy centers (CPCs) operate in a supportive, motivational role, rather than a directly educational or persuasive role. For example, Heartbeat International’s volunteer training manual, The L.O.V.E. Approach, says, “We help awaken her maternal instincts and provide her with the hope, help, and support to overcome the pressures and fears that propel people toward abortion.”<sup>486</sup> CPCs provide childcare equipment and material assistance and are partially integrated with the welfare system.<sup>487</sup>

Additionally, a paper analyzing the distribution of CPCs in California found that “The number of abortion

404-27, they note that there was a significant correlation (.17,  $p < .05$ ) between self-report that anti-abortion demonstrators blocked a woman’s entry to the clinic and her self-reported degree of upset. Both the coders’ rating for the intensity of anti-abortion protest activity and the woman’s self-reported degree of upset were significantly correlated (.18,  $p < .01$  and .24,  $p < .01$  respectively) with the woman’s reporting on the SCL-90 Depression subscale.

Cozzarelli and Major also note on page 92 that “Hern (1991) asserted that some women show obvious signs of physical distress (including sweating, palpitations, anger, crying, or hyperventilation) after encountering antiabortion demonstrators.”

<sup>484</sup> Cozzarelli and Major, “The Impact of Antiabortion Activities,” 92-4, citing Catherine Cozzarelli and Brenda Major, “The Effects of Anti-Abortion Demonstrators and Pro-Choice Escorts on Women’s Psychological Responses to Abortion,” *Journal of Social and Clinical Psychology* 13 (1994), 404-27.

<sup>485</sup> Cozzarelli and Major, “The Impact of Antiabortion Activities,” 91, citing V. T. Nasman ... *And then the decision was mine* (Dayton, OH: unpublished, 1992).

<sup>486</sup> Cited in Hussey, “The Pro-Life Pregnancy Help Movement,” 17.

<sup>487</sup> Ibid, 22-3, reporting on a survey given to crisis pregnancy centers notes that “Nearly every center offers baby care items such as diapers and formula (98 percent) and baby clothes (93 percent). Maternity clothes (85 percent) and baby equipment such as strollers, car seats and high chairs (84 percent) are also commonly provided at pregnancy centers, and 65 percent of centers reported providing larger furniture items such as cribs, beds or dressers... Pregnancy centers’ material aid is typically available to any family that seeks it. Virtually every center extends material assistance to women who are not considering abortion, and 84 percent of centers say that, as a general rule, families with infants who did not receive pregnancy services at their center are also eligible for aid. Material aid also continues somewhat beyond infancy: 78 percent of centers provide material assistance, as a general rule, to families whose youngest child is in the 1-5 age range.”

On page 24, Hussey adds that “Nearly 80 percent of centers reported some formal or informal collaboration with departments of health or social services.”

clinics has no independent effect on the number of CPCs,”<sup>488</sup> suggesting that their locations are not chosen in order to directly confront women seeking abortion. Some evidence suggests that CPCs may play a role in reaching out to poorer communities,<sup>489</sup> which otherwise tend to have worse health outcomes.<sup>490</sup>

One study found a statistically significant effect of the interventions at a CPC on the self-reported intentions of 166 women to carry their pregnancy to term by comparing survey results before and after the women attended the center.<sup>491</sup>

There is clearer evidence of public acceptance of CPCs than other forms of anti-abortion advocacy.<sup>492</sup> This may relate to their more supportive role compared to other forms of anti-abortion tactics that seek to disrupt abortion providers, restrict access to abortions, or proactively confront women seeking abortions.

- **Boycotts of specific companies across their entire product range may be a more promising tactic for disrupting the supply of a product than boycotts of a specific product type across all companies. Additionally, companies trying to bring a new product to market can protect against boycotts by remaining narrowly focused, and avoiding merging with or being acquired by larger companies with more diverse product types.**

The cessation of research into abortifacient drugs by the Upjohn Company was presumably partly due to the boycott led by the NRLC, although the company also cited “the adverse regulatory climate in the United States” as a reason, and another spokesperson claimed that they had “never been able to detect any impact on

<sup>488</sup> Joel Fetzer and Andrew Yuengert, “Location Decisions of Abortion Clinics and Crisis Pregnancy Centers in California,” *The Catholic Social Science Review* 15 (2010), 230. They add that “Although the two kinds of clinic target the same potential clientele and respond strongly to market size, the substitute services they offer result in different location decisions.” On page 211 they explain that county-level “Data on the location of abortion clinics and crisis pregnancy centers in California are used to estimate Poisson models of the number of both kinds of clinic, to compare their location decisions, and to better understand the factors which limit clinic availability in some counties.”

<sup>489</sup> Hussey, “The Pro-Life Pregnancy Help Movement,” 19 found that 73% of the crisis pregnancy centers that replied to a survey judged over 50% of their clients to be “poor or near-poor,” though these terms do not seem to be defined strictly. Relatedly, “83 percent of centers estimated that women with full-time, paying jobs made up less than a quarter of their clientele.” This survey had responses from 514 centers, covering “37.7% of Care Net, Heartbeat International and NIFLA affiliates,” and possibly about one-sixth of the total number of centers, although it likely over-represents larger centers.

Joel Fetzer and Andrew Yuengert, “Location Decisions of Abortion Clinics and Crisis Pregnancy Centers in California,” *The Catholic Social Science Review* 15 (2010), 211-35 found income of area residents to have an insignificant effect on the distribution of CPCs in California, though low labor-force participation rates were significant, which the authors suggest “may indicate both a larger supply of volunteer labor and more demand for CPC services.” They explain that county-level “Data on the location of abortion clinics and crisis pregnancy centers in California are used to estimate Poisson models of the number of both kinds of clinic, to compare their location decisions, and to better understand the factors which limit clinic availability in some counties.”

<sup>490</sup> See, for example, Pravin Matthew and Donka Mirtcheva Brodersen, “Income inequality and health outcomes in the United States: An empirical analysis,” *The Social Science Journal* 55, no. 4 (December 2018), 432-42.

<sup>491</sup> Dorothy Wyatt-Youmans, “Pregnancy resource centers and the woman’s choice: A quantitative correlational study” (doctoral dissertation, July 2015), <https://search.proquest.com/openview/7ed8da7ff51dc2269b953661a66d8cfe/>.

<sup>492</sup> See the subsection on “Acceptance and Inclusion” in “The Extent of the Success of the Anti-Abortion Movement in US.”

[their] sales or stock" from the boycott. Of course, these explanations could have been offered by the company in order to protect their credibility, but the company continued to sell abortifacients.<sup>493</sup>

The anti-abortion movement has also used boycott tactics in other contexts.<sup>494</sup> The NRLC threatened a similar boycott on other companies around the proposed sale of the RU-486 abortifacient drug (also called Mifepristone).<sup>495</sup> The boycott threat seems likely to have contributed to the unavailability of RU-486,<sup>496</sup> which was brought to market in France by 1987, but not until 2000 in the US.<sup>497</sup> The boycott seems to have possibly contributed to the company's decision to withdraw RU-486 from other markets too (a decision which was prevented by the intervention of the French government), despite its successful sale in those markets and

<sup>493</sup> Gina Kolata, "Boycott Threat Blocking Sale Of Abortion-Inducing Drug," *The New York Times* (February 1988), <https://www.nytimes.com/1988/02/22/us/boycott-threat-blocking-sale-of-abortion-inducing-drug.html> and Gina Kolata, "Any Sale in U.S. Of Abortion Pill Still Years Away," *The New York Times* (October 1988), <https://www.nytimes.com/1988/10/30/us/any-sale-in-us-of-abortion-pill-still-years-away.html>. The articles show that the Upjohn Company and NLRC disagree about the causes of the cessation of research.

<sup>494</sup> Jacoby, *Souls, Bodies, Spirits*, 17-25 notes the results of a survey of 104 activists from a random sample of 50 (out of a total 500 identified) anti-abortion organizations; these 104 activists represent a response rate of 21%< although they come from 29 different states. Given selection bias, this survey probably represents some of the most engaged and opinionated anti-abortion activists who were contacted (the methodology is detailed on pages 200-1). Jacoby notes that "the 'average' abortion abolition activist... has probably participated in an economic boycott on more than one occasion," though the details of the question and percentages giving different answers are not reported.

<sup>495</sup> Gina Kolata, "Boycott Threat Blocking Sale Of Abortion-Inducing Drug," *The New York Times* (February 1988), <https://www.nytimes.com/1988/02/22/us/boycott-threat-blocking-sale-of-abortion-inducing-drug.html>.

<sup>496</sup> R. Alta Charo, "A Political History of RU-486," in K. E. Hanna (ed.) *Biomedical Politics* (Washington DC: National Academies Press, 1991) noted that "most importantly, marketing this drug in the United States would undoubtedly be a public relations nightmare. Boycott threats at the retail and investment level are real—and so far, effective... Roussel and its German parent company, Hoechst, however, fear an organized retail and investment boycott in the United States, and not only will not license the drug in the United States but even hesitate to supply it for research on nonabortion applications." See also the section on "corporate pressure for withdrawal."

Julie A. Hogan, "The Life of the Abortion Pill in the United States" (2000), [https://dash.harvard.edu/bitstream/handle/1/8852153/Hogan%2C\\_Julie.html?sequence=2](https://dash.harvard.edu/bitstream/handle/1/8852153/Hogan%2C_Julie.html?sequence=2) provides evidence from other newspaper articles that Hoechst (the company of which Groupe Roussel-Uclaf, the company that developed RU-486, was a subsidiary) was concerned by the boycott threat: "In the early 1990's, Hoechst's earnings approached 30 billion dollars, over 6 billion of which were in North America and mainly in the United States. A highly organized boycott by Catholic hospitals, which control approximately 1/3 of all hospital beds in the United States, could severely reduce the company's sales; some say such a boycott was Hoechst's greatest fear. Dr. Andre Ulmann, head of endocrinology in the research, development, and marketing department of Roussel-Uclaf, said the decision was a simple one; he said, 'We [Roussel-Uclaf] were not going to put our \$600 million in revenues from other products at risk.' Dr. Baulieu confirmed that Roussel-Uclaf's reluctance to market the pill in the United States was due to a fear of a backlash in the United States against its majority shareholder, Hoechst. In 1990, Arielle Mouttet, the head of international marketing at Roussel-Uclaf, said that 'selling in the United States [was] out of the question for the moment.' She said, 'Hoechst has interests in the U.S. and cannot do any old thing. It can't close its eyes to this reality.'"

Gina Kolata, "Boycott Threat Blocking Sale Of Abortion-Inducing Drug," *The New York Times* (February 1988), <https://www.nytimes.com/1988/02/22/us/boycott-threat-blocking-sale-of-abortion-inducing-drug.html> cites one unnamed company executive who feared that if his company sold abortifacient drugs, "it would suffer greatly from a boycott by the millions of members of National Right to Life and by 'all the physicians, pharmacists and lay people who don't believe in abortions.'"

<sup>497</sup> Charo, "A Political History of RU-486" and "Danco Laboratories," Wikipedia, last edited October 2018, [https://en.wikipedia.org/wiki/Danco\\_Laboratories](https://en.wikipedia.org/wiki/Danco_Laboratories).

<sup>498</sup> other agreed contracts.<sup>499</sup> The drug was eventually sold in the US through a company called Danco Laboratories which was formed specifically for that purpose.<sup>500</sup> The boycotts were not solely responsible for the delayed marketization of RU-486, however. Other factors of potential importance include:

- A lack of support from the government, which was remedied when Clinton took office;<sup>500</sup>
- The practical and regulatory disincentives to produce and sell the drug, such as lower profitability than the contraceptive pill, difficulties in getting FDA approval, and liability for injuries caused by the drug.<sup>501</sup> The FDA did not actually approve any emergency contraceptive products until 1998;<sup>502</sup>
- Other anti-abortion activism and threats. The NRLC also lobbied to remove contraceptives and abortifacients from proposed legislation that would reduce the liability of manufacturers for their defective products,<sup>503</sup> and a lobbyist and activist group called RCR Alliance was formed to pressure the French government and the involved companies more directly.<sup>504</sup> Additionally, one paper claims

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<sup>498</sup> Charo, “A Political History of RU-486” notes that “Roussel officials were concerned about protests not only in France but in the United States, citing the NRLC letter to the French ambassador and American threats of boycotts against all Roussel and Hoechst products (Greenhouse, 1988a). ‘We witnessed an orchestrated campaign that became more and more powerful,’ said Joly (Greenhouse, 1988c)... U.S. pressure was particularly influential. ‘The pressure groups from the United States are very powerful, maybe even more so than in France,’ said Pierre de Rible, Roussel’s deputy financial director. ‘We see that in the American presidential campaign, abortion is a major subject of debate, but in France people speak less and less of it’ (Greenhouse, 1988c). But, he added, the introduction of the abortion pill had begun to revive that debate in France (Greenhouse, 1988c).”

<sup>499</sup> See “Danco Laboratories,” Wikipedia, last edited October 2018, [https://en.wikipedia.org/wiki/Danco\\_Laboratories](https://en.wikipedia.org/wiki/Danco_Laboratories) and the citations on that page.

<sup>500</sup> The section “F. The Role of the President” in Julie A. Hogan, “The Life of the Abortion Pill in the United States” (2000), [https://dash.harvard.edu/bitstream/handle/1/8852153/Hogan%2C\\_Julie.html?sequence=2](https://dash.harvard.edu/bitstream/handle/1/8852153/Hogan%2C_Julie.html?sequence=2) shows that “Roussel-Uclaf showed signs that it may be willing to discuss possible methods of introduction into the United States” after the election of Clinton. A representative of the company announced that “It was only when President Clinton changed the government policy and specifically asked Roussel to make the procedure available, here, that our client, out of respect for the President of the United States, agreed to make every effort to comply with his request.”

Jennifer Jackman, “Anatomy of a Feminist Victory: Winning the Transfer of RU 486 Patent Rights to the United States, 1988-1994,” *Women and Politics* 24, no. 3 (2002) argues that “The intervention of the Clinton administration, also at the urging of feminist groups, provided the final resource for RU 486 advocates within Roussel Uclaf to convince Hoechst AG to transfer patent rights... However, strong relationships between feminist organizations and inside allies were necessary to movement success.”

<sup>501</sup> See the section on “Industry constraints on RU-486 development” in Charo, “A Political History of RU-486.”

Additionally, Gina Kolata, “Any Sale in U.S. Of Abortion Pill Still Years Away,” *The New York Times* (October 1988), <https://www.nytimes.com/1988/10/30/us/any-sale-in-us-of-abortion-pill-still-years-away.html> notes that “In 1970, Dr. Bardin said, ‘there were 20 companies doing research on contraceptive development, including all family planning methods. Now all but one has gotten out of the business.’ Dr. Bardin is the director of biomedical research at the Population Council, which has sponsored research in this country and elsewhere on RU 486, a copper IUD, and a contraceptive that is implanted under the skin. All 20 companies used to have larger research operations than that of the council he said. ‘Now the Population Council is the largest research group working on contraceptives in this country. In 1970, we were too small even to make a trivial difference.’ The one remaining company is Ortho Pharmaceuticals in Raritan, N.J., which manufactures birth control pills and spermicides.” It is plausible that the decreased interest in the area stemmed primarily from the regulatory difficulties.

<sup>502</sup> Heather D. Boonstra, “Emergency Contraception: The Need to Increase Public Awareness,” *Guttmacher Report on Public Policy* 5, no. 4 (October 2002), <https://www.guttmacher.org/gpr/2002/10/emergency-contraception-need-increase-public-awareness>.

<sup>503</sup> Charo, “A Political History of RU-486.”

<sup>504</sup> Charo, “A Political History of RU-486.” See the section entitled “Success of the boycott threat.”

that “Statements and materials from Operation Rescue, ProLife Action League, Rescue America, and Advocates for Life Ministries implied that violence would occur if the drug was brought to the United States.”<sup>505</sup>

The fact that a purpose-built company (Danco Laboratories), less vulnerable to a boycott of other products, was later able to bring RU-486 to market, suggests that activist pressure was influential,<sup>506</sup> although the transfer of RU-486 patent rights in 1994 was also an important change in facilitating the sale of the drug.<sup>507</sup>

These boycotts seem somewhat different to boycotts of animal products in the farmed animal movement in that they targeted entire companies in order to pressure them not to research and sell new products of especial concern to the anti-abortion movement. By comparison, veganism is a boycott of an entire product category (animal products) across all companies, but where those involved in the boycott do not usually refuse to purchase other products by those companies. The apparent temporary success of the anti-abortion movement’s targeted boycott (at least, in conjunction with other factors and the threat of further boycotts) suggests that similar measures could be effective in certain circumstances in the farmed animal movement to proactively prevent a situation from worsening. As one example, if a company announced plans to produce or sell factory-farmed octopus,<sup>508</sup> a boycott of the entire company could be a successful tactic in preventing this development. However, the eventual marketization of RU-486 through Danco Laboratories also suggests that, where there is sufficient demand for a product, companies may eventually find ways to avoid negative consequences from consumer pressure by forming small, single-product companies. This also highlights a potential strategic advantage for cellular agriculture companies remaining independent, rather than accepting offers for sales or mergers with larger companies; if cellular agriculture companies meet with hostile activism and consumer pressure, it may be easier for companies that focus solely on cellular agriculture (as opposed to those that also sell animal products or other animal-free foods) to withstand such pressure, since they would be less concerned about risks of decreased profitability in other product categories.<sup>509</sup>

<sup>505</sup> Jackman, “Anatomy of a Feminist Victory,” 86.

<sup>506</sup> From a limited reading of the evidence, this author estimates that the threat of a boycott delayed the introduction of the drug by about 5 years (90% SCI 6 months to 13 years). He guesses that the other direct tactics used by anti-abortion groups were less influential than the boycott, but that the change in president was an influential factor; had the president remained Republican, it seems likely that the effect of the boycott threat would have been amplified.

<sup>507</sup> On the causes of that specific development, see Jackman, “Anatomy of a Feminist Victory.”

<sup>508</sup> For discussion of this issue, see Kelsey Piper, “Octopuses are smart, inventive creatures. Factory farming them would be a disaster” (January 2019), <https://www.vox.com/future-perfect/2019/1/31/18203959/octopus-factory-farms>.

<sup>509</sup> Julie A. Hogan, “The Life of the Abortion Pill in the United States” (2000), [https://dash.harvard.edu/bitstream/handle/1/8852153/Hogan%2C\\_Julie.html?sequence=2](https://dash.harvard.edu/bitstream/handle/1/8852153/Hogan%2C_Julie.html?sequence=2) summarizes that “Experts suggested that the project was more suited for a small pharmaceutical company rather than a large one. A smaller company would have relatively smaller risks but greater potential reward than a large company. Smaller companies have limited product lines. Therefore, in the event of a liability suit or a boycott, a small company is not putting a large amount of other product lines at risk. One small manufacturer, even, suggested that a boycott can be helpful to a small company. Unlike a large company, the manufacturer suggested that a boycott will not damage a small company's reputation, but that a small company will thrive on the publicity. Also, estimated profits might be trivial to a large company, compared with its other products, but such profits could be large for a smaller company. Finally, a smaller company may be able to avoid internal controversy, due to the limited number of employees and the company's clear purpose.”

- Overall, efforts to modify public opinion through education and persuasion (e.g. handing out leaflets, writing books, or making documentaries) seem less effective than tactics more directly targeted at achieving institutional change, though their impact may simply have been masked by other trends and factors.

The counterfactual impact of anti-abortion advocacy cannot be clearly measured in national surveys, since a large number of other factors affect these results, including competing messages by abortion rights advocates. Despite very limited change to attitudes on abortion in aggregate national data, there is some reason to consider this as a modest success for the anti-abortion movement.<sup>510</sup> Nevertheless, given the heavy focus of some anti-abortion advocates on education and the large amounts of resources that have presumably been spent on such interventions, any such success seems limited. Additionally, any of the trends that have been listed in this report as evidence that the anti-abortion movement's educational efforts and messaging have had modest success may be explained by other factors.<sup>511</sup>

Americans United For Life focused initially on education and making the case against abortion,<sup>512</sup> but after the *Roe v. Wade* ruling shifted focus towards a legal strategy.<sup>513</sup> Although the tactical shifts of anti-abortion advocates do not, by themselves, provide strong evidence that the farmed animal movement should make similar shifts, it is informative that such a well-connected group<sup>514</sup> quickly realized that its comparative advantage was not educational or individual advocacy, but institutional interventions.

However, education and persuasion tactics may still be effective at generating temporary support for specific policy initiatives. For example, public speeches and distribution of leaflets may have contributed to Michigan and North Dakota's rejection of liberalizing abortion law reform in 1972.<sup>515</sup>

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<sup>510</sup> See the paragraph beginning “However, there are several reasons...” in the section on “Changes to Public Opinion.”

<sup>511</sup> For example, Tom W. Smith, “An Analysis of Cohort Differences on Abortion Attitudes, 1972-2006,” *GSS Social Change Report* 57 (December 2009), while noting that the youngest two groups of survey participants (from 1974 onwards) had less favorable attitudes to abortion than several groups of older participants, summarizes five potential explanatory factors; on the suggestion that “the pro-life movement has been more effective in advancing its message in general and reaching the young in particular,” the author notes that “The main limitation of these related arguments is that the turnaround is showing up in cohorts as early as the 1970s,” before many developments in anti-abortion advocacy tactics occurred.

<sup>512</sup> See footnote 112.

<sup>513</sup> See the paragraph beginning “Shortly after the *Roe v. Wade* ruling, the board...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>514</sup> Flowers, “Fighting the ‘Hurricane Winds,’” 5 notes that “In addition to courting religiously diverse constituencies, the group deliberately focused on elites rather than on the grassroots. Board members had impeccable professional and right-to-life credentials. Since AUL’s primary goal was education rather than lobbying or voter mobilization, experts in law and medicine were valuable assets. Academics and theologians added intellectual rigor to the debate and helped shift arguments away from appeals to faith or feeling. Rice, Grisez, and Williams had all published influential works in the late 1960s that developed social and philosophical arguments against abortion. Many AUL members were also founders of significant state right-to-life groups and had national reputations within the movement, which contributed a wealth of expertise and experience to the fledgling organization.” By design, AUL was an ‘advocacy group’ rather than a membership group, but the status of its board meant it had a high level of influence and reach. Within six months of its formation approximately 18,000 individuals had contributed money to assist the group’s education efforts.”

<sup>515</sup> See the paragraph beginning “A poll in September 1972...” and the following paragraph in “A Condensed Chronological History of the Anti-Abortion Movement.”

## Institutional Reform

- Judicial rulings can sometimes drive progress ahead of that seen as tractable through legislative change.

From the perspective of the abortion rights movement, *Roe v. Wade* shows that judicial rulings can sometimes drive progress ahead of the progress seen as tractable through Congress, state legislatures, or initiatives and referendums. Only a minority of people supported access to abortion without restrictions in the early 1970s,<sup>516</sup> and in some parts of the country, there had been majority opposition to proposed measures to liberalize abortion law.<sup>517</sup>

Ian Mylchreest argues that judicial rulings played important roles in abortion law reform in other countries, too, and that the *Roe v. Wade* decision should not be considered “extraordinary.”<sup>518</sup> Nevertheless, it seems that many anti-abortion advocates at the time were shocked by the decision.<sup>519</sup> This provides a warning of the unpredictability of judicial decisions in the context of legally uncertain, politically controversial areas; advocates may need to be prepared for more severely unfavorable rulings than they would otherwise expect.

<sup>516</sup> Marvin Olasky, *The Press and Abortion, 1838-1988* (Hillsdale, New Jersey: Lawrence Erlbaum, 1988), 148 notes that a New York Times article in 1988, reporting the results of National Abortion Rights Action League survey as finding that “Only a minority of the public, 39 percent, supported a right to abortion ‘for any woman who wants one,’ which is essentially the current state of the law, while 49% limited their support to particular circumstances such as pregnancy that seriously endangered a woman’s health.” A further 10% of those surveyed opposed abortion under any conditions. This would add together to mean that 59% were opposed to the *Roe v. Wade* decision (assuming that the characterisation of “particular circumstances” differs from those permitted by *Roe v. Wade*. However, abortions remained limited to the first trimester, so were not available to “any woman who [wanted] one” after *Roe v. Wade*.

Additionally, see the paragraph beginning “Polling from before *Roe v. Wade*...” in the section on “Changes to Public Opinion,” in “The Extent of the Success of the Anti-Abortion Movement in US.”

“In Depth: Topics A to Z: Abortion,” Gallup, accessed March 20th, 2019, <https://news.gallup.com/poll/1576/abortion.aspx> notes that 22% of respondents supported abortion being legal in all circumstances in 1976, which was the earliest Gallup poll asking this question..

<sup>517</sup> See the paragraph beginning “A poll in September 1972...” and the subsequent paragraph in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>518</sup> Ian Mylchreest, “‘Sound Law and Undoubtedly Good Policy’: *Roe v. Wade* in Comparative Perspective,” in Donald T. Critchlow (ed.) *The Politics of Abortion and Birth Control in Historical Perspective* (University Park, Pennsylvania: Pennsylvania State University Press, 1996; first published 1995), 54. Mylchreest adds that “Preemptive judicial rulings played a crucial role in Britain and Australia. Policymakers, whether judges or legislators, adopted similar rationales to reform criminal abortion statutes. In Britain, Parliament legalized medically supervised abortion on social grounds. No political consensus emerged in Australia, but legal rulings gave doctors broad professional discretion to perform abortions,” but that “the formal path to reform in the parliamentary systems differed from the constitutional right articulated in *Roe*.” On pages 54-68, Mylchreest describes how Britain, Australia, and the US saw similar arguments from lawyers and activists and judges increasingly permitted therapeutic abortions. On page 61, Mylchreest summarizes that “In Britain, a progressive coalition finally succeeded in pushing a major reform bill through Parliament. In Australia, the politicians took the line of least resistance. They generally refused to endorse reform but made only token efforts to reverse legal rulings that shielded doctors from the criminal law.”

<sup>519</sup> See footnote 135.

- **Judicial rulings may have insubstantial direct effects on behavior.**

The decision of *Roe v. Wade* does not appear to have had much effect on the behavior of women in choosing to have abortions or not. Abortion incidence was increasing at this time and there was no obvious overall change in the trend after the passage of *Roe v. Wade*,<sup>520</sup> even if the ruling meant that fewer women had to travel out of their home state to obtain abortions.<sup>521</sup> This provides weak evidence that judicial decisions follow, rather than drive, social change.<sup>522</sup> However, given that demand for abortion may be less elastic than demand for animal products,<sup>523</sup> equivalent rulings that affect the farmed animal movement might have more substantial effects on behavioral outcomes.

- **Judicial rulings seem to have little, if any, positive effect on public opinion regarding controversial issues. They may consolidate support for issues that were already widely accepted and polarize opinion on controversial issues, although other analyses dispute this.**

<sup>520</sup> Hansen, “State Implementation of Supreme Court Decisions,” 375-6. Hansen notes that “What is striking is the apparent lack of any sharp bend in the curve after Roe... After the thalidomide scare, the Sherri Finkbine case, and an epidemic of German measles, 15 states revised their nineteenth-century laws on abortion. Thousands of women took advantage of the easy availability of abortion in states such as New York, Washington and Colorado. Consequently, the largest increase in abortion occurred before the Roe decision, not after it.” The rise from 1970 to 1971 was 149%, whereas between 1972 and 1973 and 1973 and 1974 was 27% and 21% respectively.

Hansen notes that “Rates for 1972 through 1973 are reported by states in the Statistical Abstract of the United States, 1977, Table 93, p. 64, based on surveys of hospitals, clinics, and physicians conducted by the Alan Guttmacher Institute. Rates for 1976, from similar surveys, are available from the Abortion Surveillance Bureau, ‘Abortion -Surveillance-United States, 1976,’ (Atlanta, GA.: Bureau of Epidemiology, 1978). Each year's figures are for July 1 of that year through June 30 of the following year.”

<sup>521</sup> Wetstein, *Abortion Rates* noted that the percentage of abortions obtained out of state fell from 44% in 1972 to 25% in 1973 to 12% in 1974, and remained around 5% for each year, 1975-90. Examining Colorado and Pennsylvania individually, Wetstein also shows clear changes. That is, the effect of *Roe v. Wade* was not equal on all states.

<sup>522</sup> Hansen, “State Implementation of Supreme Court Decisions,” 375 argues that, “[a]bortion rates may be viewed as a product of economic and demographic changes as well as legal and technological innovations. As of 1975, the U.S. abortion rate was in the middle range for industrial countries—below rates in Japan or Eastern Europe, but above France, England or Italy. In view of these data, the Court appears to be reflecting social change rather than legislating it as its conservative opponents have claimed.” On pages 378-9, Hansen argues that for both illegitimate births and abortion, “Greater social changes were associated with the legalization of abortion in a few states around 1970 than with the Supreme Court's actions in Roe.”

On pages 380-1 Hansen shows that there was equalization in the abortion rates across states after *Roe v. Wade*, which, combined with the evidence suggesting that abortion rates didn't increase at an unusual rate in the years after the ruling, suggests that many women may have travelled to have abortions in the states where this was permitted in the years before 1973.

Relatedly, there is a larger literature on the extent to which the Supreme Court drives or follows public opinion. See Jamie Harris, “Does the Supreme Court of the United States Drive or Follow Social Change? A Literature Review” (forthcoming).

<sup>523</sup> See the paragraph beginning “One paper finds that ‘the fundamental law of demand...’” in the section on “Features of the Anti-Abortion Movement.”

Modelling abortion opinion as a function of several variables, including a measure of whether participants had heard about the court decision in *Roe v. Wade* (which was used as an imperfect control group to represent how attitudes would have been in 1973 were it not for *Roe v. Wade*), a paper by Charles H. Franklin and Liane C. Kosaki compared General Social Survey data from April 1972 to April 1973. Looking at the data for those who had heard of the court decision, the authors found that “nonwhites and Catholics became substantially more opposed to discretionary abortion in the aftermath of Roe.” Despite this, they found “little or no increase in support across all groups” combined, and these results are evidence that “the public became more polarized over ‘discretionary’ abortions.” Catholics and nonwhite respondents were both more strongly anti-abortion than Protestant and white comparison groups, on average, in 1972. In the 1973 results, these between group differences had widened further. In contrast, their findings suggest an overall increase in support for abortions “in cases of threat to the mother's health, rape, and probable birth defects,” without evidence of polarization. The results for the 168 respondents in 1973 who said they had heard nothing of *Roe v. Wade* are very similar to the 1972 results, suggesting that changes seen among the other respondents were primarily due to the court decision and surrounding discussion, rather than due to unrelated factors.<sup>524</sup>

Franklin and Kosaki hypothesize that where certain groups (including religious or other demographic groups) are homogenous in their views, then after the outcome of a Supreme Court ruling, the individual “is likely to encounter a stream of reinforcements consistently favoring the modal position” of the group to which they belong. As a result, such individuals will move towards the average group view on the related issues.<sup>525</sup> This hypothesis is supported by the finding in an additional model that Catholics with high church attendance were not significantly more opposed to discretionary abortions than Catholics with low church attendance in 1972, but became significantly more opposed in 1973. In other words, Catholics with higher engagement in the Catholic community more strongly moved towards the group average after *Roe v. Wade*, despite not being noticeably closer to average beforehand. This theory could predict the effects of any development that is salient enough to provoke discussion among groups and movement towards group norms.<sup>526</sup> For example, there is some evidence that the controversial anti-abortion film *The Silent Scream* galvanized abortion rights activism; this may have been because increased discussion of abortion among groups favorable to abortion rights led to consolidation of opinion on the issue, as the theory would predict, or it may have been caused by the shifted framing of the debate resulting from the film.<sup>527</sup>

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<sup>524</sup> Charles H. Franklin and Liane C. Kosaki, “Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion,” *The American Political Science Review* 83, no. 3 (1989), 751-71. The authors separated out the GSS questions into a “health scale” (questions relating to “(1) threat to the health of the mother, (2) a likely defect in the baby, (3) rape”) and a “discretionary scale” (questions relating to “(4) poor families who cannot afford another child, (5) unwed mothers, and (6) the parents' not wanting more children.”

Rather than regression, the authors use a polychotomous probit model. They explain that “the estimated probit equation may be thought of as exactly like a regression equation except that the scale of the dependent variable (and hence the absolute size of the coefficients) is arbitrary.”

<sup>525</sup> Franklin and Kosaki, “Republican Schoolmaster,” 763-4. They add that “If, however, the social environment is heterogeneous, there will not be consistent reinforcement of a single interpretation of events. This will reduce any contextual effects and produce a response more dependent on the individual alone.

<sup>526</sup> Franklin and Kosaki, “Republican Schoolmaster,” 764-7.

<sup>527</sup> Staggenborg, *The Pro-Choice Movement*, 128 notes that “For NARAL, the campaign against *The Silent Scream* created some momentum in an otherwise ‘slow’ period of the abortion conflict. Kate Michelman pointed out that when she took over as executive director of NARAL in 1986, it was a time when mobilization was difficult, ‘but NARAL had just

There is, however, empirical criticism of Franklin and Kosaki's analysis of the effects of *Roe v. Wade* on abortion attitudes. One paper, using the same GSS data, notes that for all demographic groups analyzed that had a significant change in mean abortion support, the direction was towards an increase in support in 1973 compared to 1972 for both the discretionary scale and the health scale. Even if other factors had caused this increase, it suggests that any polarizing effects of *Roe v. Wade* were small enough that they only acted to prevent small increases in support from occurring at this time. By using a different method of analyzing the data that tries to account for the imperfect control group used in Franklin and Kosaki's analysis, they find that those who had heard about *Roe v. Wade* increased their permissiveness for abortion not only on the health scale (by 0.208 on the 3-point scale,  $p = 0.012$ ), but also on the discretionary scale (by 0.25,  $p = 0.039$ ). Analyzing the results by different groups, they find that "For all groups considered except infrequent church attenders, the effect of the decision appears to have been higher levels of permissiveness toward abortion."<sup>528</sup> Although accepting Franklin and Kosaki's conclusions for *Roe v. Wade* specifically, Timothy R. Johnson and Andrew D. Martin hypothesize that "When the Supreme Court decides subsequent cases within the same issue area, little if any change will occur in the structure of group attitudes toward that issue regardless of the direction, intensity, or breadth of the decision, and there will be no overall change in public opinion toward that issue." The authors analyze the effects of *Webster v. Reproductive Health Services* (1989) using two CBS News and *New York Times* polls conducted two months prior and three months subsequent to the decision and find support for their hypothesis.<sup>529</sup> A subsequent paper reanalyzes their data and concludes that several

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come off the 1984-85 Silent No More campaign, which was very important as a galvanizing force. It had succeeded in reframing the debate—away from a complete emphasis on the fetus to the role of women" (interview with Kate Michelman, 1990). Many feminist groups were also energized as they participated in the NARAL campaign and organized their own responses to *The Silent Scream*... The film also shifted the abortion debate to an ideological realm where many feminists who felt left out of institutionalized battles were quite comfortable."

<sup>528</sup> John Hanley, Michael Salamone, and Matthew Wright, "Reviving the Schoolmaster: Reevaluating Public Opinion in the Wake of *Roe v. Wade*," *Political Research Quarterly* 65, no. 2 (2011), 408-21. On page 412-3, they explain that "We seek to reexamine the results of the Franklin and Kosaki article using an identification strategy that does not require correct specification of the causal model. We claim that by matching members of the relatively small pool of Roe-unaware respondents to Roe-aware individuals we can produce pairs wherein there exists an equal likelihood of either individual receiving treatment and that therefore treatment assignment can be thought of as randomly assigned within the pair... we employ GenMatch, a software program developed by Sekhon (forthcoming), which uses a genetic algorithm (Mebane and Sekhon 1998; Sekhon and Mebane 1998) to implement a nonparametric matching technique."

On page 416, they note that dropping those who answered "don't know" (which is what Franklin and Kosaki did in their analysis) means that the difference on the discretionary scale is no longer statistically significant ( $p = 0.073$ ), though the effect on the 3-point scale is hardly changed (0.241, rather than 0.25).

On pages 417-8 they also use a different type of analysis, qualitatively breaking down groups into "Hearer more supportive" and "Hearer less supportive." The evidence partially challenges Franklin and Kosaki, but is not consistent, and so this methodology does not seem particularly informative.

<sup>529</sup> Timothy R. Johnson and Andrew D. Martin, "The Public's Conditional Response to Supreme Court Decisions," *American Political Science Review* 92, no. 2 (June 1998), 299-309. They summarize that, "there is little or no change in the estimated coefficients from the predecision to the postdecision attitudes... no postdecision coefficient is significantly different from zero." The time difference between the two polls is small.

They note on pages 302-3, however, that "The most striking change is that the sign on Catholics who had heard of Webster becomes negative after the ruling in the discretionary model. This change is marginal evidence, at best, of polarization between Catholics and non-Catholics ( $t = 1.79$ )," which accords with their hypothesis.

demographic subgroups did change their opinion after *Webster* and that groups also polarized after the 1976 *Planned Parenthood of Missouri v. Danforth* ruling. Although the authors do not explicitly discuss the direction that these groups moved in after the rulings, their results do not seem to be fully consistent with Franklin and Kosaki's theory either.<sup>530</sup>

Another paper focusing on the period 1985-9 finds that Court activity and public opinion are related; “[t]he net effect of court activities on opinion is substantial, such that an additional (reported) court activity leads to about a 1.1 percent increase in support for abortion ‘as it is now.’” Because the paper does not distinguish between rulings that increased or decreased abortion rights, it is difficult to assess whether this public opinion change should be considered to be a “backlash” or not. The authors suggest that all such Supreme Court cases should be considered as a challenge to the status quo and therefore that the observed public opinion change represents a backlash against the Court’s activities, but this logic seems unconvincing.<sup>531</sup>

All of these findings have been challenged to some extent on theoretical grounds, if not also empirically; all four papers mentioned here form part of a wider social scientific literature that extends beyond the abortion issue about the effects of Supreme Court decisions on public opinion.<sup>532</sup>

- **Highly salient judicial changes may provide momentum to opposition groups.**

There was a surge in engagement with anti-abortion activism following *Roe v. Wade*.<sup>533</sup> This may have been encouraged by the lack of public support for the changes implied by *Roe*. It may also have been encouraged by the feminist credentials of the lawyers who litigated *Roe*.<sup>534</sup> From the perspective of the abortion rights

They also examined “three key capital punishment rulings (*Furman v. Georgia* [1972], *Gregg v. Georgia* [1976], and *McCleskey v. Kemp* [1987])” and found that the first of these influenced public opinion, but the second and third did not.

<sup>530</sup> Danette Brickman, and David A. M. Peterson, “Public opinion reaction to repeated events: Citizen response to multiple Supreme Court abortion decisions,” *Political Behavior* 28, no. 1 (2006), 87-112. In their table, “Estimated Abortion Responses for Respondents Who Have Heard of Webster,” no demographic predictors are significantly different from average both before and after the decision reanalysis of the effects of Webster. Counting examples of moves from significance to non-significance or vice versa, 2 demographic groups became more “pro-life” after the decision, while 3 became less so. There is a similar effect in their analysis of the effects of Danforth. The authors argue that “Given the multicollinearity between the interaction terms, readers should not give too much credence to the significance of the specific coefficients. The key test of the hypothesis is not how the electorate polarized, but if the electorate polarized at all.” Nevertheless, the apparent randomness of these changes seems like evidence against their claim that the decision had a meaningful effect and seems contrary to the theory of Franklin and Kosaki, “Republican Schoolmaster,” 751-71, which suggests that groups that are hostile to abortion rights should have become more hostile and supportive groups should have become more supportive.

<sup>531</sup> Wlezien and Goggin, “The Courts,” 389. For information on the methodology, see footnote 234.

<sup>532</sup> See Jamie Harris, “Does the Supreme Court of the United States Drive or Follow Social Change? A Literature Review” (forthcoming).

<sup>533</sup> See the paragraph beginning “Many anti-abortion activists...” in the section on A Condensed Chronological History of the Anti-Abortion Movement.

<sup>534</sup> Carol S. Steiker and Jordan M. Steiker, *Courting Death: The Supreme Court and Capital Punishment* (Cambridge, MA: Belknap Press, 2016), 225 notes that, “Sarah Weddington and Linda Coffee, who litigated *Roe* on behalf of a group of plaintiffs challenging Texas’s restrictive abortion law, were recent law school graduates under the age of thirty; both had been involved with the National Organization for Women (NOW) and the feminist movement generally... Even though Weddington and Coffee were not the face of abortion litigation in the way that [the National Association for the

movement, this suggests that legal victories that precede widespread support for their measures may provoke a backlash, sparking opposing pressure-group action or mass mobilization. This might have made it easier for the anti-abortion movement to use anti-authoritarian, pro-democratic messaging,<sup>535</sup> although explicit criticisms of *Roe* as excessive “judicial activism” may not have become widespread in the anti-abortion movement until the late 1970s.<sup>536</sup> Such legal victories might therefore not be clearly net positive for a social movement’s goals. However, by some measures, there is already greater support for radical improvements to the treatment of farmed animals than there has ever been for liberalization of abortion laws as radical as that enforced by *Roe v. Wade*.<sup>537</sup>

An alternative explanation is that the symbolism and specific wording of the *Roe* decision was responsible for the backlash.<sup>538</sup> To the extent that this is a plausible explanation, this weakens the evidence that other legal

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Advancement of Colored People’s Legal Defence Fund] lawyers were for death penalty litigation, their connection to the Women’s Rights Movement played into Republican attempts to cast the abortion issue as part of a feminist political platform.”

<sup>535</sup> Cassidy, “The Right to Life Movement,” 138 notes that “Because abortion had come by a Supreme Court decision rather than through legislation, the [anti-abortion] movement could appeal to democratic values by portraying the decision as a judicial *coup d'état*. This advantage was lost, and indeed reversed, in the wake of the *Webster* decision in 1989, which permitted greater state power to regulate abortion. NARAL, after a careful analysis of public opinion (using focus groups, not just standard opinion polls), decided on a public relations approach based on a theme of ‘Who decides—you or the politicians?’ By emphasizing the antigovernment theme, NARAL reversed the populist appeal so long relied on by the Right to Life movement.”

Allen Pusey, “Ginsburg: Court should have avoided broad-based decision in *Roe v. Wade*” (May 2013), [http://www.abajournal.com/news/article/ginsburg\\_expands\\_on\\_her\\_disenchantment\\_with\\_roe\\_v\\_wade\\_legacy/](http://www.abajournal.com/news/article/ginsburg_expands_on_her_disenchantment_with_roe_v_wade_legacy/), quotes Ruth Bader Ginsburg, a Justice on the Supreme Court who has consistently voted for abortion rights positions, as arguing that “Roe seemed to have stopped the momentum” of the abortion rights movement and “became a symbol for the right to life movement.”

<sup>536</sup> Mary Ziegler, *After Roe: The Lost History of the Abortion Debate* (Cambridge, MA: Harvard University Press, 2015), xx-xxi, after reviewing archival materials and conducting interviews with contemporary activists, summarizes that, “abortion opponents responding to the decision in the mid- to late 1970s had little interest in the issue of judicial activism. Far from faulting the Court for taking the abortion issue away from the people, pro-lifers blamed the *Roe* majority primarily for failing to protect the unborn from the whims of democratic majorities. Later, when abortion opponents began to voice concern about judicial review, they primarily did so for tactical reasons, expressing solidarity with their new socially conservative allies and offering new reason for outlawing abortion.”

<sup>537</sup> See the paragraph beginning “Since Gallup polls began...” in the section on “Features of the Anti-Abortion Movement.”

<sup>538</sup> Luker, *Abortion and the Politics of Motherhood*, 137 notes that the anti-abortion movement saw a surge of engagement in California (see footnote 136), even though, as Luker notes on page 93-4, “by late 1970, of all women who applied for an abortion, 99.2 percent were granted one. By 1971 abortion was as frequent as it would ever become in California, and one out of every three pregnancies was ended by a legal abortion.” If abortion was already freely available in California, then backlash there seems unlikely to have been against any increase in the availability of abortion caused by the ruling. To explain the backlash, on pages 139-40, Luker notes that “reform physicians in California originally claimed that the Beilenson bill [which liberalized abortion law in California in 1967] would do little more than ‘clarify’ the legal grounds for the sort of abortions they were doing anyway and that the deletion from the bill (under threat of a veto by Governor Reagan) of a clause permitting abortion for ‘fetal indications’ removed any explicit challenge to the belief that the embryo is a full human life. Pro-life people could believe, therefore, that the principle they cherished was still safe, that only the decision rules about how to weigh one life against another had been modified. Equally important, the new California law said that the abortion decision had to be made not by the woman involved, nor even by the woman and her doctor, but by a panel of three doctors—in effect, by representatives of the medical community. Thus, from the pro-life point of view, abortion was still medical, still the taking of a human life, and still wrong, except in extraordinary

victories that precede widespread support for their measures will provoke a backlash. However, the interviews that sociologist Kristin Luker used as evidence of the effects of this symbolism are ambiguous.<sup>539</sup> One paper focusing on the period 1985-9 finds evidence that both anti-abortion and abortion rights interest groups increased their activities around the time of the 1989 *Webster* decision, which returned some power over abortion policy to states.<sup>540</sup> That is, although Court rulings may encourage a backlash by opponents, they may also encourage increased activity by supporters. There is also evidence that abortion rights legislation encouraged anti-abortion mobilization<sup>541</sup>; the risk of backlash to radical policy changes may not vary substantially by the institution that makes those changes.

- **Judicial rulings can encourage a movement to reframe its advocacy, which may increase support.**

Before *Roe*, population control arguments helped to build support for abortion reform.<sup>542</sup> By focusing on rights-based arguments, the *Roe* ruling seems to have encouraged a shift away from population control arguments in the abortion rights movement and some anti-abortion activists also focused on refuting the arguments raised in *Roe*.<sup>543</sup> There is some evidence that this shift in the framing of debate may have encouraged African Americans to support abortion rights, since it reduced fears that abortion rights would be tied to racially motivated population control efforts.

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circumstances. The Supreme Court decision changed all that. It demonstrated that an unwillingness to discuss abortion in public did not necessarily imply a commitment to the sacredness of embryonic life. Moreover, the Court not only discussed abortion but finally addressed the issue of personhood in an explicit way. As the Court itself put it in *Roe v. Wade*: ‘All this... persuades us that the word ‘person’ as used in the Fourteenth Amendment does not include the unborn.’”

<sup>539</sup> In the four interview quotes that Luker, *Abortion and the Politics of Motherhood*, 137-41 uses to attest to the incitement to anti-abortion activism provided by *Roe v. Wade*, only one interviewee mentions anything that could be interpreted as a specific complaint about the symbolism or open discussion of personhood contained in the ruling: “I’m terribly concerned that the Supreme Court would have presumed to have taken upon itself the right to give life to any special group of citizens. Who gave the Supreme Court the right to give life? You know it took this power by itself.” This quote could also be interpreted as displaying anger at the discrepancy between the Supreme Court’s ruling and public opinion. A quote from another interviewee demonstrates this factor more directly: “After I’d felt so good about those states voting [the legalization of abortion] down in the referendums... [the Supreme Court ruling] very much upset me.”

Another issue with Luker’s argument is that, even though abortion incidence was already high in California, some of those opposed to abortion may have simply been unaware that the incidence and medical acceptance of abortion for non-therapeutic reasons was as high as it was.

<sup>540</sup> Wlezien and Goggin, “The Courts,” 381–405.

<sup>541</sup> See the paragraph beginning “In 1970, Hawaii legalized abortions...” in “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>542</sup> See footnote 78.

<sup>543</sup> See the paragraph beginning “In the years after *Roe*...” in “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>544</sup> Ziegler, “The Framing of a Right to Choose,” 326 notes that, “[a] February [1971] poll taken by the Chicago Defender found that while only 26.4% of African-Americans generally opposed abortion reform, 63.7% of those polled professed a belief that government-funded abortions could lead to ‘mass genocide in the black community.’ A poll conducted later that year by researchers at the University of Massachusetts at Amherst among several hundred African-American members of a New England city found a lower percent of respondents were convinced that abortion would actually result in black genocide, but among males under thirty, the study found that almost half believed that legalized abortion would lead to black genocide.”

- Securing judicial change indirectly through political engagement has come close to success for the anti-abortion movement, but having a comparably large influence on elections seems unlikely to be tractable for a social movement that is substantially less salient for the average voter.

Views on abortion have influenced presidential nominations of Supreme Court justices, and this has had implications for rulings that affect abortions.<sup>545</sup> Political engagement that increases the likelihood of the election of firmly anti-abortion presidents is therefore one tactic for changing the US legal environment and seeking to indirectly reduce abortion incidence. Congress also has the power to veto appointments, which makes engagement in Congressional elections similarly important. Party-political polarization and high salience of the relevant issues seem likely to be important precursors to this tactic being workable. For example, despite Nixon's public anti-abortion stance, 3 out of 4 of the Supreme Court justices he appointed voted with the majority opinion in *Roe v. Wade*,<sup>546</sup> this was before party polarization on the issue and before abortion issues became a salient issue in politics.<sup>547</sup>

Categorized by the voting record of justices, Republican presidents have successfully appointed 6 anti-abortion candidates since 1973, but have also appointed 1 staunchly abortion rights candidate (John Paul Stevens, appointed by Gerald Ford, who had quite liberal views on abortion himself<sup>548</sup>) and 3 more mixed candidates. Democratic presidents have appointed 3 abortion rights candidates since 1973 and one slightly more unclear candidate.<sup>549</sup> Matthew Wetstein estimates that the mean percentage of votes for abortion rights

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Ziegler notes on pages 328-9 that, “[b]y marginalizing population control arguments, Roe helped to focus the abortion debate on the issue of abortion rights. This inevitably affected the opinions of some African-Americans and members of other minority ethnic, racial, or religious groups who had felt threatened by population control politics. A published study on race and views on abortion confirms this view. Drawing on the pooled poll responses collected by the General Social Surveys (conducted by the National Opinion Research Center at the University of Chicago) between 1972 and 1980, the study examined the attitudes of blacks and whites with respect to abortion in three two-year periods (1972–74, 1975–77, and 1978–80). Controlling for a variety of factors likely to determine a person’s views on abortion, including family income, years of education, region of residence, frequency of church attendance, and religious denomination, the study found that, in the two years before Roe, being African-American was, in its own right, a statistically significant predictor that a person would be opposed to abortion reform. In the period three years after Roe, being African-American was no longer a statistically significant predictor of opposition to legalized abortion. Similarly, as the abortion debate focused on rights-based arguments, African-American leaders also changed their positions on abortion. Jesse Jackson, who had led a ‘war against abortion,’ had described abortion as a threat to African-Americans. In 1983, when Jackson declared his intention to run for the Democratic presidential nomination, he promised feminist leaders to defend a woman’s right to choose abortion.”

<sup>545</sup> See, for example, Ed Kilgore, “Gillibrand Offers Explicit Abortion Rights Litmus Test for Judicial Nominees” (May 7, 2019), <http://nymag.com/intelligencer/2019/05/gillibrand-offers-abortion-rights-litmus-test-for-judges.html>.

<sup>546</sup> Prendergast, *The Catholic Voter*, 260 notes that “The Court’s decision in Roe was written by Justice Blackmun, whom President Nixon appointed to the Supreme Court in 1970, and supported by other of Nixon’s conservative appointees, including Lewis Powell, who during the Court’s deliberations actually advocated lengthening the time period in which women’s abortion decision was protected.”

<sup>547</sup> See the point beginning “Political parties are more willing...” below.

<sup>548</sup> See footnote 170.

<sup>549</sup> The only abortion rights appointment by a Republican president was John Paul Stevens (Ford).

The anti-abortion appointments by Republicans were Antonin Scalia (Reagan), (Robert Bork was rejected under Reagan), Anthony Kennedy (Reagan; Terence P. Jeffrey, cited below, presents this as a failure for the anti-abortion

positions across the careers of the justices who were present in the 1973 Supreme Court was 63%, whereas for those present in the 1992 Supreme Court, this had fallen to 35%.<sup>550</sup>

For some issues, the split of opinions of the Supreme Court seems to have been irrelevant and anti-abortion outcomes have been secured regardless, including regarding federal funding restrictions.<sup>551</sup> At other times, the Supreme Court has been in clear agreement regarding decisions that negatively impact the anti-abortion movement, such as the unanimous vote on the 1994 *National Organization for Women v. Scheidler* case.<sup>552</sup>

movement, though Kennedy's voting record seems quite anti-abortion), Clarence Thomas (G. H. W. Bush), Samuel A. Alito, Jr. (G. H. W. Bush), Neil M. Gorsuch (Trump), and Brett Kavanaugh (Trump). William H. Rehnquist (Nixon) was also elevated to chief justice by Reagan.

The mixed candidates were Sandra Day O'Connor (Reagan), David Souter (G. H. W. Bush), and John G. Roberts (G. W. Bush).

The abortion rights appointments by Democratic presidents were Ruth Bader Ginsburg (Clinton), Stephen Breyer (Clinton), and Elena Kagan (Obama).

Sonia Sotomayor, appointed by Obama, has previously held some less liberal positions on abortion, though she voted to stop a restrictive Louisiana law in *Juno Medical Services v. Gee*.

These categorizations have been made mostly by using the information provided by Wetstein, *Abortion Rates*, who classified votes on decisions as “pro-choice” or “anti-choice” and tracked the justices’ voting records, 1973-94. Justices with 70% or more votes being in favor of abortion rights were Ginsburg, Douglas, Blackmun, Brennan, Marshall, and Stevens. Justices with 30% or fewer votes being in favor of abortion rights were Kennedy, Thomas, Rehnquist, Scalia, and White. The rest voted variously, including Powell (57%), Stewart (50%), Souter (50%), O'Connor (40%), and Burger (33%).

The Wikipedia pages of each justice, On the Issues “Supreme Court Justices,” accessed April 22, 2019, <http://www.ontheissues.org/court/court.htm>, the information contained in Terence P. Jeffrey, “Only Liars Need Apply,” in Teresa R. Wagner (ed.) *Back to the Drawing Board: The Future of the Pro-Life Movement* (South Bend, Indiana: St. Augustine’s Press, 2003), 14-36, and, especially for more recently appointed justices, their votes on whether or not to grant a stay of the lower court’s decision in the 2019 *Juno Medical Services v. Gee* case (“*Juno Medical Services, LLC v. Gee*,” SCOTUSblog, accessed July 22, 2019, <https://www.scotusblog.com/case-files/cases/june-medical-services-llc-v-gee-2/>) also informed these categorizations.

Arguably, Samuel Alito could be reclassified as mixed because he refused to join Thomas’ concurring opinion in *Stenberg v. Carhart* (which was joined by Scalia) arguing that the decisions in *Roe v. Wade* and *Planned Parenthood v. Casey* should be reversed. John Roberts could arguably be reclassified as anti-abortion, though he voted against abortion restrictions in *Juno Medical Services v. Gee* (for discussion, see Adam Liptak, “Supreme Court Blocks Louisiana Abortion Law” (February 9, 2019), <https://www.nytimes.com/2019/02/07/us/politics/louisiana-abortion-law-supreme-court.html>).

<sup>550</sup> Wetstein, *Abortion Rates*, 13-39. After categorizing votes by individual justices on specific cases as “pro-choice” or “anti-choice,” Wetstein notes on pages 34-9 that “Comparing the justices across these three eras of the Court is possible... Pooling all of a justice’s abortion votes and creating a ratio of pro-choice votes over total votes, we can compare the justices on a scale of 1.0 to 0.0 [i.e. 100% to 0%], with 1.0 representing the most supportive pro-choice Justices.”

<sup>551</sup> Ibid, 20.

<sup>552</sup> “*National Organization for Women, Inc. v. Scheidler*,” Oyez, accessed July 22, 2019, <https://www.oyez.org/cases/1993/92-780>.

However, of the 23 Supreme Court decisions relating to abortion between 1973 and 1994, 8 were split opinions or were won by a single vote in either direction (with 4 of these in the seemingly more fractured period of 1989-94).<sup>553</sup> Securing anti-abortion Supreme Court appointments has the potential to affect major decisions, and could plausibly lead to a reversal of *Roe v. Wade*; the 1992 *Planned Parenthood v. Casey* decision saw *Roe* reaffirmed by a narrow five-to-four majority.<sup>554</sup> The outcome of the 2019 *Juno Medical Services v. Gee* ruling means that the outcomes of future abortion cases in the Supreme Court are hard to predict. This result was secured in a narrow five-to-four margin by Chief Justice Roberts siding with the liberal Justices;<sup>555</sup> this is surprising, given that Roberts was an appointee of George W. Bush (Republican)<sup>556</sup> and had previously voted to uphold the Partial-Birth Abortion Ban Act in the 2007 *Gonzales v. Carhart* case<sup>557</sup> and to uphold restrictive laws in Texas in the 2016 *Whole Woman's Health v. Hellerstedt* case.<sup>558</sup> One inference from this is that changing any Justice could have an important effect on the balance in the court.

The likelihood that securing anti-abortion appointments would encourage developments regarding the legal personhood of fetuses, which could put them on an equal legal standing as other humans, is less clear. Justices Scalia and Thomas, two strongly anti-abortion justices, both rejected the argument that fetuses are legal persons with the same rights as other humans.<sup>559</sup> However, legal challenges in state courts to laws establishing the fetus as a legal entity have been rejected,<sup>560</sup> and no cases challenging the 2004 Unborn Victims of Violence Act, which established the fetus as a separate legal entity at the federal level, seem to have been heard by the Supreme Court.

The anti-abortion movement might have prioritized securing anti-abortion nominations to the Supreme Court after 1983.<sup>561</sup> Considering the appointments in the period 1975-94, one author includes various quotes demonstrating the determination of certain abortion rights Democrats and non-profit organizations such as NARAL to prevent anti-abortion nominees being appointed, though it is unclear whether the Republican party and anti-abortion advocacy groups prioritized such tactics to a similar extent.<sup>562</sup> Certainly, anti-abortion groups have expended large sums of money on political engagement of various sorts; the NRLC and Susan B. Anthony List spent over \$1 million on lobbying in 2018,<sup>563</sup> and though total movement spending on election

<sup>553</sup> Wetstein, *Abortion Rates*, 32-6.

<sup>554</sup> Ibid, 25.

<sup>555</sup> “*Juno Medical Services, LLC v. Gee*,” SCOTUSblog, accessed July 22, 2019, <https://www.scotusblog.com/case-files/cases/june-medical-services-llc-v-gee-2/>. For discussion, see Adam Liptak, “Supreme Court Blocks Louisiana Abortion Law” (February 9, 2019), <https://www.nytimes.com/2019/02/07/us/politics/louisiana-abortion-law-supreme-court.html>.

<sup>556</sup> “Justices 1789 to Present,” US Supreme Court, accessed July 22, 2019, [https://www.supremecourt.gov/about/members\\_text.aspx](https://www.supremecourt.gov/about/members_text.aspx).

<sup>557</sup> “*Gonzales v. Carhart*,” Oyez, accessed July 22, 2019, <https://www.oyez.org/cases/2006/05-380>.

<sup>558</sup> “*Whole Woman's Health v. Hellerstedt*,” Oyez, accessed July 22, 2019, <https://www.oyez.org/cases/2015/15-274>.

<sup>559</sup> Clarke D. Forsythe, “Let the People Decide,” in Teresa R. Wagner (ed.) *Back to the Drawing Board: The Future of the Pro-Life Movement* (South Bend, Indiana: St. Augustine’s Press, 2003), 37-59.

<sup>560</sup> See “Constitutional Challenges to Unborn Victims (Fetal Homicide) Laws,” National Right to Life (May 2013), <https://www.nrlc.org/site/federal/unbornvictims/statechallenges/>.

<sup>561</sup> This point is argued by Cassidy, “The Right to Life Movement,” 147.

<sup>562</sup> Terence P. Jeffrey, “Only Liars Need Apply,” in Teresa R. Wagner (ed.) *Back to the Drawing Board: The Future of the Pro-Life Movement* (South Bend, Indiana: St. Augustine’s Press, 2003), 14-36.

<sup>563</sup> “Abortion Policy/Anti-Abortion,” OpenSecrets.org, accessed May 3, 2019, <https://www.opensecrets.org/lobby/indusclient.php?id=Q14&year=2019>.

engagement seems difficult to estimate, one survey of 104 activists found that 39.4% had given money to an anti-abortion political candidate on multiple occasions.<sup>564</sup> This spending has also increased the likelihood of favorable legislative outcomes for the anti-abortion movement's goals, so cannot be seen solely in terms of securing anti-abortion justices.

Overall, it seems that abortion-related decisions can be influenced by changing the composition of the Supreme Court, but prioritizing the tactic of securing supportive Supreme Court justices requires high resource inputs and a high salience of the abortion issue in mainstream political discourse.

While decisions on abortion are closely decided, the legal and political context is different for the farmed animal movement. At this point, political engagement does not seem likely to lead to appointments to the Supreme Court that are more favorable to animal rights; the connection between Republican victories and anti-abortion progress in the courts has been surprisingly mixed, despite the anti-abortion issue being clearly party-political, and animal issues are much less salient and much lower priority for politicians.<sup>565</sup> This suggests that, if advocates seek to increase the likelihood of radical legal change, working on direct legal advocacy for issues such as the personhood of animals is comparatively more tractable for the time being, though this situation could change if farmed animal issues become more clearly divided on party political lines or otherwise much more salient. *Abortion and the Constitution* (1987), edited by Americans United for Life's Dennis J. Horan, is an example of the contemporary efforts to develop an informed strategy to maximize the chances of securing legal rulings favorable to the anti-abortion cause.<sup>566</sup>

- **Advocates who successfully push through controversial legislation may need substantial resources to defend that legislation in the courts.**

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<sup>564</sup> Jacoby, *Souls, Bodies, Spirits*, 17-25. The survey was sent to a random sample of 50 (out of a total 500 identified) anti-abortion organizations; these 104 activists represent a response rate of 21%, although they come from 29 different states. Given selection bias, this survey probably represents some of the most engaged and opinionated anti-abortion activists who were contacted (the methodology is detailed on pages 200-1).

<sup>565</sup> “Animal Tracker,” Faunalytics, accessed July 22, 2019, [https://faunalytics.org/animaltracker/topic\\_timeline.php](https://faunalytics.org/animaltracker/topic_timeline.php) found that “the protection of animals” was “very important” for 21% of respondents when voting for a political candidate and “somewhat important” for a further 27%. This seems to represent lower interest in animal protection as a political issue than the 27% of respondents to a 2019 Gallup poll as saying that in a “vote for major offices,” the candidate “must share” their views on abortion and further 48% saying that this was “[o]ne of many important factors” (“In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>). Additionally, the Faunalytics survey, unlike the Gallup poll, did not present respondents with alternative social issues for them to consider; respondents may not have thought much about the social issues that they might prioritize more highly than animal protection in real elections. The Faunalytics survey also asked a variety of other questions about animal protection, slightly increasing the risk of social desirability bias affecting the results.

<sup>566</sup> Dennis J. Horan, Edward R. Grant, and Paige C. Cunningham (eds.) *Abortion and the Constitution: Reversing Roe v. Wade Through the Courts* (Washington, DC: Georgetown University Press, 1987). Edward G. Grant, “Abortion and the Constitution: The Impact of *Thornburgh* on the Strategy to Reverse *Roe v. Wade*,” page 257 in *Abortion and the Constitution* argues that “no effort to legislate in this area should be initiated without consultation with those individuals and organizations that are engaged in the prolife effort to direct the litigation strategy to reverse *Roe v. Wade*. The Pennsylvania statute in the *Thornburgh* case, while based upon a model provided by Americans United for Life, departed in small but significant ways from the AUL model. Those points of departure, enacted to ‘move faster’ in the effort to regulate abortion, were among the points seized upon by the Court to invalidate the statute.” Footnote 53 then adds that “One example is the incorporation of the phrase ‘significantly greater medical risk’ into the Pennsylvania act’s maternal health exception to the regulation of methods employed in postviability abortions.”

The separation of powers between the legislature, the executive, and the judiciary means that any of these three branches of the US government can challenge each other. Contentious legislation at the state level has often been challenged in the courts. For example, three heartbeat bills have been passed by state legislatures but struck down by courts or judges and six further bills have been temporarily blocked by federal courts, though one is expected to be effective from November 16, 2019.<sup>567</sup> Similar legal challenges could arise to legislation that supports the goals of nascent social movements like the farmed animal movement, perhaps driven by the animal agriculture industry rather than oppositional social movement groups.

- In contexts in which radical legislative change is intractable because the political parties (and the wider public) are divided, incremental legislative change may still be cost-effective, even if the incremental proposals are framed as steps towards the more radical goal.

Since 1982, the anti-abortion movement has mostly pursued incremental legislative changes.<sup>568</sup> Such incremental proposals are expected to be more tractable than total abortion bans, given the lack of support for total abortion bans but the large numbers of people who also reject unrestricted access to abortion on demand,<sup>569</sup> and given that supermajorities are needed to enact constitutional amendments through Congress and to override presidential vetoes.<sup>570</sup> Within this, Targeted Regulation of Abortion Providers (TRAP) laws are sometimes seen to be more tractable because they bypass debate on the woman's right to choose by targeting the abortion provider, rather than the client.<sup>571</sup>

Although a variety of framings and justifications are given for the laws, legislation is conceptualized by some as a method of reducing abortions — and thus advancing the radical goal of many anti-abortion advocates — through incremental restrictions. Even heartbeat bills (themselves quite radical pieces of legislation) are framed by some as steps towards more thorough legal or legislative outlawing of abortion.<sup>572</sup> There is a

<sup>567</sup> Wikipedia, “Fetal heartbeat bill,” last edited July 15, 2019, [https://en.wikipedia.org/wiki/Fetal\\_heartbeat\\_bill](https://en.wikipedia.org/wiki/Fetal_heartbeat_bill).

<sup>568</sup> See the paragraph beginning “In 1982, two separate anti-abortion bills were introduced into Congress...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>569</sup> See the section on “Changes to Public Opinion.”

<sup>570</sup> On the failure of abortion bans, see the paragraph beginning “In 1982, two separate anti-abortion bills...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>571</sup> Kaitlin Reedy, “The TRAP: Limiting Women’s Access to Abortion through Strategic, State-level Legislation” (senior thesis, 2014), [digitalrepository.trincoll.edu/](http://digitalrepository.trincoll.edu/), 5. On pages 6-7, Reedy summarizes that “These standards usually impose burdensome structural requirements upon the facility, beyond what is necessary to ensure patient safety in the event of an emergency. The provisions also often require that facilities maintain relationships with hospitals... several of the laws mandate that physicians performing abortions have admitting privileges with local hospitals, a condition that is nearly impossible to achieve. For example, Louisiana requires that abortions can only be performed in rooms that are a minimum of 120 square feet; North Carolina requires that abortion providers hire a registered nurse who is on duty at all times; and Missouri requires that abortion providers be located within 30 miles of a hospital and have procedure rooms that are at least 12 feet long and 12 feet wide, with ceilings at least 9 feet high and doors at least 44 inches wide.”

<sup>572</sup> Anna North, “The ‘heartbeat’ bills that could ban almost all abortions, explained” (April 2019), <https://www.vox.com/policy-and-politics/2019/4/19/18412384/abortion-heartbeat-bill-ohio-2019-georgia-iowa>, argues that “for Ohio Right to Life, the incremental approach had been so successful — the 20-week ban and a ban on a common second-trimester abortion method recently became law — that a heartbeat bill was now ‘the next incremental step,’ [Jamieson Gordon, director of communications and marketing at Ohio Right to Life] said. The group threw its support behind the bill last December.”

perception among some advocates that these more radical goals should not be stated explicitly, in the interests of pragmatism.<sup>573</sup> Ultimately, the effects of including such messaging on the likelihood of success of implementing legislation is unclear.

- Legislation that restricts access to abortions seems to have successfully reduced the number of abortions. Though the effect may be small, it is possible that it would be higher on products or services for which the demand is more elastic, such as animal products. This legislation does not seem to have substantially reduced the public's support for further incremental legislation.

The Hyde Amendment of 1976 is the most substantial piece of federal legislation that the anti-abortion movement has managed to secure, but it did little to stem the rise in abortions in the 1970s.<sup>574</sup> Nevertheless,

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Gordon added that in Ohio, “we’re just trying to pass pro-life legislation that will save lives... but also if it ends up being a good vehicle to overturn *Roe v. Wade*, we would be thrilled about that as well.”

Gabe Rosenberg, “A Bill Banning Most Abortions Becomes Law In Ohio” (April 2019), <https://www.npr.org/2019/04/11/712455980/a-bill-banning-most-abortions-becomes-law-in-ohio> quotes state Rep. Ron Hood: “Will there be a lawsuit? Yeah, we are counting on it... We’re excited about it.” Rosenberg notes that “Anti-abortion groups such as Ohio Right To Life say they intend the heartbeat bill to trigger a U.S. Supreme Court case striking down the 1973 *Roe v. Wade* decision.”

On the other side of the debate, Kate Smith, “Georgia ‘heartbeat’ abortion bill could join the legal fight to overturn *Roe v. Wade*” (April 2019),

<https://www.cbsnews.com/news/georgia-abortion-bill-the-heartbeat-bill-in-georgia-could-join-the-legal-fight-to-overturn-roe-v-wade-2019-04-03/> notes that “Elizabeth Nash, a senior state issues manager at the Guttmacher Institute in Washington, D.C., said the goal of the [2019 Georgia heartbeat bill] probably isn’t Georgia anyway. It’s Washington. ‘The whole point of this is that it’s aimed at the U.S. Supreme Court,’ she said. ‘It could have a much bigger impact because it would impact access across the country.’”

<sup>573</sup> Carol Mason, “From Protest to Retribution: The Guerilla Politics of Pro-Life Violence,” in Kenton Worcester, Sally Avery Bermanzohn, and Mark Ungar (eds.) *Violence and Politics: Globalization’s Paradox* (New York: Routledge, 2002), 127-45 analyzes “an underground manual circulated in 1992 by Mark Crutcher... called *Firestorm: A Guerilla Strategy for a Pro-Life America*.” On pages 130-1 Mason writes that “*Firestorm* is emphatically “CONFIDENTIAL and is intended to be used only by those people to whom it was directly sent”... *Firestorm* relinquishes the goal of reversing *Roe v. Wade* and outlawing abortion and, much like another underground manual titled *The Army of God*, seeks instead to increase the financial and psychological costs of providing or obtaining abortions until it is no longer feasible. Unlike the overt promotion of violence in *The Army of God*, however, *Firestorm* seeks to do it legally—that is to say, by breaking no laws and by promoting pro-life legislation and litigation. Proposing a ‘steady stream of regulatory legislation that’s specifically designed to run [doctors] out of business,’ *Firestorm* emphasizes ‘a requirement that all abortions have to be done by licensed physicians,’ and ‘mandatory malpractice insurance, or proof of financial responsibility.’” Page 139 notes that “Crutcher prescribes that... All guerrilla ‘legislation should be sold as ‘pro-women’ and/or ‘consumer protection’ legislation.’”

<sup>574</sup> Karrer, “The Pro-Life Movement,” 65 argues that “the Hyde Amendment may have been more symbolic than substantive. After federal funds were cut off for Medicaid recipients, only 18 to 33 percent of women who would have aborted continued their pregnancies. The rest financed their abortions privately. The number of all abortions continued to rise, peaking in 1990 with 1.6 million. Given the above statistics, the Hyde Amendment’s impact has been marginalized. The fact that the federal government has excluded abortion funding (except for rare cases) through its Medicaid program has been a truly symbolic statement; sixteen states fund abortion for welfare recipients through their own assistance plans.”

the potential for legislation to severely disrupt the supply of abortions, and possibly affect abortion incidence, is demonstrated by this summary of changes in Texas:

“The State of Texas began enforcement of the Woman’s Right to Know (WRTK) Act on January 1, 2004. The law requires that all abortions at or after 16 weeks’ gestation be performed in an ambulatory surgical center (ASC). In the month the law went into effect, not one of Texas’s 54 nonhospital abortion providers met the requirements of a surgical center. The effect was immediate and dramatic. The number of abortions performed in Texas [by licensed providers] at or after 16 weeks’ gestation dropped 88 percent, from 3,642 in 2003 to 446 in 2004, while the number of residents who left the state for a late abortion almost quadrupled. By 2006, abortions at or after 16 weeks’ gestation in a nonhospital setting were available in four major cities in Texas (down from nine in 2003), and the abortion rate at or after 16 weeks’ gestation remained 50 percent below its pre-Act level.”<sup>575</sup>

Another paper found that in Texas, 2011-14, after three pieces of anti-abortion legislation, “abortions to Texas residents fell 16.7% and births rose 1.3% in counties that no longer had an abortion provider within 50 miles.”<sup>576</sup> The only outpatient abortion provider in Mississippi experienced substantial difficulties due to new state laws implemented in 2004 and 2005 and had to turn away 600 to 700 women during an 18 month period in which they could not provide second trimester abortions.<sup>577</sup> One analysis of TRAP laws found them to have had a significant effect on the number of abortion providers, of a similar effect size to other types of restrictive abortion legislation.<sup>578</sup>

All of these reported findings show effects on the supply of abortion services, rather than on abortion demand. However, there is evidence that the accessibility and cost of abortion services can affect abortion incidence,<sup>579</sup> even though individuals are sometimes willing to travel long distances to obtain abortions.<sup>580</sup> This

<sup>575</sup> Silvie Colman and Ted Joyce, “Regulating abortion: Impact on patients and providers in Texas,” *Journal of Policy Analysis and Management* 30, no. 4 (2011), 775-97.

<sup>576</sup> Stefanie Fischer, Heather Royer, and Corey White, “The Impacts of Reduced Access to Abortion and Family Planning Services on Abortion, Births and Contraceptive Purchases” (August 2018), <https://ssrn.com/abstract=3010397>.

<sup>577</sup> See the section on “Mississippi” in Bonnie Scott Jones and Tracy A. Weitz, “Legal Barriers to Second-Trimester Abortion Provision and Public Health Consequences,” *American Journal of Public Health* (April 2009), <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2007.127530>.

<sup>578</sup> Marshall H. Medoff, “The Relationship Between State Abortion Policies and Abortion Providers,” *Gender Issues* 26 (2009), 224-37 analyzes the factors affecting “the number of abortion providers per 100,000 pregnancies” in any given state. Medoff summarizes that “The numerical impact of a Medicaid funding restriction, parental involvement law and a TRAP licensing fee is to reduce the number of abortion providers per 100,000 pregnancies by 12.8, 19.6 and 15.5;” all three findings were significant at  $p \leq 0.05$ . The model includes the number of evangelical Protestants but not any measure of public opinion.

<sup>579</sup> Stephen Matthews, David Ribar, and Mark Wilhelm, “The Effects of Economic Conditions And Access to Reproductive Health Services On State Abortion Rates and Birthrates,” *Perspectives on Sexual and Reproductive Health* 29, no. 2 (March/April 1997) summarize that, “[t]he incidence of abortion is found to be lower in states where access to providers is reduced and state policies are restrictive. Calculations indicate that decreased access may have accounted for about one-quarter of the 5% decline in abortion rates between 1988 and 1992.” They explain that “A key set of measures describes the accessibility of reproductive and general health services. These are the numbers of abortion providers, family planning clinics and obstetrician-gynecologists per 1,000 women aged 15-44; the proportion of women living in

suggests that focusing directly on these goals could be effective, and supports the belief of many farmed animal advocates that the price and convenience of access to certain types of products can be an important determinant of behavior.<sup>581</sup>

Not all of the incremental, restrictive legislation introduced by anti-abortion politicians has been focused on disrupting the supply of abortion services; some has focused on restricting the pregnant woman's freedom to choose an abortion, such as with laws requiring the involvement or explicit consent of parents in the decision of a minor to have an abortion,<sup>582</sup> or the implementation of partial-birth abortion bans at the state level.<sup>583</sup> A decline in the number of abortions occurred in the 1990s.<sup>584</sup> As noted above, this may partially be explained by several factors,<sup>585</sup> but the restrictive legislation introduced by anti-abortion politicians may also have played a role.

Anti-abortion political scientist Michael New's multivariate regression analysis found significant correlations between the dependent variable of the abortion rate among minors and the independent variables of parental involvement legislation (representing a reduction "in the minor abortion rate by an average of 1.67 abortions

counties with each service; the average distance to the nearest in-state and out-of-state abortion provider; and the proportion of the population enrolled in a health maintenance organization (HMO)." This study focuses predominantly on noting correlations, however, so it may not be the accessibility issues themselves that reduce abortion incidence.

Robert W. Brown, R. Todd Jewell, and Jeffrey J. Rous, "Provider Availability, Race, and Abortion Demand," *Southern Economic Journal* 67, no. 3 (2001), 656-71 summarize that they applied "a fertility-control model to estimate the responsiveness of abortion demand to travel-cost variations using individual data from all births and abortions of women over age 20 in the state of Texas for 1993. The probability that a pregnant woman chooses an abortion appears to be sensitive to availability-induced variations in the travel cost of abortion services. Controlling for the endogeneity of travel distance, the results suggest that pregnant women who reside in counties with longer travel distances to the nearest abortion provider have lower probabilities of aborting their pregnancies than women in counties closer to abortion providers. Simulations show that changes in travel distance will have relatively large impacts on overall abortion rates and, furthermore, that these effects vary across race. In addition, these simulations show substantial differences by race in the effects of changes in other explanatory variables."

Childress, "Advocacy, Abortion, and Public Policy," 13, summarizing another study, notes that "Brown, in a 2001 study using individual data and controls for endogeneity, finds that a 10% increase in distance to the provider should decrease the probability of abortion by 5.36% for Hispanic women" (citing Robert W. R. Brown, Todd Jewell, and Jeffrey J. Rous, "Provider availability, race, and abortion demand," *Southern Economic Journal* 67, no. 3 (January 2001), 656-71).

<sup>580</sup> See footnote 125. Additionally, Silvie Colman and Ted Joyce, "Regulating abortion: Impact on patients and providers in Texas," *Journal of Policy Analysis and Management* 30, no. 4 (2011), 775-97 found that "Texas's WRTK Act was associated with a 69 percent decline in the number of abortions at or after 16 weeks' gestation in the first year after the law despite a fourfold increase in the number of Texas residents who went out of state for an abortion after 15 weeks' gestation."

<sup>581</sup> See, for example, Bruce Friedrich, "Plant-Based and Clean Meat Are Crucial for a Sustainable Food System" (July 9, 2018), <https://www.gfi.org/plant-based-and-clean-meat-will-save-the>.

<sup>582</sup> See, for example, "Parental Involvement in Minors' Abortions," Guttmacher Institute, accessed July 22, 2019, <https://www.guttmacher.org/state-policy/explore/parental-involvement-minors-abortions>.

<sup>583</sup> See, for example, "Bans on Specific Abortion Methods Used After the First Trimester," Guttmacher Institute, accessed July 22, 2019,

<https://www.guttmacher.org/state-policy/explore/bans-specific-abortion-methods-used-after-first-trimester>.

<sup>584</sup> See the spreadsheet "Abortions and the abortion ratio by year."

<sup>585</sup> See the discussion of "face-to-face 'counseling' outreach" in the section on "Consumer Action and Individual Behavioral Change."

per 1,000 females between the ages of 13 and 17,”  $p \leq 0.01$ ) and Medicaid funding restrictions for abortion (representing a reduction of 2.34 abortions per 1000 female minors,  $p \leq 0.01$ ), and possibly informed consent laws (-0.53,  $p \leq 0.10$ ), but an insignificant correlation with partial-birth abortion bans (-0.33,  $p > 0.10$ ).<sup>586</sup> Causality is unclear in these correlations, since the model adjusts for demographic factors and for income growth, but not for measures (or proxies for) anti-abortion sentiment; these findings may simply show that states with high anti-abortion sentiment tend to have below average abortion rates and also have anti-abortion legislation, although the differences between the regression coefficients could plausibly represent differences in the effectiveness of different legislation types. This problem is common in similar analyses by other researchers.<sup>587</sup> The stronger correlation between parental involvement laws and the minor abortion rate than with the overall abortion rate (-1.67,  $p \leq 0.01$  and -1.05,  $p \leq 0.05$  respectively) does provide some evidence that the relationship is causal, rather than determined by lurking variables, although the small difference suggests that the legal restrictions have a small effect.<sup>588</sup> Further evidence of causality is provided by the

<sup>586</sup> New, “Analyzing the Effect of State Legislation.” New notes that he collected “data on abortion rates among minors in every state where data are available from 1985 to 1999.”

New summarizes previous studies, noting that “Much of the academic literature that examines the incidence of abortion among minors focuses on parental involvement legislation. The findings suggest that parental involvement statutes reduce the number of abortions performed on minors within the borders of a given state. However, researchers are divided over whether these laws reduce the overall number of abortions, in part because minors can circumvent abortion laws in their own states by obtaining abortions in neighboring states that have more permissive laws.” He criticizes these studies for examining a small number of states over limited timeframes, for focusing too narrowly on parental involvement laws, and for failing to account for potential confounding variables like changing “values and mores.”

<sup>587</sup> Medoff, “The Impact of Anti-Abortion Activities,” 268 summarizes prior research: “Several studies investigated the impact of one major restriction-state parental notification or consent laws requiring an unmarried minor seeking an abortion to notify or obtain the consent of one or both parents. Ohsfeldt and Gohmann (1994) found that parental involvement laws reduced adolescent (ages 15–17) abortion rates by 18% over the period 1984–1988. Haas-Wilson (1993) estimated that the 1988 teenage abortion rate was 16% lower in states with parental involvement laws as compared to states without these laws. In a similar paper, Haas-Wilson (1996) estimated that parental involvement laws decreased teenage abortion demand by 13–25% between 1978 and 1990. The problem with these studies, as noted by Meier et al. (1996), is that restrictive laws may be endogenous. States with low abortion rates (e.g. Utah) may be the states that enact restrictive abortion regulations. Meier examined 23 different abortion restrictions enacted by states between 1982 and 1992 and found no evidence that these restrictions, either individually or aggregated, statistically or numerically reduced a state’s abortion rate. One reason for the Meier result may be that by 1992 almost all state restrictive laws were merely symbolic, not actively enforced, or enjoined until the U.S. Supreme Court settled the issue in a case currently being heard.”

<sup>588</sup> New, “Analyzing the Effect of State Legislation.” The rate of change seems greater than that which can be explained by the decline in the number of high school students reporting to currently be sexually active. See “Key facts about sexual activity among teens,” Child Trends, accessed May 9, 2019, which uses data from “1991–2015 High School Youth Risk Behavior Survey Data,” Centers for Disease Control and Prevention (2016), <http://nccd.cdc.gov/youthonline/>.

New also argues that the larger effect of informed consent laws on the overall abortion rate than on the minor abortion rate also suggests a causal relationship, although his only justification for this is that “minors and adults may differ in their circumstances for seeking an abortion,” which the author of this report finds unconvincing. He makes a similar point about partial birth abortions, asserting that “most minors, who seek abortions relatively early in their pregnancy, would be unaffected by such a law,” but providing no evidence for this claim.

Tests of statistical significance are not carried out between the results for the different dependent variables and confidence intervals are not provided. Statistical significance tests are carried out between the correlation coefficients of

insignificant relationship between parental involvement laws that were nullified by the judiciary and the minor abortion rate, and a difference between the correlation coefficients for enacted parental involvement laws and nullified parental involvement laws that is suggestive but not significant ( $p \leq 0.10$ ).<sup>589</sup>

However, a masters' thesis by John Daniel Childress concluded that "states that pass laws, whether or not they are enforced, see declines in abortion." In a linear regression, Childress found a negative significant relationship between a variable representing total advocacy expenses (accounting for both anti-abortion and abortion rights advocacy) and aggregate abortion rates ( $p = 0.013$ ), suggesting that advocacy on the issue decreases overall abortion incidence. This relationship did not remain significant in any multivariate analyses, however. In multivariate analysis, Childress found tentative evidence that "women exposed to restrictive public policies late in pregnancy respond to larger cultural factors independent of the actual legal effect of new regulations," but that "when women are exposed to restrictive policy early in pregnancy aggregate abortion rates decline due to the impact of the legislation."<sup>590</sup>

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enacted and nullified parental involvement laws in his next analysis, which suggests that New may have carried out significance tests in this instance too and hidden the results because they were unfavorable to his argument.

If the differences found between the groups were understood to precisely and accurately represent the causal effect of parental involvement laws (i.e. the laws cause 0.62 fewer abortions per 1000 minors), and approximately 5% of the current US population is assumed to be female minors between the ages of 11 and 17 (i.e. approximately 16,285,000), then the implementation of parental involvement laws in every state in the US could be expected to prevent approximately 10,100 abortions per year. Using the latest figures on total annual abortions (638,169 in 2015 according to Tara C. Jatlaoui, Maegan E. Boutot, Michele G. Mandel; Maura K. Whiteman, Angeline Ti, Emily Petersen, and Karen Pazol, "Abortion Surveillance — United States, 2015," *Morbidity and Mortality Weekly Report Surveillance Summaries* 67, no. SS13 (2018), 1-45), this would represent approximately 1.6% of total annual abortions in the US. However, it is possible that parental involvement laws also have an indirect effect on the abortion rate of adults. Additionally, the comparison is made between the abortion rates of minors and the total abortion rate (as opposed to the abortion rates of adults). These two factors suggest that the 10,100 abortions per year figure might underestimate the effectiveness of the parental involvement laws.

<sup>589</sup> Ibid. New notes that "if value shifts, not legislation per se, are responsible for declining abortion rates, then states where the legislation was upheld and states where the legislation was nullified would be expected to experience similar declines in the abortion rate. However, if the legislation is responsible for the declines, then states that upheld their legislation would experience, on average, significantly larger reductions in their abortion rates than would be experienced by states where judiciaries struck down the laws."

<sup>590</sup> Childress, "Advocacy, Abortion, and Public Policy," 40-7. Childress found "significant differences for women late in pregnancy when states have an informed consent law on the books versus when they do not" but did not find "a simultaneous effect that suggests that states enforcing the law are significantly different from those that are not." Note that this finding is only significant at the level of  $p < 0.10$ . Childress also finds that "enforcing rules that require women to seek parental consent early in pregnancy has an independent effect on aggregate abortion rates. States that enforced a parental consent law demonstrate a 7.01% lower aggregate abortion rate for women who experienced its enforcement early in pregnancy."

However, he also notes that he "can only make inference about abortions by state of occurrence. My model does not explain whether the observed decline in abortion simply represents a geographic relocation of occurrence or real decline." Another limitation is that the overall R-squared seems very low for all models (0.0791 for the model being discussed here).

In another model, which includes a variable for advocacy, he finds effects of informed consent laws ( $p < 0.10$ ), but the effects are not significantly different between enforced legislation and nullified legislation, further supporting the inference that "the declines observed have more to do with cultural trends than legal effect." He notes that he finds "a

Political scientist Matthew Wetstein conducted a linear structural equation model (LISREL) to account for multicollinearity and found that included “measures of access (percentage of counties) and demand (percentage unmarried) have the strongest positive effect on abortion rates ( $B = .39$ ), with the percentage of metropolitan population not far behind ( $B = .25$ ). The policy index has a significant negative effect on abortion rates in the United States, even when controlling for access and demand variables ( $B = -.21$ ).”<sup>591</sup> Importantly, this model also accounts for a measure of mean support for abortion.

Taken together, the research of New, Childress, and Wetstein seems to suggest that the passage of legislation that has made abortion more difficult has had some effect on abortion rates, but this effect may have been small. Some other recent analyses seem to support this conclusion, though this is not consistently the case.<sup>592</sup> The effects may have been caused in some cases as much by the campaigning and public attitude indicated by the legislation as by the restrictions of the legislation itself.<sup>593</sup>

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significant effect for parental consent laws enforced versus nullified,” though this is not clear from the model, and the effect does not appear to be significant overall, even at the level of  $p < 0.10$ .

<sup>591</sup> Wetstein, *Abortion Rates*, 120-1. Wetstein explains that “The model features four endogenous variables (abortion rates, access to abortion, abortion policy restrictions, and public support for abortion), and five exogenous variables that model demographic differences among the states (the metropolitan, fundamentalist, Catholic, and socioeconomic factors). The LISREL package allows researchers to estimate the four regression equations simultaneously, based on the observed correlations between all of the variables.” The model has an  $R^2$  value of 0.80.

<sup>592</sup> See, for example:

Jeanne Snefrup Jensen, “Changes in the US abortion rate since the 1990s” (student thesis, 2010), <https://studenttheses.cbs.dk/handle/10417/896>,

Mark Paul Gius, “The impact of provider availability and legal restrictions on the demand for abortions by young women,” *The Social Science Journal* 44, no. 3 (2007), 495-506,

Marshall H. Medoff, “The Determinants and Impact of State Abortion Restrictions,” *American Journal of Economics and Sociology* 61, no. 2 (April 2002), 481-93,

Marshall H. Medoff, “Price, Restrictions and Abortion Demand,” *Journal of Family and Economic Issues* 28, no. 4 (December 2007), 583-99.

In contrast, Mark Gius, “The Impact of Ultrasound Laws on the Demand for Abortions by Young Women,” *Journal of Applied Business and Economics* 12, no. 5 (2011), 54-65, found that “the odds of a woman having an abortion who lives in a state with an ultrasound law are only 25.4 percent of the odds for a woman having an abortion who lives in a state without such a law,” but this study did not account for potential confounding factors like advocacy or attitudes in the state.

<sup>593</sup> This conclusion is more in line with the argument propounded explicitly by Childress, “Advocacy, Abortion, and Public Policy” than by New, “Analyzing the Effect of State Legislation.” Childress notes on page 52 that on the note of government policy, the findings suggest “relative impotence. Though I consider the effects of four policies, only two achieve conventional levels of statistical significance. In fact there is evidence to suggest that even in the case of statistical significance some of the effect is transmitted through cultural mechanisms and does not directly result from imposition of the law. Not only are they limited, but the effects, about 5% each, are small relative to the effects reported for one standard deviation changes in demographic or economic factors.”

Anti-abortion groups seem to dedicate a substantial proportion of their resources to enacting incremental legislative changes.<sup>594</sup> There is some anecdotal evidence that the actions of anti-abortion advocates have led to the election of some anti-abortion candidates,<sup>595</sup> thereby increasing the chances of the successful passage of anti-abortion legislation. Nevertheless, given the high cost and potentially quite small effects, these tactics may not have been cost-effective for reducing abortion incidence, even where they have succeeded.

An important question for the farmed animal movement is whether incremental improvements lead to momentum for further change or increased complacency that existing protections for intended beneficiaries of the movement (farmed animals) are sufficient.<sup>596</sup> The years 2018 and 2019 have seen the successful passage of heartbeat bills in several states, despite the introduction of smaller legislative restrictions since the 1990s.<sup>597</sup>

While this does not prove that such legislation has not led to complacency about the existing levels of protection for fetuses and delayed the success of more radical restrictions such as the heartbeat bills, it suggests that if incremental change does lead to complacency, such effects are probably quite small.

Comparing Gallup polls in May 2018 to May 2019—that is, before and after the sharp increase in the number of states proposing heartbeat bills—public attitudes seem to have become slightly more opposed to abortion,<sup>598</sup> though this change could be explained by other factors.<sup>599</sup> There seems to be a perception among some

<sup>594</sup> See, for example, the paragraph beginning “In 1982, two separate anti-abortion bills were introduced into Congress...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.” Consider also the resources dedicated to this goal by Americans United for Life, which had \$2,582,848 total revenue in 2017 according to “Americans United for Life,” Charity Navigator, accessed May 10, 2019, <https://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=12497>. See also the various ways through which anti-abortion advocates have sought to influence legislation detailed in the remainder of this section on “Institutional Reform.”

<sup>595</sup> Tatalovich and Daynes, *The Politics of Abortion*, 164 note that “Pro-life groups have successfully... opposed the election of pro-choice congressional candidates when the chance has arisen. Active pro-life opposition to their reelection was allegedly responsible for the defeats of long-time Senate liberals like Edward Brooke (R.-Mass.) and Dick Clark (D.-Iowa), who admitted that his defeat was due to the Right-to-Life movement. In addition, pro-life advocacy helped to defeat Senators Thomas McIntyre (D.-N.H.), Clifford Case (R.-N.J.), Floyd K. Haskell (D.-Colo.), and Congressman Donald Fraser (D.-Minn). In 1980 all the senators opposed by pro-life groups were defeated, including Senators Birch Bayh (D.-Ind.), George McGovern (D.-S.D.), John C. Culver (D.-Ia.), and Frank Church (D.-Ida).”

See also the newspaper quote beginning “[N]ot a single pro-life governor...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>596</sup> See the section “Momentum vs. complacency from welfare reforms” of “Summary of Evidence for Foundational Questions in Effective Animal Advocacy,” Sentience Institute, last updated June 21, 2018, <https://www.sentienceinstitute.org/foundational-questions-summaries#momentum-vs.-complacency-from-welfare-reforms>.

<sup>597</sup> See the point beginning “Hundreds of abortion-related bills...” in the section “Legislative and Legal Changes.”

<sup>598</sup> See the tab “Gallup overall support” on the spreadsheet “Public opinion data,” which uses data from “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>. Of the measured years, only 1995-6 had a shift in public attitude of the same size (7%).

<sup>599</sup> See the paragraph beginning “From January 2019 until the time of writing...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.” Of course, given that the change in attitudes is only 7%, random fluctuation and the imperfections of survey methodology could also account for a substantial proportion of the apparent change. Other changes from 2015 onwards could have played some role (see the paragraph beginning “From January 2015...” onwards), although they do not seem to have had a notable effect on public opinion in 2015-18 (see “In Depth: Topics A to Z: Abortion,” Gallup, accessed July 18, 2019, <https://news.gallup.com/poll/1576/abortion.aspx>).

(both supporters and opponents of the bills) that piecemeal legislation either leads to momentum, or at least does not lead to complacency.<sup>600</sup>

- For securing desired legislative outcomes at both the state and national levels, securing the support of politicians seems more important than favorable public opinion. A favorable legal environment (e.g. supportive judges) also seems important.

Political scientist Rosemary Nossiff compares the states of New York and Pennsylvania to better understand the causes of legislative change in the period 1965-72. Both states had similar demographic and political conditions, but legislation passed in the state assemblies pushed abortion law in opposite directions.<sup>601</sup> Comparing the characteristics of the advocates both for and against abortion rights in both states, Nossiff highlights several factors as of potential causal importance in securing legislative change in the desired direction, including successful political maneuvering and alignment with influential politicians (the Democratic party in both instances). There is some evidence to support this, such as the closeness of the final vote in New York, suggesting that the vote of each individual politician was important for the legislative outcome, and a poll in Pennsylvania finding that there was actually majority support for liberalization of abortion law, suggesting that the final outcome was determined more by politicians than public opinion.<sup>602</sup> This suggests that close alliances with (or successful advocacy targeting) politicians is an important predictor of legislative outcomes of interest to social movements.

In support of this conclusion, a paper by economists Marshall Medoff and Christopher Dennis found that “Republican institutional control of a state’s legislative/executive branches is positively associated with a state enacting a TRAP [Targeted Regulation of Abortion Providers] law, while Democratic institutional control is

<sup>600</sup> See the paragraph beginning “Although a variety of framings...” earlier in this section.

<sup>601</sup> Nossiff, *Before Roe*, 2 notes that New York repealed its abortion laws but Pennsylvania tightened its law to make abortions more difficult to obtain. An endnote adds that “In Pennsylvania the statute prohibited illegal abortions but did not define the difference between legal and illegal ones.” Page 122 also notes that the Pennsylvania law, though passed through the state legislature, was vetoed by the governor, and a vote to override the veto failed 102-to-76.

<sup>602</sup> Ibid, 7-9. On pages 16-22, Nossiff provides a narrative of the local political struggles where the Democratic Party became hostile to reform in Pennsylvania and supportive in New York.

On page 99, Nossiff notes that on March 30 1970, member of the New York Assembly Constance Cook “brought the [abortion repeal] bill to the floor, where hours of speeches and attempts to amend it prolonged the debate into the evening. The vote, when it finally began after midnight, was 73 to 71 against the bill... On April 9, the Assembly voted on the repeal bill for a second time, with the vote ending in a 74-to-74 tie.” One Democrat who represented a Catholic constituency switched his vote and the speaker of the Assembly added a vote in favor, so the bill passed by 76-to-73 votes. The bill passed in the Senate the next day, 31 to 26. However, a variety of factors influenced the voting behavior of the Assembly members, so the closeness of the vote does not provide strong evidence that the focus of the abortion rights advocates on interceding with politicians was in itself an effective tactic.

In Pennsylvania, a poll in February 1972 found that 57% of the people surveyed supported reform to permit abortion in a hospital with a doctor’s consent, while only 36% opposed this. This provides evidence that the bill’s outcome was determined by political decision-makers more than by the weight of public opinion. In the vote itself, however, there was not much difference between the voting of the two parties on the bill. A table on page 129 notes that in the House, 89 Democrats voted for the 1972 Pennsylvania bill on restrictive abortion policy and 15 against, compared to 68 Republicans for and 19 against. In the Senate, the respective numbers were 20, 3, 19, and 4.

negatively associated with a state enacting a TRAP law.” In contrast, “The percentage of a state’s population that is Catholic, public anti-abortion attitudes, state political ideology, and the abortion rate in a state” are statistically insignificant predictors. This provides evidence that party political control affects abortion legislative outcomes, regardless of the views and behaviors of voters, although the percentage of the state’s population that is evangelical Christian was significantly positively correlated with TRAP laws.<sup>603</sup> Medoff and Dennis’ paper uses data from 1974 to 2008, and a paper using data from 2008 to 2014 using similar methods found similar results.<sup>604</sup> Although views on farmed animal issues are less polarized by party lines,<sup>605</sup> this evidence suggests that winning over politicians is important to securing desirable political outcomes.

Republican electoral gains may help to explain the introduction of anti-abortion legislation during the 1990s.<sup>606</sup>

These electoral gains were probably partially the result of the importance of the abortion issue to the electorate and of the anti-abortion movement’s political and campaigning efforts.<sup>607</sup> The chronologically close developments of the Republicans gaining a majority in the House of Representatives in 2011 and the sudden rise in anti-abortion legislation in that year (from between 0 and 30 passed in each year 1985-2010 up to over 90 restrictions passed in 2011<sup>608</sup>) suggests that the political context played a role in determining the

<sup>603</sup> Marshall H. Medoff and Christopher Dennis, “TRAP Abortion Laws and Partisan Political Party Control of State Government,” *American Journal of Economics and Sociology* 70, no. 4 (October 2011), 951-73. A further limitation of the evidence is the Pseudo R<sup>2</sup> of the three models; 0.09, 0.10, and 0.07. In the second model, testing the significance of democratic control, Public Anti-Abortion Attitudes were marginally significant ( $p < 0.10$  but  $> 0.05$ ).

<sup>604</sup> Keith Gunnar Bentle, Rebecca Sager, and Amanda Aykarian, “Rewinding *Roe v. Wade*: Understanding the Accelerated Adoption of State-Level Restrictive Abortion Legislation, 2008–2014,” *Journal of Women, Politics & Policy* 39, no. 4 (2018). The authors hypothesized that the especially rapid passage of state-level legislation restricting abortion in this period (300 restrictive laws passed in 33 states) was probably caused by “the convergence of decades of investment by the conservative Evangelical antiabortion movement into GOP [Republican] institutions with the political opportunities provided by unusually high levels of state-level Republican party control following the 2010 elections.”

<sup>605</sup> Joseph Carroll, “Republicans, Democrats Differ on What Is Morally Acceptable” (May 24, 2006), <https://news.gallup.com/poll/22915/republicans-democrats-differ-what-morally-acceptable.aspx> found that views were slightly less polarized on the moral acceptability of “Buying and wearing clothing made of animal fur” (20% more opposition among Democrats) and “Medical testing on animals” (13% more opposition among Democrats) than on the moral acceptability of abortion (23% less opposition among Democrats).

More recently, Rebecca Riffkin, “In U.S., More Say Animals Should Have Same Rights as People” (May 18, 2015), <https://news.gallup.com/poll/183275/say-animals-rights-people.aspx> notes that 39% of Democrats and 23% of Republicans said that “Animals Deserve Same Rights as People” in 2015. In 2008, 27% of Democrats and 19% of Republicans had said this.

<sup>606</sup> New, “Analyzing the Effect of State Legislation” notes that “pro-life legislators made considerable and lasting gains at the state level during the 1990s. In 1994, Republicans obtained majority control of both chambers of 11 additional state legislatures. The number of states where Republicans controlled both chambers of the state legislature increased from six in 1990 to 18 in 2000. As Republicans are generally more supportive of pro-life legislation than are their Democratic counterparts, their gains in state legislatures during the 1990s led to the enactment of more pro-life legislation.”

<sup>607</sup> See also the newspaper quote beginning “[N]ot a single pro-life governor...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>608</sup> Rachel B. Gold and Elizabeth Nash, “Troubling Trend: More States Hostile to Abortion Rights as Middle Ground Shrinks,” *Guttmacher Policy Review* 15, no. 1 (2012), 16.

Heather D. Boonstra and Elizabeth Nash, “A Surge of State Abortion Restrictions Puts Providers--and the Women They Serve--in the Crosshairs.” *Guttmacher Policy Review* 17, no. 1 (March 2014) notes that “More state abortion restrictions were enacted in 2011-2013 [205 total] than in the entire previous decade [189 total].”

prevalence of legislative efforts. Intuitively, the political context seems likely to have been crucial for the passage of some major federal acts on abortion. For example, the FACE Act restricting clinic protests was passed during the presidency of Bill Clinton (a strong advocate of abortion rights) while the Democrats had majorities in both the Senate and House of Representatives.<sup>609</sup> In contrast, the signing into law of both the Partial-Birth Abortion Ban Act (2003) and Unborn Victims of Violence Act (2004) occurred during the Republican presidency of George W. Bush, at a time when the Republicans had majorities in both the Senate and House of Representatives.<sup>610</sup> An analysis of the Congressional votes for and against the 1976 Hyde Amendment found that party affiliation was not a very important predictor after controlling for factors including the politicians' conservatism on other issues,<sup>611</sup> but this predates the polarization on abortion issues in the party's electoral platforms.<sup>612</sup>

The increased number of heartbeat bills (30 in four months in early 2019 compared to 15 the previous year)<sup>613</sup> may be related to Donald Trump's presidency. However, the first heartbeat bills were introduced before Trump won the election or the Republicans had majorities in both the House of Representatives and the Senate.<sup>614</sup> Indeed, from January 2019 until the time of writing, the Democrats have held a majority in the House of Representatives.<sup>615</sup> Additionally, the chronological gap between the beginning of Trump's presidency and the rise in heartbeat bills suggests that more recent factors, such as the appointment of Brett Kavanaugh as a justice in the Supreme Court,<sup>616</sup> may be more important. Of course, Kavanaugh's appointment was likely dependent upon a Republican being the president, given his anti-abortion position.<sup>617</sup> Likewise, cases such as

<sup>609</sup> See the subsection on “[1992-2000: Bill Clinton, declining violence, and declining abortion incidence](#)” in the section on “[A Condensed Chronological History of the Anti-Abortion Movement](#).”

<sup>610</sup> See the subsection on “[2000-present: Republican dominance, incremental legislative successes, and renewed anti-abortion sentiment in the Supreme Court](#)” in the section on “[A Condensed Chronological History of the Anti-Abortion Movement](#).”

<sup>611</sup> Tatalovich and Daynes, *The Politics of Abortion* summarize that Maris Vinovskis, “The Politics of Abortion in the House of Representatives in 1976,” *Michigan Law Review* 77 (1979), 1790-1827 found that “When party was considered alone it was significant, but when other variables were included in the analysis it disappeared as a significant indicator.” They add that “Religious affiliation proved to be the second strongest predictor overall; the most reliable predictor was an index of liberalism. Those who were most liberal on domestic social welfare measures tended to oppose the Hyde amendment three to four times more frequently than did conservatives. However, the 11 variables studied by Vinovskis explained only about one-third of the variance in voting on abortion legislation.” Tatalovich and Daynes’ own analysis of voting in the Ninety-sixth Congress “confirms most of Vinovski’s findings,” though the authors do not appear to control for the influence of other variables. Groups for those with “high,” “moderate,” and “low” scores on the Americans for Democratic Action score, as well as religion, appeared to be more consistent predictors of voting behavior than party affiliation.

<sup>612</sup> See the point beginning “Political parties are more willing...” below.

<sup>613</sup> Ritu Prasad, “What’s behind the rise of anti-abortion ‘heartbeat bills?’” (April 2019), <https://www.bbc.co.uk/news/world-us-canada-47940659>.

<sup>614</sup> See the paragraph beginning “In 2011, the first ‘heartbeat bills’...” in the section on “[A Condensed Chronological History of the Anti-Abortion Movement](#).”

<sup>615</sup> “Statistics of the Congressional election from official sources for the election of November 6, 2018,” Office of the Clerk, US House of Representatives (February 28, 2019), <https://history.house.gov/Institution/Election-Statistics/Election-Statistics/>, 59.

<sup>616</sup> “Justices 1789 to Present,” US Supreme Court, accessed July 22, 2019, [https://www.supremecourt.gov/about/members\\_text.aspx](https://www.supremecourt.gov/about/members_text.aspx).

<sup>617</sup> See, for example, “Brett Kavanaugh on Abortion,” On The Issues, last updated November 2, 2018, [http://www.ontheissues.org/Court/Brett\\_Kavanaugh\\_Abortion.htm](http://www.ontheissues.org/Court/Brett_Kavanaugh_Abortion.htm) and “*Juno Medical Services, LLC v. Gee*,” SCOTUSblog, accessed July 22, 2019, <https://www.scotusblog.com/case-files/cases/juno-medical-services-llc-v-gee-2/>.

*Planned Parenthood of Southeastern Pennsylvania v. Casey* and the promise of a more firmly anti-abortion Supreme Court permitted a wave of legislation at the state level,<sup>618</sup> though these developments were dependent on appointments under Reagan and George H. W. Bush (Antonin Scalia, Anthony Kennedy, and Clarence Thomas).<sup>619</sup> Unsurprisingly, one paper found in a multivariable regression analysis that anti-abortion restrictions were more likely to be adopted when their constitutionality was confirmed by previous court decisions or was unknown than when it was “suspect” (that is, likely to face a challenge) or known to be unconstitutional.<sup>620</sup>

One paper, using a LISREL linear structural equation, found a strong effect of public support for abortion (represented by the mean percentage giving anti-abortion answers three questions in polls from 1990) on a 9-point scale of 1991 state policy restrictiveness on abortion ( $\beta = -.40$ ,  $R^2 = .38$ ). The LISREL model controlled for demographic and religious factors, but not political factors.<sup>621</sup> Other scholars have found evidence that public opinion on abortion influences the policies that states adopt.<sup>622</sup> However, David Karol’s single variable regressions show that after 1982 a measure of party affiliations is a stronger predictor of senators’ voting records on abortion issues than is a measure of public opinion.<sup>623</sup>

One paper finds that both public opinion and whether or not NARAL and NRLC have local affiliates are associated with the chances of a state passing a constitutional amendment to ban abortion. When public opinion is fixed, whether the balance of interest groups is supportive, even, or hostile towards such amendments can affect the likelihood of their passage by as much as a 20% shift in public opinion would.<sup>624</sup>

<sup>618</sup> See the paragraph beginning “The Supreme Court decisions of *Webster...*” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>619</sup> See the paragraph beginning “Categorized by the voting record of justices...” above.

<sup>620</sup> Dana Patton, “The Supreme Court and Morality Policy Adoption in the American States: The Impact of Constitutional Context,” *Political Research Quarterly* 60, no. 3 (2007), 468-88. Patton controlled for factors such as public opinion.

<sup>621</sup> Matthew E. Wetstein and Robert B. Albritton, “Effects of Public Opinion on Abortion Policies and Use in the American States,” *Publius: The Journal of Federalism* 25, no. 4 (1995), 91-105.

Wetstein, *Abortion Rates*, 86-90 uses a different measure and notes that “There is a significant negative association between public support for abortion and the number of policy restrictions. The bivariate correlation between the two variables is -.42 (significant at .005)... state scores on abortion opinion account for 18 percent of the variance in the twenty-four-point policy index (R Square = .18). Moreover, the negative correlation coefficient suggests that for every 1-point drop in support for abortion, there is an increase of about 1 in the number of restrictions on abortion ( $b = -.84$ ) in the states.”

<sup>622</sup> Kevin Arceneaux, “Direct Democracy and the Link between Public Opinion and State Abortion Policy,” *State Politics and Policy Quarterly* 2, no. 4 (2002), 374 cites five other previous papers coming to this conclusion. Arceneaux’s own finding, summarized on page 383, is that “the presence of initiatives and referenda leads to better policy representation of public opinion, at least on state abortion policy,” though “It is unclear whether policy in direct democracy states is more reflective of public opinion because citizens use initiatives and referenda to produce the policies they favor, or because the threat of direct legislation keeps policy-makers closely attuned to public desires.”

<sup>623</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 81-2. By 1998, the coefficient representing the influence of party affiliations is around 0.8, compared to about 0.2 for public opinion.

<sup>624</sup> Jeffrey E. Cohen and Charles Barrilleaux, “Public opinion interest groups and public policy making: Abortion Policy in the American states,” in Malcolm L. Goggin (ed.) *Understanding the New Politics of Abortion* (Newbury Park, California: Sage Publications, 1993), 203-21. When public opinion is even and the balance of interest groups is even, the probability

Of course, if legislative decisions are put to a public vote, then public opinion becomes much more directly important.<sup>625</sup> It seems plausible that public opinion could play an additional important role in affecting whether legislation is preserved or subsequently overturned. Sociology and political science papers focused on other contexts tend to find that public opinion is an important determinant of policy outcomes, even when controlling for interest groups and elite opinion.<sup>626</sup>

- A variety of other advocacy tactics (e.g. framing, timing, model legislation) may help to secure favorable legislation.

Nossiff's book provides evidence that various factors beyond the securing of a favorable institutional context may have played causal roles in the legislative outcomes in New York and Pennsylvania. These included the use of "framing strategies" by advocates that were in accord with the political opportunities they encountered,"<sup>627</sup> shifts in public opinion (possibly caused in turn by a variety of factors beyond those

of passage of a constitutional amendment to ban abortion is 0.50. When the balance of interest groups is supportive, this rises to 0.82 and when the balance is hostile, this falls to 0.18. When public opinion is at "10% net for" the change, then the probabilities are 0.67, 0.90 and 0.32 respectively. When public opinion is at "10% net against" the change, then the probabilities are 0.33, 0.68, and 0.09 respectively. When public opinion is at "20% net against" the change, then the probabilities are 0.19, 0.49, and 0.04 respectively.

<sup>625</sup> This has happened several times at the state level in the history of the anti-abortion movement. See, for example, the paragraphs beginning "A poll in September 1972..." and "In 1988, in Colorado..." in "A Condensed Chronological History of the Anti-Abortion Movement."

<sup>626</sup> Paul Burstein, "The Impact of Public Opinion on Public Policy: A Review and an Agenda," *Political Research Quarterly* 56, no. 1 (March 2003), 29-40 explains that his review uses previous publications "as a source of data, tabulating the issues and countries studied, and the authors' predictions, variables, and findings," as opposed to "summarizing publications in a conventional narrative... To be included, a study had to gauge quantitatively (though not necessarily statistically) the relationship between opinion and policy at the aggregate level, utilizing at least one measure of opinion based on a large random (or stratified, random) sample and a clear measure of public policy... the 30 studies include estimates of 52 effects."

The results show that "[t]hree-quarters of the relationships between opinion and policy are statistically significant (or a plausible equivalent in qualitative studies; Table 2). Almost half of these were not discussed in substantive terms. When the magnitude of [the correlation] was considered, however, it was nearly always substantial. Had the magnitude been assessed in every case, the percentage in which it was substantial surely would have been considerably higher than the 35 percent found in the table... When opinion is related to policy without taking salience into account, opinion has no impact a third of the time. When salience is taken into account, however—when the measure of public opinion incorporates salience as well as substantive preferences—the combination of salience and substantive public opinion always has an effect and is of substantial policy importance over three-fifths of the time... The impact of opinion on policy is most likely to be statistically significant when more than one [interest/social movement] organization is taken into account (83 percent of the time), a bit less likely when one organization is included (78 percent), and least likely when no organizations are included in the analysis (69 percent of the time, 26 of 37 coefficients)... Taking possible elite influence into account never shows a relationship between opinion and policy to be spurious; all coefficients in studies that consider elite influence are statistically significant."

<sup>627</sup> Nossiff, *Before Roe*, 7-9. The argument on framing on pages 127-42 appears to rely on confidence in a theoretical construction attributed to Mario Diana, "Linking Mobilization Frames and Political Opportunities: Insights from Regional populism in Italy," *American Sociological Review* 61 (December 1996). Depending on the opportunities created by the "crisis of dominant cleavages," and "opportunities for change within the polity," discourses are categorized as "realignment frames," "inclusion frames," "antisystem frames," or "revitalization frames." Although Nossiff provides

highlighted explicitly by Nossiff),<sup>628</sup> the focus of anti-abortion advocacy on a Catholic audience in New York but a wider audience in Pennsylvania,<sup>629</sup> and the different timings of the two bills which may have allowed activists in Pennsylvania to better mobilize themselves after witnessing the result in New York.<sup>630</sup>

AUL has provided model legislation to state legislators seeking to enact restrictions to abortion. In 2013, AUL claimed that it “provided legal and policy resources to 39 states,” and a news organization claimed that AUL was responsible for 24 restrictive laws passed in 2011.<sup>631</sup> Although it seems hard to assess what role this has played in securing successful legislative change, and especially hard to assess whether such efforts are cost-effective, this does suggest that non-profit organizations can play a significant role in developing and shaping legislative strategy.

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evidence for the categorization of the different campaigns into these frames, it is unclear why this categorization is supposed to matter, apart from for intuitive reasons.

On page 9, Nossiff also argues that “without the structural changes to the party system effected by reform campaigns in New York and Pennsylvania, neither the use of particular framing strategies, nor the participation of groups, nor the availability of resources adequately accounts for the policy discrepancies between the two states.” Pages 13-27 detail how the parties had realigned in the previous few decades in these states. For example, Nossiff notes on page 21 that the Manhattan Democratic reformers included more women in their clubs than did the reformers in Philadelphia, and utilized a “strategy of controlling city politics by taking over the party from within, as opposed to changing the city charter.”<sup>628</sup> Nossiff, *Before Roe*, 86 notes that “After a public-opinion poll taken in New York in December 1967 indicated high levels of support for reform among Catholics and non-Catholics alike, Governor Nelson Rockefeller, who had not publicly supported reform, followed public sentiment and announced his support for changes in the abortion law.”<sup>629</sup> Nossiff, *Before Roe*, 87-8 cites a memo from the New York Catholic Conference in 1969 as evidence that “the conference continued to lobby against reform but did not attempt to broaden its base or to create grassroots support beyond the Catholic community.” The memo notes that press releases were produced and “were made available to all the Catholic newspapers in New York State.”

In contrast, on pages 109-10 Nossiff notes that in 1968, the Pennsylvania Catholic Conference (PCC) “established an Ad Hoc Committee on Abortion, based on the guidelines suggested by the Family Bureau of the United States Catholic Conference… The bureau’s program called for the active participation of the state conferences, the establishment of a Right-to-Life Committee within each diocese, and the creation of a group to foster non-Catholic support for restrictive abortion legislation.” On page 114, Nossiff notes that “The PCC, which had been expecting another reform bill since 1967, expanded its efforts on the local level with the formation of Pennsylvanians for Human Life (PHL)... Each chapter [of the PHL, from 1970] was coordinated by a priest and managed by a steering committee. Chapters were responsible for recruiting members, for community outreach and education, and for making contacts with the local news media. In addition, committees were established to coordinate letter-writing campaigns to legislators and to sponsor meetings with local representatives. Like the Catholic hierarchy on the national level, the PCC realized that to create majority support to defeat repeal and reform laws, it would have to mobilize people outside the Church. It began to recruit non-Catholics to join PHL chapters.” However, Nossiff also notes on page 110 that the PCC continued to emphasize “religious discourse.”

<sup>630</sup> Nossiff, *Before Roe*, 116 notes that “The passage of New York’s repeal bill in the spring of 1970 convinced [anti-abortion groups] that repeal was an imminent reality. ‘The New York bill showed us it could happen,’ said Sylvia Stengle, founder of the Lehigh Valley Abortion Rights Association.”

On pages 99-100 Nossiff notes that a member of the New York Assembly, Constance Cook, said in 1976 of the 1970 abortion repeal law (which passed by 76-to-73) that “If the vote were to come up today, we’d lose it resoundingly. Resoundingly. Because since 1970, every candidate, everybody who’s ever said they might think about running, gets their little visitations from anti-abortionists... this is something a politician doesn’t want to take on.”

<sup>631</sup> Both sources cited in Kaitlin Reedy, “The TRAP: Limiting Women’s Access to Abortion through Strategic, State-level Legislation” (senior thesis, 2014), [digitalrepository.trincoll.edu/](http://digitalrepository.trincoll.edu/), 43.

Of course, the mixture of political tactics and messages that work most effectively will vary from state to state (and even more from country to country), with differences in political cultures, public opinion, interest group influence, party politics, and other political variables.<sup>632</sup>

It is possible that failure of the anti-abortion movement to adopt a united political ask regarding the proposed Human Life Amendments contributed to their failure. For example, in 1983, when the Hatch-Eagleton amendment was proposed, Senator Jesse Helms, who had proposed a more radical federal bill in the previous year to ban abortion outright, abstained from voting on the Hatch-Eagleton amendment.<sup>633</sup> It is unclear, however, the extent to which this mattered, or which proposed piece of legislation made better strategic sense.<sup>634</sup>

- **Changes in some states may substantially influence the response to a social movement in the rest of the country. Lobbying and mobilization of legislators in those states could be especially cost-effective.**

Rosemary Nossiff has commented:

Before *Roe*, the 1970 abortion rights law passed in New York was far more important than the bills passed in small states like Hawaii and Alaska or the referendum in Washington that year. Indeed, it was the basis of the *Roe* decision and is cited in it. It gave legitimacy to the repeal movement in a way no other state could due to its size, diversity, and influence in the country.<sup>635</sup>

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<sup>632</sup> See, for example, Timothy A. Byrnes, “Conclusion: The Future of Abortion Politics in American States,” in Mary C. Segers and Timothy A. Byrnes (eds.), *Abortion Politics in American States* (Abingdon: Routledge, 2015; first published 1995), who lists each of these factors. The author cites the categorization of Daniel J. Elazar, *American Federalism: A View from the States* (New York: Crowell, 1972), 84-5 of the political cultures of US states as “traditionalist,” “moralist,” “individualist,” or a combination of these traits.

<sup>633</sup> Though Helms’ abstention caused the amendment to receive only 49 votes for, compared to 50 against, constitutional amendments require two-thirds of Congress to support them, so Helm’s abstention was not decisive.

Doan, *Opposition & Intimidation*, 83 notes that “For absolutist proponents, the Hatch amendment was completely unacceptable, and they felt it simply highlighted the continued insignificance of the unborn because if the Hatch amendment passed, elective abortion services would remain legal in several states.”

<sup>634</sup> Given that the movement was able to field multiple separate legislative campaigns and had the opportunity to revise its proposals in Congress, the safer legislative tactic may have been for the anti-abortion movement to attempt to rally round support for a more radical ask, and then to accept compromise on a more moderate ask if the initial legislative efforts failed. However, such an approach would have been resource intensive, and may still have failed both times.

<sup>635</sup> Email correspondence between Rosemary Nossiff (author of *Before Roe: Abortion Policy in the States* (Philadelphia: Temple University Press, 2001)) and Jamie Harris in response to a draft version of this report, dated October 27, 2019.

In “*Roe v. Wade*,” Supreme Court of the United States (January 22, 1973), <https://www.law.cornell.edu/supremecourt/text/410/113>, the majority opinion, written by Justice Blackmun, cites “The position of the American Bar Association” as the eighth item in the sixth part of the opinion, following references to “Ancient attitudes,” “The Hippocratic Oath,” “The common law,” “The English statutory law,” “The American law,” “The position of the American Medical Association,” and “The position of the American Public Health Association”: “At its meeting in February, 1972, the ABA House of Delegates approved, with 17 opposing votes, the Uniform Abortion Act that had been drafted and approved the preceding August by the Conference of Commissioners on

Additionally, before the *Roe* ruling, large numbers of abortions were carried out in New York for women from outside of the state, creating a loophole in anti-abortion legislation elsewhere in the country.<sup>636</sup> Given that New York's abortion rights law was passed by only one vote in the state assembly, greater lobbying efforts by the anti-abortion movement there could have swung the decision in favor of the status quo.<sup>637</sup>

## Movement Composition

- Close alignment with the leadership of a well-established, well-organized group that has some shared values may be an effective way to access substantial resources, even if those outside the leadership of that group do not share the relevant values.

The Catholic Church has strongly opposed abortion, as have the leaders of other branches of Christianity, especially evangelical Christianity.<sup>638</sup> Some Catholics have actively supported abortion rights<sup>639</sup> and there is

Uniform State Laws... This Act is based largely upon the New York abortion act following a review of the more recent laws on abortion in several states and upon recognition of a more liberal trend in laws on this subject. Recognition was given also to the several decisions in state and federal courts which show a further trend toward liberalization of abortion laws, especially during the first trimester of pregnancy. Recognizing that a number of problems appeared in New York, a shorter time period for 'unlimited' abortions was advisable. The time period was bracketed to permit the various states to insert a figure more in keeping with the different conditions that might exist among the states. Likewise, the language limiting the place or places in which abortions may be performed was also bracketed to account for different conditions among the states. In addition, limitations on abortions after the initial 'unlimited' period were placed in brackets so that individual states may adopt all or any of these reasons, or place further restrictions upon abortions after the initial period." This seems to be a fairly indirect influence of the New York law on the Supreme Court's decision.

In the email correspondence with Jamie Harris, Rosemary Nossiff also noted that, "[a]fter Roe, Missouri and Pennsylvania became the leading anti-abortion states. Two of the most important post-Roe Supreme Court decisions, *Danforth* and *Casey*, originated in those states." Nossiff, *Before Roe*, 151 notes that "the most significant aspect of the *Danforth* decision [1976], in terms of future attempts to restrict abortion, concerned the Court's acceptance of Missouri's definition of viability as 'when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems. Without imposing a standard of care, as the 1974 Pennsylvania act had, Missouri succeeded in gaining constitutional grounding for a definition of viability not bound by a trimester framework. This was significant, because it signaled the Supreme Court's later willingness to allow states to enact other restrictions on first-trimester abortions, such as prohibiting public funding of nontherapeutic abortions (*Beal v. Doe* and *Maher v. Roe*)... *Danforth* also helped pave the way for the Court's application of the 'undue burden' standard." On pages 161-4, Nossiff discusses the *Casey* ruling (1992), which related to Pennsylvania's 1989 Abortion Control Act which included an informed consent requirement, a spousal notification requirement, and a parental consent provision.

<sup>636</sup> Williams, *Defenders of the Unborn*, 129-30 notes that, "New York quickly became the nation's leading abortion provider, just as pro-life activists had feared. Because the state's new abortion law contained no residency requirement, any woman who could find a way to travel to New York could easily obtain a legal hospital abortion... In the first fifteen months after New York legalized elective abortion, the state's doctors performed 200,000 abortions, at least 60 percent of which were for nonresidents. Pro-lifers might be able to continue to maintain laws against abortion in many states, but with abortion services readily available in New York, such laws did little to deter women who wanted abortions from obtaining them. For all intents and purposes, the United States now had a policy of legal elective abortion for all but the poorest women." See also footnote 125.

<sup>637</sup> See the paragraph beginning "In 1970, Hawaii legalized abortions..." in the section "A Condensed Chronological History of the Anti-Abortion Movement."

<sup>638</sup> See footnote 69.

evidence that, on average, US Catholics have more liberal views on abortion than the Catholic Church's official teachings.<sup>640</sup> The statements by Catholic bishops on the abortion stances of candidates seems to have had some effect on voting, but this effect may have been quite small.<sup>641</sup> Social scientists have found mixed results for whether the proportion of Catholics in a population is positively correlated with the successful introduction of anti-abortion legislation.<sup>642</sup>

On the other hand, Catholics still tend to be more anti-abortion than mainline Protestants or the religiously unaffiliated.<sup>643</sup> Though smaller than the correlation between abortion attitudes and views on other social

<sup>639</sup> Patricia Miller, *Good Catholics: The Battle over Abortion in the Catholic Church* (Berkley, California: University of California Press, 2014) tells the story of some of these advocates.

<sup>640</sup> Tatalovich and Daynes, *The Politics of Abortion*, 133-5 note several relevant surveys, summarizing that "Throughout the 1960s, Catholics supported therapeutic indications for abortion, though at somewhat lower levels than that for non-Catholics." They summarize that the 1969 Gallup poll found that, in the case of mental health, "68 percent of the Catholics approved abortion [if the mother's health would be endangered by having another child] although they understood that the Catholic church does not allow such abortions" (the poll also asked a question to ascertain their understanding of the Church's teachings). "Similarly, when queried about child deformity, the results show that 74 percent favored abortion for this reason even though they understood that the church did not sanction abortions for this purpose."

Nancy Felipe Russo and Jean E. Denious, "Why is abortion such a controversial issue in the United States?" in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 35 note that "According to a 1987 poll, 85% of Catholics surveyed believed that a woman could both have an abortion and be a good Catholic."

<sup>641</sup> Prendergast, *The Catholic Voter*, 210-11 notes that "The retired archbishop of New Orleans, Philip M. Hannan, went so far as to declare bluntly, 'No Catholic should vote for any officeholder who believes in abortion. No Catholic should vote for the President or Mary Landrieu' (the Democratic nominee for the United States Senate)... "In the senatorial contest, a poll conducted by Professor Edward Renwick of Loyola University reported that only 11 percent of Catholic voters said they were more likely to vote against Landrieu because of Hannan's statement; 7 percent said they were more likely to vote for Landrieu because of it' and sixty-seven percent said it would not affect their vote. Mary McGrory, a liberal Catholic columnist, noting that most Catholics in voting in 1996 had ignored the apparent preference of their bishops, wrote, 'clerical clout... is a thing of the past.'"

<sup>642</sup> Medoff and Dennis, "TRAP Abortion Laws," 963-4 found a significant positive correlation between the likelihood of passing restrictive laws on abortion and the proportion of a state's population that is evangelical Christian, but an insignificant correlation between legislation and the proportion of the state's population that is Catholic.

Wetstein, *Abortion Rates*, 76-83 found that "for every increase of 5 percent in fundamentalists" as a proportion of the population in a state, "there was a drop of one percent in support for abortion in all cases." By comparison, there was no significant relationship between the percentage of Catholics and attitudes to abortion. Wetstein uses data from the National Election Series Senate Panel Study, 1988-90, in a multivariate regression (using "a factor score from principal components analysis... to purge the negative effects" that "high collinearity between income and education... would have in multivariate regression equations). R<sup>2</sup> for the model was 0.601.

Christopher Z. Mooney and Mei-Hsien Lee, "Legislative Morality in the American States: The Case of Pre-Roe Abortion Regulation Reform," *American Journal of Political Science* 39, no. 3 (August 1995), 599-627 found that a combined measure for proportion of the inhabitants of a state that were Catholic or fundamentalist evangelical Christian was significantly negatively associated ("Significant at the .01  $\alpha$ -level in a one-tailed test") with the reform of abortion regulation before *Roe v. Wade*.

<sup>643</sup> For example, James Davison Hunter, "What Americans Really Think About Abortion," *First Things* 24 (June-July 1992), using the results of several surveys commissioned by anti-abortion groups in 1990, summarizes that "Nearly nine out of every ten evangelicals and conservative Catholics are somewhere on the pro-life side of the controversy. Just over

issues, such as euthanasia, the results of one multivariate regression analysis suggest that the associations between abortion attitudes and religious variables, such as Catholic denomination and religious involvement,<sup>644</sup> are significant.

Despite these mixed findings, the early anti-abortion movement was heavily dominated by Catholics<sup>645</sup> and the Catholic Church provided organizational stability even when the support of other groups fluctuated.<sup>646</sup>

half of all those in these communities could be called consistently pro-life. Interestingly and importantly, though, one-fifth are secretly pro-life and one out of seven is conveniently pro-life. Theologically liberal Catholics also tend to be on the pro-life side of the controversy but only one out of four is consistent in his pro-life commitment... Mainline Protestants are the least homogeneous in their views of abortion, perhaps reflecting the theological disarray plaguing that community. About one-fifth of all mainline Protestants take the consistently pro-life position; another one-fifth take the consistently pro-choice position. Another one-fifth of all mainline Protestants are those who are pro-life in almost every way but think of themselves as neutral or pro-choice" the secretly pro-life. Finally, about one out of every ten mainline Protestants is found among the personally opposed pro-choice. Most secularists (about eight out of every ten) position themselves decisively on the pro-choice side of the continuum and, more often than not, are philosophically consistent and politically active in their commitments. A significant minority would not consider abortion for themselves, even given extenuating circumstances, but they are nevertheless ideologically committed to a progressive abortion morality. Yet there is a sizable and curious handful of secularists (about 16 percent) who are secretly pro-life."<sup>644</sup> Using data from the General Social Survey for whites, 1987-1991, Cook, Jelen, and Wilcox, *Between Two Absolutes*, 102 and 123 find that the mean score for a measure of abortion attitudes (where higher indicates abortion rights positions) was 3.7 for those expressing their denominational preference as Catholics, compared to 4.32 for mainline Protestants, 3.55 for evangelical Protestants, and 5.26. In multivariate regression analysis that includes 6 demographic variables, 6 measures of social attitudes, and "Bible attitude," "religious involvement," "evangelical denomination," "Catholic," "no religious preference," and "Jew," all the religious variables except "Jew" are found to be significant predictors of abortion attitudes at  $p < 0.05$ , and all of these have negative sign. Catholic has  $\beta = -0.13$ , evangelical denomination has  $\beta = -0.07$ . These variables seem similarly important predictors as the measure of ideology ( $\beta = -0.10$ ), but less important than views on euthanasia ( $\beta = -0.27$ ).

<sup>645</sup> Flowers, "Fighting the 'Hurricane Winds,'" 4 notes that "Before *Roe*, at least 75 percent of right-to-life activists were Catholic and almost all anti-abortion organizations were led by Catholics. The NRLC had formal ties to the Catholic hierarchy, was headed by Bishop James McHugh, and only added Protestants to its board in 1972."

Donald Granberg, "The Abortion Activists," *Family Planning Perspectives* 13, no. 4 (July-August 1981), 157-63 found in a survey sent to 750 members of each of NARAL and NRLC that "About 70% of NRLC members are Roman Catholic, compared to 4% of NARAL members and about 28% of the general population. 17% of NARAL members are Jewish, compared to almost no NRLC members and 2% for the general population. Protestants and blacks are relatively underrepresented in both organizations. 9 in 10 NRLC members report that religion is very important to them and that they attend services at least once a week, compared to 1 in 5 NARAL members." The NRLC would probably be more dominated by Catholics than other groups, such as AUL, however, given that it was initially formed by the NCCB and only became independent in 1973.

As one example, Nancy Felipe Russo and Jean E. Denious, "Why is abortion such a controversial issue in the United States?" in Linda J. Beckman and S. Marie Harvey (eds.) *The New Civil War: The Psychology, Culture, and Politics of Abortion* (Washington, DC: American Psychological Association, 1998), 35 note that "Blanchard (1994) report that in 1990, with support of the Vatican, the NCCB hired the public relations giant Hill & Knowlton to conduct a five million dollar public relations campaign against legal abortion. The Catholic Church is also the driving force behind other major antiabortion organizations, such as the National Right to Life Committee, a group that boasts a membership and annual budget in the millions."

<sup>646</sup> Tatalovich and Daynes, *The Politics of Abortion*, 155 note that "The pro-life movement has been able to survive minimal support from physicians and feminists because it has never really depended on them. Religious organizations and right-to-life committees have given this movement its impetus. They have brought a focus and intensity of commitment against abortion that has kept the pro-life movement strong and given it stability and direction."

This may be partially explained by the strong hierarchical structure of the Catholic Church, which may have enabled it to offer leadership on an issue that divided its followers.<sup>647</sup> Indeed, the extent of the Church's political influence may have affected abortion rates more than the proportion of a state's population that is Catholic.<sup>648</sup>

- Even if the theology of a particular religion has unclear implications for the moral issues of interest to social movements, a strong moral stance can still become normalized within a religious community that is highly influential in society at large.

The evangelical community has been heavily involved with the anti-abortion movement. For example, Care Net centers are evangelical Christian CPCs, and in one survey of CPCs (which overrepresented Care Net affiliates), 84% of respondents were evangelicals and 93% reported attending church at least once per week.<sup>649</sup> Social scientists have found that the proportion of a state that is evangelical Christian is correlated with lower public support for abortion rights and higher numbers of state laws that restrict abortion.<sup>650</sup>

Though the anti-abortion movement has found useful allies in the evangelical Christian community, this was not necessarily either an intentional tactic of its advocates or an inevitable outcome of natural religious alliances. Religious historian Randall Balmer, an evangelical Christian, argues that the associations of evangelicals with the Republican party and with an anti-abortion stance were developed in the late 1970s for tactical and political reasons, rather than religious reasons, since “the Bible is rather silent on the matter of

They also note that “William Willoughby has asserted that ‘subpoened records showed that the bishops poured \$4 million into the anti-abortion fight in 1973 alone, not counting what was spent in local situations.’”<sup>651</sup>

Williams, *Defenders of the Unborn*, 154 notes that when Louis Summerhill, “a devout Catholic fifty-two-year-old mother of seven in Toronto... launched Birthright, she had only a single-room office and had to rely on a \$400 gift from Catholic clergy in order to purchase her first phone line and answering machine.” See also footnote 85.

Comprehensive estimates of money spent by the Catholic church were not identified during the research for this report, however.

<sup>647</sup> Evans, “Polarization in Abortion,” 409, notes that the existence of polarization within the Catholic community “is consistent with the view that the strong hierarchical structure has kept an incredibly diverse group of people together in one denomination,” citing Gene Burns, *The Frontiers of Catholicism: The Politics of Ideology in a Liberal World* (Berkeley: University of California Press, 1992) and Roger Finke and Patricia Wittberg, “Organizational revival from within: Explaining revivalism and reform in the Roman Catholic Church,” *Journal for the Scientific Study of Religion* 39, no. 2 (2000), 154–170.

<sup>648</sup> Hansen, “State Implementation of Supreme Court Decisions,” 385 argues that “Concerning the relationship between the Catholic population of a state and abortion rates, the problem of model specification is also apparent. Abortion rates are higher, not lower, the larger the proportion of Catholics in a state; and the strength of this reversed relationship has increased over time. A state-by-state analysis suggests one explanation: Catholic influence in a state, rather than the absolute proportion of Catholics. The urban, industrialized states of the Northeast with large Catholic populations are characterized by religious and ethnic diversity, active women's groups, and strong demand for abortion from large numbers of black and poor residents. In Louisiana, the percent of Catholics is about the same as New York's or New Jersey's. Since the Catholic Church is in a politically more dominant position in that conservative, rural state, however, abortion facilities are very scarce.”

<sup>649</sup> Hussey, “The Pro-Life Pregnancy Help Movement.”

<sup>650</sup> See footnote 642.

abortion.”<sup>651</sup> Alesha Doan also highlights the importance of the decisions of the evangelical leadership in causing the shift in evangelical attitudes.<sup>652</sup> A paper by sociologist John H. Evans includes evidence from the General Social Survey data that “evangelical attenders became more conservative regarding abortion between 1972 and 1998,” with a measure for the “[m]ean attitude toward abortion” increasing from around 8.50 to about 9.25.<sup>653</sup> During the same period, the paper also found evidence of a convergence in attitudes on abortion between evangelicals “with at least some college education and those with no college education,”<sup>654</sup> suggesting consolidation around anti-abortion views. Evans’ paper does not offer much support for the

<sup>651</sup> Randall Balmer, *Thy Kingdom Come: How the Religious Right Distorts the Faith and Threatens America: An Evangelical's Lament* (New York: Basic Books, 2006), 7. On pages 5-7, Balmer argues that the biblical position on divorce—which evangelicals do not tend to take much issue with—is much less equivocal. Balmer describes the political engagement with abortion but not with divorce as “selective literalism” in the interpretation of the bible by evangelical leaders. He contrasts this with the Catholic Church, which also relies on “the Bible as interpreted by church tradition and ‘natural law’ for its doctrines. On pages 11-12, Balmer argues that this decision by evangelical leaders was made because “the issue of abortion has served the Religious Right very effectively for more than two decades. Although the Religious Right was slow to pick up on abortion as a political issue, it proved to be a potent one for them during the 1980s, in part because Reagan championed the pro-life cause... In the 1980s, in order to solidify the shift from divorce to abortion, the Religious Right constructed an *abortion myth*, one accepted by most Americans as true. Simply put, the abortion myth is this: Leaders of the Religious Right would have us believe that their movement began in direct response to the U.S. Supreme Court’s 1973 *Roe v. Wade* decision. Politically conservative evangelical leaders were so morally outraged by the ruling that they instantly shed their apolitical stupid in order to mobilize politically in defense of the sanctity of life.” However, Balmer argues that at the time, “the vast majority of evangelical leaders said virtually nothing about it; many of those who did comment actually applauded the decision,” and cites several examples of evangelical leaders offering support for abortion in at least some circumstances. On pages 13-17, Balmer explains that he attended a “conference in Washington sponsored by the Ethics and Public Policy Center, a Religious Right organization.” Several attendees agreed that the evangelical community had become politically active in response to challenges by the Internal Revenue Service against Christian schools. “Paul M. Weyrich, a longtime conservative activist, head of what is now called the Free Congress Foundation, and one of the architects in the Religious Right in the late 1970s” said that [in Balmer’s words] “evangelical leaders held a conference call to discuss strategy. He recalled that someone suggested that they had the makings of a broader political movement—something that Weyrich had been pushing for all along—and asked what issues they might address. Several callers made suggestions, and then, according to Weyrich, a voice on the end of one of the lines said, ‘How about abortion?’ And that is how abortion was cobbled into the political agenda of the Religious Right.”

<sup>652</sup> Doan, *Opposition & Intimidation*, 79 notes that “The 1976 presidential campaign functioned as a catalyst for fundamentalists’ participation in politics. Jimmy Carter, a born-again Southern Baptist, encouraged evangelicals to become politicized and simultaneously symbolized the arrival of fundamentalism into national politics. Religious leaders soon realized that fundamentalists could be encouraged to participate politically, and they could be molded into a largely unified voting block to support conservative candidates; resources started to be funneled to form such groups.”

<sup>653</sup> Evans, “Polarization in Abortion Attitudes,” 404-9. Evans used General Social Survey data for those who attend church “about once a month or more” for each of “mainline Protestants, evangelical Protestants, Black Protestants, Catholics,” in the years 1972-1998 in an ordered logistic regression. During this time, evangelicals’ mean attitude rose from below the Catholics to above them. “Conversely, black Protestants have liberalized at a similar rate [with “Mean attitude toward abortion,” decreasing from around 9.50 to around 8.50. Note that the responses vary per year, but the trends are clear and two-tailed tests shows significance in the ordered logistic regression for both of these groups at  $p < 0.001$ .

<sup>654</sup> Evans, “Polarization in Abortion Attitudes,” 411-6. The measure used is “dispersion (variance)” in a measure for the “Mean attitude toward abortion” for those who attend church “about once a month or more.” Evans notes that “In 1972, the mean difference between the two groups was 1.3, and in 1998 it was 0.40” and hypothesizes that “Most of this change was the result of a strong conservative movement among the group with more education.” Evans conducts other analyses which suggest that, were it not for this convergence, there would have been statistically significant polarization in attitudes of evangelicals, due primarily to demographic changes.

hypothesis that the radicalization was driven by the evangelical leadership, however. If Balmer's narrative is accurate, we would expect most of the change in attitudes among evangelicals to have occurred in the 1980s, following shortly after the leadership's tactical changes in the late 1970s. Evans' data instead shows that most of the change in attitudes occurred in the 1970s. Additionally, the growing audience and increasing politicization of evangelical religious broadcasts seems to have begun in the 1970s.<sup>655</sup>

Relatedly, practical considerations may have played a role in determining the Catholic Church's strong stance on abortion in the 1960s onwards. Political scientist Kerry Jacoby argues that there was a "Crisis in the Faith" following "the liberalizing reforms of Vatican II" (the 21st ecumenical council of the Roman Catholic Church, 1962–65) and Pope John XIII. Jacoby suggests that "In the midst of this upheaval, traditional Catholics found comfort in the solidity of their Church's positions on contraception and abortion."<sup>656</sup> This suggests that in different circumstances, the Church's advocacy may have been less influential in challenging abortion, or even weighed in the opposite direction.

- **Close association with controversial interest groups may reduce the credibility and durability of a movement, and may lead to increased factionalism and polarization on relevant issues.**

As noted above, the history of the anti-abortion movement suggests that outreach to religious groups could be useful if successful. However, it also highlights several potential downsides of close alignment with controversial interest groups with which a movement has only partially overlapping interests:

- Association with Catholicism may have damaged the anti-abortion movement's credibility among some non-Catholics.<sup>657</sup>
- In 1988-9, the Christian Right suffered several setbacks, seemingly due, at least in part, to its failure to build a wide base of support.<sup>658</sup>
- The influence of evangelicals may have led to the use of more polarizing messaging.<sup>659</sup>

<sup>655</sup> See footnotes 188 and 189.

<sup>656</sup> Jacoby, *Souls, Bodies, Spirits*, 35-8.

<sup>657</sup> Nossiff, *Before Roe*, 42 summarizes that "Pro-abortion forces in California used the Catholic Church's antagonism to their advantage by arguing that those opposed to reform were religiously motivated, a charge that delegitimized antiabortion forces in the eyes of some members of the medical community." Nossiff adds that in 1967, North Carolina became "the second state to pass an abortion law based on the ALI guidelines... Since the Catholic proportion of the population in North Carolina was the smallest in the nation in 1966 and was not a politically powerful constituency, pro-abortion supporters characterized opposition to the bill as 'a Catholic issue.'"

Flowers, "Fighting the 'Hurricane Winds,'" 4 notes that "during state legislative debates the media routinely portrayed pro-lifers as 'mere stooges of the Catholic hierarchy dedicated to imposing their own straitjacketed morality on the entire nation'... When abortion was perceived as a "Catholic issue" it was easy for right-to-life arguments to be dismissed as dogma, as had happened during the Church's failed campaign against contraception."

<sup>658</sup> See footnote 228.

<sup>659</sup> Doan, *Opposition & Intimidation*, 77-80 argues that the influx of evangelicals into the movement in the late 1970s and 1980s changed the anti-abortion movement. On pages 80-1, Doan argues that "As the decade progressed, anti-abortion discourse became firmly entrenched in religious content, and the rhetoric of fundamentalism soon came to dominate the rhetoric used by most of the pro-life movement. Activists warned that the legalization of abortion was bringing God's wrath on America. Apocalyptic, evangelical, and paramilitary rhetoric soon evolved in the pro-life movement due to the influx of Christian conservatives into the movement... Although the pattern of anti-abortion discourse emerged from

- The coexistence of separate (otherwise sometimes politically divided) Christian groups within the anti-abortion movement may have encouraged disagreements on tactics, which may have contributed to the failure of legislative efforts on one or more occasions.<sup>660</sup>

Given the potential downsides, there have been various careful efforts to ensure that the anti-abortion cause did not become too closely associated with Catholicism. These include the election of non-Catholic leaders,<sup>661</sup> the separation of the NRLC from the NCCB, and the language that anti-abortion leaders use. Although

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the more militant factions of the movement (such as the Army of God, Lambs of Christ, and Missionaries to the Preborn), the use of inflammatory rhetoric is not limited to ‘extreme’ members of the movement.”

<sup>660</sup> Doan, *Opposition & Intimidation*, 83 notes that “Catholicism opposes abortion, but the Church is not uniformly conservative on many social issues. The strain between Catholics and fundamentalists went into a brief remission with the election of Ronald Reagan (viewed as a large victory for the New Right), but within a few months, their relationship began to unravel. The ideological, methodological, and theological differences were no longer contained between the two groups, and by the end of 1980 they felt an outright animosity toward each other. The internal conflict within the pro-life movement was publicly evidenced in the two conflicting pro-life bills introduced in Congress during 1982. The Helms Human Life Statute (the Helms bill) and the Hatch Human Life Federalism Amendment (the Hatch amendment) were being deliberated in Congress. The difference between the two pro-life amendments was the absolutist position taken in each bill. Helms’s bill sought to overturn *Roe* by imposing a federal statutory ban on all abortions, whereas the Hatch amendment proposed overriding *Roe* by returning abortion decisions to the states. The Hatch amendment was more moderate and was endorsed by the Catholic Conference of Bishops in 1981, who reasoned that Christians had an obligation ‘to advocate the improvement of such laws at every stage of the legislative process.’ For absolutist proponents, the Hatch amendment was completely unacceptable, and they felt it simply highlighted the continued insignificance of the unborn because if the Hatch amendment passed, elective abortion services would remain legal in several states. Neither the Helms bill nor the Hatch amendment passed, representing a significant defeat for the pro-life movement, as well as underscoring the tension within the movement.”

Doan, *Opposition & Intimidation*, 84 adds that “The Christian Right insisted on taking pure politician positions and refused to compromise, which is very limiting and problematic when operating in an institutional system premised on political compromise.”

However, Cassidy, “The Right to Life Movement,” 145 argues that during this period, “the Catholic bishops and their supporters favored a states-rights approach, but so did the evangelicals and fundamentalists of the Christian Right. Opposition derived not only from the Protestant CAC but also from the conservative Catholics allied with the ALL, who favored an amendment that provided federal protection of fetal life.” Cassidy cites a greater number of individuals and organizations to support his characterizations of the differing views on the issue, so Cassidy’s description seems more reliable than Doan’s.

<sup>661</sup> For example, Karrer, “The National Right to Life Committee,” 541 notes that “Unlike the vast majority of anti-abortionists who were Roman Catholic, the Mecklenburgs were Methodists, politically liberal, and supported contraception. Fred [Mecklenburg] was a member of a local Planned Parenthood, which had not yet switched its position on abortion. He became [Minnesota Citizens Concerned for Life’s] first president and soon joined the NRLC board of directors. Hunt recalled that Mecklenburg was the consensus choice for president and that his Protestantism and Planned Parenthood membership enhanced his influence. Mecklenburg’s Methodism diffused the stereotype of Catholic dominance within the movement, and his Planned Parenthood connection made him more acceptable to Minnesotans wary of the Catholic Church’s intrusion into the politics of abortion.”

On 538 Karrer notes that James McHugh, the NRLC’s founder, “always considered the NRLC a separate organization and never identified it as part of the USCC [the United States Catholic Conference, where he was director of the Family Life Bureau]. He knew the movement was larger than one religious group and made the NRLC as ecumenical as possible, even when abortion rights activists constantly labeled pro-lifers as tools of U.S. bishops and emphasized that a pro-life stance was solely a Catholic position.” See also the paragraph beginning “On December 9, 1972, the board of...” in “A Condensed Chronological History of the Anti-Abortion Movement.”

there was some internal dispute over the extent to which the anti-abortion movement should be separate from organizations of the Catholic Church,<sup>662</sup> this concern among anti-abortion advocates suggests that they perceived the downsides of Catholic domination of the anti-abortion movement as outweighing its benefits. However, while survey data is lacking, the contemporary anti-abortion movement still seems to be strongly associated with Catholicism and evangelicalism.

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Nossiff, *Before Roe*, 47 argues that “From the start, the committee’s strength was on the grassroots level, and the Division urged the dioceses to form local units in each state. The relationship between the Church and the committee was a symbiotic one: by allowing non-Catholics to join, the Church was able to challenge its opponents’ charges that opposition to abortion was solely a Catholic issue. Meanwhile, the Church’s administrative support and membership base helped the committee expand its fledgling campaign against abortion reform.”

Flowers, “Fighting the ‘Hurricane Winds,’” 4 notes that “At the state level, groups like Voice of the Unborn explicitly worked to “never let a Roman collar get in front of a TV camera or microphone.” Thus AUL was explicitly and consciously non-sectarian, announcing in its opening statement that the organization needed and would “welcome the support of all Americans of good will.” AUL’s board included conservative and moderate Catholics, various denominations of Protestants (several of whom were ministers), and a handful of Jewish members. As proof of its ecumenical nature, George Hunston Williams, a Professor with the School of Divinity at Harvard University and a Unitarian minister, was elected the first Chairman.” On page 5, Flowers adds that “In November 1971 AUL issued an official press release and a statement from Professor Williams announcing the formation of a new national anti-abortion organization. Both documents emphasized the religious plurality of the group, with Williams declaring that AUL was made up of people ‘with diverse religious affiliations ... and of none.’”

On pages 8-9 Flowers adds that “AUL was striking in its conscious avoidance of religious, ecclesiastical, or theological arguments. Despite the strong spiritual beliefs of many of its members and the involvement of several ministers, AUL’s view was that the right-to-life movement needed to operate in a secular society. Williams suggested to John Hillabrand [later the founder of Heartbeat International] that the First Amendment meant that AUL had to ‘work within the framework of ... civil liberties and constitutional rights’ and should shape its approach accordingly. Although activists might be motivated by faith, they needed to move away from discussions of the soul and embrace the language of science, the law, and rights. AUL thus explicitly avoided religious arguments, attempting to develop a discourse that was ‘acceptable to humanists and theists alike.’”

Mildred Fay Jefferson, “Introduction,” in Teresa R. Wagner (ed.) *Back to the Drawing Board: The Future of the Pro-Life Movement* (South Bend, Indiana: St. Augustine’s Press, 2003), xvii-xix argues that the movement has been mischaracterized, noting that “Although often designated as ‘Conservative,’ our philosophy of defending the weak against the strong is truly a ‘Liberal’ position” and that “The Right-to-Life Movement does indeed have an impressive presence of Catholics, but biased-media representation simply fails to show those of us who are Methodist or other religions.”

<sup>662</sup> Prudence Flowers, “Fighting the ‘Hurricane Winds,’” 6-12 describes some of the internal disputes with Americans United for Life. These were not all religious in nature, but included instances where “hard line members were essentially trying to bring AUL in line with the Catholic Church’s position.”

Karrer, “The National Right to Life Committee,” 548-56 describes the organizational struggles in the NRLC over independence from the Catholic Church and internal restructuring, though disagreement to not revolve solely around the appropriate degree of proximity to the Church.

By comparison, some organizations have retained clear Catholic associations. For example, “About,” American Life League, accessed June 21, 2019, <https://www.all.org/about/> proudly notes that “if you noted the reference to Pope John Paul” contained earlier on the page, “yer, American Life League is Catholic in its philosophy and identity.”

- Political parties are more willing than expected to modify their stance on controversial issues, even in a direction that seems contrary to the views of their existing supporter base.

Outside of the leadership of the Republican and Democrat parties, abortion was not a clearly party-political issue until the mid 1980s:

- Survey data suggests that there was not a consistent, strong association between conservative political views and anti-abortion attitudes in the late 1980s<sup>663</sup> and that Republican voters only became more anti-abortion than Democratic voters at some point between the 1984 (0% difference) and 1988 surveys (5% difference).<sup>664</sup>
- Voters may not have cared enough about the issue to overcome their political affiliations in the 1980 election, and it was not until 1984 that clear divisions emerged in voting patterns between those with anti-abortion views and abortion rights views.<sup>665</sup>
- Until about 1981, there was not a much stronger correlation between left-wing positions and abortion rights positions among senators as compared to the general public,<sup>666</sup> and the percentage difference between Democratic and Republican members of Congress voting for abortion rights measures remained at around 35% or lower until 1985.<sup>667</sup>
- Anecdotal evidence suggests that some of the most active early anti-abortion advocates were left-wing.<sup>668</sup>

<sup>663</sup> See the paragraph beginning “Using data from the General Social Surveys...” in the section on “[Features of the Anti-Abortion Movement](#).”

<sup>664</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 62 shows that the average difference between survey respondents on six abortion questions in the General Social Surveys by their party support. The average gap in percentage points’ worth of support for abortion rights positions, subtracting Republican support for Democratic support, was -10 in 1972 (i.e. greater Republican support for abortion rights), 0 in 1984, +5 in 1988, and over +15% in 2004 and 2006. The graph from 1972 to 2008 shows a fairly steady trend towards increased support for abortion rights from Democratic voters and increasingly anti-abortion views by Republican voters.

<sup>665</sup> Donald Granberg and James Burlison, “The Abortion Issue in the 1980 Elections,” *Family Planning Perspectives* 15, no. 5 (September-October 1983), 231-8 notes that “In the key senate races, those who voted for the prochoice candidates held more liberal abortion attitudes than those who voted for the right-to-life candidates. This difference, although statistically significant, was not great, and was smaller than the differences related to several other issues—such as attitudes toward the role of government, women’s rights and economic policies. In addition, the difference was reduced to nonsignificance after the voter’s political affiliation and family income were controlled for.”

Cook, Jelen, and Wilcox, *Between Two Absolutes*, 167, using data from American National Election Studies, 1972-1988, note that “Abortion attitudes were not significantly associated with vote choice before 1984. In both 1984 and 1988, abortion attitudes seem to have influenced vote decisions: there was little difference between pro-life respondents and the situationalists, but pro-choice respondents were more likely than all others to vote for the Democratic candidate. Thus the divergence of the party positions seems to have led to a mild pattern of voting based on the abortion issue, principally among pro-choice citizens.” In 1980, 45% of those categorized as pro-life voted Democrat, compared to 49% of those categorized as pro-choice. In 1984, the gap widened to 36% compared to 50%, and in 1988, the gap was at 46% compared to 55%.

<sup>666</sup> See footnote 199.

<sup>667</sup> Greg D. Adams, “Abortion: Evidence of an Issue Evolution,” *American Journal of Political Science* 41, no. 3 (1997), 725. From 1985-88, the difference rose to around 42 to 50%; after this point, it rose again, reaching around 65% by 1994. This is based on Congressional roll call data.

<sup>668</sup> See footnote 383.

Given this evidence, it is surprising that the Republican party presidential candidates and the centralized party election planks had become closely associated with the anti-abortion cause by 1980.<sup>669</sup> There are several possible reasons for this shift in the Republican party's stance. Factors with potential causal importance in this change, ordered from most to least apparent importance, include:

- There was a strategic move by the Republican party to win votes from Catholics, evangelicals, and social conservatives.<sup>670</sup> This may have become more of a priority as conservative Catholics and evangelicals became more influential within the party.<sup>671</sup> Certain activists, such as Paul Weyrich and Phyllis Schlafly, seem to have had quite a large influence.<sup>672</sup> Underlying this strategic decision was the voting power of Catholics and other groups associated with anti-abortion stances. The lack of major differences in party voting between those who supported and those who opposed abortion rights until 1984 (that is, after the first election in which the parties adopted polarized positions on the

<sup>669</sup> This occurred especially from 1980 onwards. See the paragraph beginning "During the 1980 presidential campaign..." in the section on "A Condensed Chronological History of the Anti-Abortion Movement."

<sup>670</sup> Williams, "The GOP's Abortion Strategy," 513-39 argues this point. On page 513, Williams summarizes that "When the Republican national convention convened in Kansas City in 1976, the party's pro-choice majority did not expect a significant challenge to their views on abortion. Public opinion polls showed that Republican voters were, on average, more pro-choice than their Democratic counterparts, a view that the convention delegates shared; fewer than 40 percent of the delegates considered themselves pro-life. The chair of the Republican National Committee, Mary Louise Smith, supported abortion rights, as did First Lady Betty Ford, who declared *Roe v. Wade* a "great, great decision." Likewise, Vice President Nelson Rockefeller, who had taken a leading role in the fight for abortion rights in New York in the late 1960s and early 1970s, was solidly pro-choice. Even some of the party's conservatives, such as Senator Barry Goldwater, supported abortion rights. But in spite of the Republican Party's pro-choice leadership, the GOP adopted a platform in 1976 that promised an antiabortion constitutional amendment. The party's leadership viewed the measure as a temporary political ploy that would increase the GOP's appeal among traditionally Democratic Catholics, but the platform statement instead became a rallying cry for social conservatives who used the plank to build a religiously based coalition in the GOP and drive out many of the pro-choice Republicans who had initially adopted the platform. By 2009, only 26 percent of Republicans were pro-choice."

On pages 517-9, Williams explains how Nixon changed his position on abortion as part of an explicit "Catholic strategy." The article goes on to describe how Gerald Ford wrestled with his own (and his wife's) quite liberal views on abortion and the politically tempting target of winning conservative Catholic votes through a more restrictive stance on abortion.

Dave Bridge, "How the Republican Party Used Supreme Court Attacks to Pursue Catholic Voters," *US Catholic Historian* 34, no. 4 (2016), 79-106 argues that abortion was just one of three issues (alongside school prayer and busing) on which "Republican members of Congress used court-curbing proposals to publicize and take conservative positions" that "fit with majority Catholic preferences on these topics."

<sup>671</sup> Williams, "The GOP's Abortion Strategy," 533-4 argues that "As conservative Catholics and evangelicals gained control of the GOP, they bolstered the party's pro-life stance, ensuring that the issue would remain a central consideration in Supreme Court nominations and national elections. No Republican who refused to support the pro-life movement was able to gain the party's nomination for president. In 1996, when Republican presidential nominee Bob Dole suggested modifications in the party's platform statement on abortion to soften the position that he had helped to create twenty years earlier, Christian Right leaders and pro-life activists overruled the nominee's wishes and insisted that the party retain its support for a "human life" amendment. The party's official position against abortion had become the symbol for a culturally conservative movement that was more powerful than Republican Party leaders, and even the ones who had created the party platform statement were unable to reverse it... the conservative Catholics and evangelicals who joined the GOP viewed the party's stance on abortion as a symbol of the party's values and a sign that their agenda would find a welcome home in a party whose leadership had once been the preserve of Episcopalians and other mainline Protestants."

<sup>672</sup> See, for example, footnote 651.

issue) suggests that the voters themselves did not drag the Republican party into adopting a tougher stance on abortion.<sup>673</sup>

- There was a shift in the Democratic Party towards an abortion rights stance.<sup>674</sup> This may have been caused in part by the increasing role of feminists and the National Organization for Women at Democratic national conventions from 1980,<sup>675</sup> and the preceding shift towards abortion rights views within those communities,<sup>676</sup> though other factors may have influenced this too.
- There was a shift towards an anti-abortion stance among several influential Republican politicians, notably Ronald Reagan and George H. W. Bush, often as they switched their focus from local politics to a national party politics or for other reasons of political expediency. Some influential Democrats, such as Al Gore, did the opposite.<sup>677</sup>
- The success and publicity of some anti-abortion political campaigning may have incentivized the Republicans to align themselves more fully with these activists.<sup>678</sup>
- The increasing salience of abortion issues may have encouraged the parties to establish more formalized party perspectives on the issue, leading to polarization.<sup>679</sup>

<sup>673</sup> For relevant statistics, see the footnotes to the first paragraph in this section on “Association with the Republican party.” For discussion of this point, see Greg D. Adams, “Abortion: Evidence of an Issue Evolution,” *American Journal of Political Science* 41, no. 3 (1997), 727-35.

Cook, Jelen, and Wilcox, *Between Two Absolutes*, 168-9 also show financial contributions to candidates of each party in the 1988 election cycle. The authors argue that this shows that financial backers didn’t push the parties towards either anti-abortion or pro-abortion rights positions, but they don’t explain their logic clearly.

<sup>674</sup> Greg D. Adams, “Abortion: Evidence of an Issue Evolution,” *American Journal of Political Science* 41, no. 3 (1997), 721-4, using Congressional roll call data, computes a yearly abortion score (“Pro-Choice Votes Cast” divided by “Total Abortion Votes Cast”) for each party. In the House of Representatives, the Republican abortion score stayed fairly fixed at around 20% after 1976. This suggests that the polarization was caused more by changing views among Democrats (among who the abortion score shifted from around 25% to around 85%, 1973-94) than among Republicans. In the Senate, however, both parties move in opposite directions, and so the polarization was clearly not exclusively driven by Democrats.

On the other hand, the Republican Party developed a clear stance on the abortion issue chronologically earlier than did the Democrats (see the section on “A Condensed Chronological History of the Anti-Abortion Movement”). Indeed, Staggenborg, *The Pro-Choice Movement*, 82 discusses the Democrats’ “pro-choice position” in the context of the newly adopted Republican position. This is the only mention of the Democratic Party before 1980 in the book.

<sup>675</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 67 provides two citations in support of this.

<sup>676</sup> See the paragraph beginning “Though their influence...” in “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>677</sup> See David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 67-74 for examples and narratives. On pages 79-80 Karol also shows that long-serving members of the House of Representatives have changed their positions on abortion, voting broadly similarly to the rest of their party, despite their party having had a different position on abortion when they first came to serve. As one example, in 1994, all 32 long-serving democrats supported a “pro-choice” position in an abortion vote, compared to 97.2% of the 214 other Democratic members of the House. Only 15% of the 13 long-serving Republicans voted for the pro-choice position, compared to 19.9% of the other 156 Republican members of the House. Data from other votes shows similar trends.

<sup>678</sup> Staggenborg, *The Pro-Choice Movement*, 82 implies this, though does not state this point explicitly: “Perhaps because anti-abortion forces received more credit from the media than they deserved for their influence in the 1978 elections, they were taken very seriously in 1980.” See also footnote 595.

<sup>679</sup> See the section on “Changes in the Importance and Salience of the Issue” in “The extent of the success of the anti-abortion movement in the US.”

- The composition and goals of the abortion rights movement changed to become less associated with respectability and more associated with radicalism.<sup>680</sup>
  - The emphasis on HLAs in the anti-abortion movement after *Roe*, which may have been too radical for anti-abortion Democrats to be able to endorse.<sup>681</sup>
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Tatalovich and Daynes, *The Politics of Abortion*, 157 note, for example, that, “[i]t was even suggested that the [US Catholic Conference] and other supportive groups were largely responsible for making abortion a campaign issue in 1976. In 1980 the focus of the conference was at the national party level. Leaders of the conference testified before each of the major party platform committees, stressing the need to oppose abortion and to support a constitutional amendment banning it. These efforts were well rewarded since the victorious Republican party adopted nearly all the conferences’s suggestions.” Note, however, that the Democrats also distanced themselves from support for abortion (see the paragraph beginning “During the 1980 presidential campaign...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”) On page 200 they note that “In 1976 the candidacy of Democrat Ellen McCormack of New York, who based her entire campaign on abortion, showed the degree of public interest in this issue.” Although “she only drew about 1 to 3.5 percent of the vote... McCormack was able to gain a great deal of publicity for the abortion movement and forced the other candidates to address the issue. Her candidacy led to the founding of New York’s Right-to-Life party, a party that successfully outpolled the New York Liberal party in 1978.”

Though only citing one name as evidence, Williams, “The GOP’s Abortion Strategy,” 532-3 argues that “By the end of the Carter administration, rising abortion rates and concerns about sexual promiscuity prompted evangelical pastors and televangelists, such as Jerry Falwell, to begin speaking out on the issue and to create a national political coalition that made opposition to abortion a central theme. Ronald Reagan capitalized on this newfound concern over abortion by meeting with right-to-life activists in New Hampshire before the 1980 presidential primary and by continuing to advocate a constitutional amendment that would ban all abortions except those that were necessary to save a mother’s life.”

<sup>680</sup> Williams, “The GOP’s Abortion Strategy,” 521-2 argues that “During the 1960s, Republicans had generally supported the right to a “therapeutic” abortion because doctors, Protestant ministers, and the respectable middle class had done so, but by the early 1970s the abortion debate had changed; the vanguard of the abortion rights movement now consisted not of Republican-leaning members of the medical profession and the clergy but of feminists. Abortion rights advocates such as the National Organization for Women (NOW) and the National Association for the Repeal of Abortion Laws (NARAL) did not stop at advocating abortion rights in emergency health situations, as the abortion law liberalization movement had done, but instead called for legalizing “abortion-on-demand” in the belief that no woman should be forced to carry an unwanted pregnancy to term. As a consequence, the abortion rights movement moved away from its early association with Protestant-led birth-control campaigns, and became associated primarily with the feminist movement and the sexual revolution, both of which were disconcerting to many socially conservative Republican Protestants.”

For detail and supporting evidence on these claims, see the section on “Early History of the Movement” in “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>681</sup> Williams, *Defenders of the Unborn*, 215-6 argues that, “[b]y defining ‘pro-life’ as being in support of the HLA, the NRLC and other pro-life organizations effectively redefined the movement and alienated some liberal supporters. Although the pro-life movement was still thoroughly bipartisan in the mid-1970s, with large numbers of both Republicans and Democrats in the movement, pro-life liberal Democratic politicians were more likely than pro-life Republicans to oppose the HLA and to emphasize solutions that reduced the abortion rate, rather than simply making abortion illegal.” On page 220, Williams adds that, “because of the increasingly strong influence of the feminist movement, it would have been political suicide for a Democratic presidential candidate to endorse a constitutional amendment that would have banned abortion nationwide. One by one, the nation’s leading Catholic Democrats—including those who had recently supported the pro-life movement—expressed their opposition to the HLA and thus fell from grace in the eyes of the pro-life movement.”

Political scientist David Karol argues that over 50% of the change in attitudes among members of Congress was caused by “conversion or flip-flopping as opposed to replacement or turnover,” though the percentage changing their attitudes for these reasons was smaller for the Republicans than the Democrats (28% compared to 60%).<sup>682</sup>

Using data on those who attended the Democratic and Republican national conventions in both 1984 and 1988, one paper categorized attendees as either “pro-life” or “pro-choice.” The authors use a multivariate regression analysis to show that those whose views contrasted with the majority views of their party were more likely to have shifted in the direction of their party than in the opposite direction.<sup>683</sup> Focusing on the national conventions seems likely to represent party activists better than either the general public or professional politicians. The results therefore suggest that party activists converged on the new directions on abortion policy set by their party leaders. However, this convergence may have been caused simply by social pressure that would exist with or without the new directions on abortion policy and another paper, using data from National Election Studies panels, found that anti-abortion Democrat supporters were 4.6 times more likely than Democrats who supported abortion rights to switch their support to the Republican party.<sup>684</sup> This shows that rather than converge with the party view, some individuals with minority views will just switch their party allegiance.

<sup>682</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 31 explains that “The leading formula for estimating the relative importance of conversion and replacement in accounting for change within a population is Rapoport and Stone’s (1994) formula... This is the most straightforward measure available. Yet it is biased in an important way. Rapoport and Stone assume that all change among the portion of the population that is replaced from one period to the next is caused by turnover. In some instances this assumption is not reasonable.” On pages 79-81, Karol uses this formula and finds that “60 percent of the change in the mean position for the Democratic caucus stemmed from conversion. For the Republicans, however, the net conversion effect was only 28 percent, which suggests that although change among continuing GOP MCs [Republican members of Congress] was important, it was a secondary factor in explaining the repositioning of their party on abortion. The combined total effect of conversion, just under 45%, is far greater than the literature leads us to expect, and given the conservatism of the Rapoport and Stone measure it suggests that more than half of the change was probably caused by conversion.”

<sup>683</sup> Geoffrey C. Layman and Thomas M. Carsey, “Why Do Party Activists Convert? An Analysis of Individual-Level Change on the Abortion Issue,” *Political Research Quarterly* 51, no. 3 (1998), 723-49. The authors used “a four-point scale ranging from never prohibit abortions to never permit abortions,” from data from the 1984 and 1988 Convention Delegate Studies.

On page 730, they note that “Among continuing pro-life activists, nearly 30 percent of Democrats became more pro-choice, while only 13 percent of Republicans converted in a pro-choice direction. Among continuing pro-choice activists, 28 percent of Republicans became more pro-life as compared to only 12 percent of Democrats.” However, only “between 18 and 38 percent” shifted position at all.

They also found that ideological self-identification, membership of anti-abortion or abortion rights groups, their state’s political context, their support for candidates with specific views, and regular attendance at Catholic church were all significant modifiers (in their respective expected directions) of the extent and direction of changing views on abortion. On page 737 they note that regularly attending evangelical white Protestants and black Protestants seemed more likely to have shifted towards anti-abortion stances too, though neither of these effects reached statistical significance.

<sup>684</sup> Mitchell Killian and Clyde Wilcox, “Do Abortion Attitudes Lead to Party Switching?” *Political Research Quarterly* 61, no. 4 (December 2008), 561-73.

Abortion is not the only social issue over which the major political parties have changed their stances or adopted a strong position where previously the party as a whole was indifferent or mixed; Karol finds that individual attitude change accounted for a smaller proportion of party realignment on abortion than it did on trade policy, gun control, national defense, or fiscal policy.<sup>685</sup> This suggests that the major political parties could develop polarized positions on issues of interest to social movements and that it is uncertain which party will take the most sympathetic position. The influence of certain conservative activists and of anti-abortion advocates provides anecdotal evidence that affecting party alignment on farmed animal issues may be tractable for thoughtful actors, though the importance of other, less direct factors and the potential volatility of party political strategizing make the overall tractability unclear.

- Stronger alignment with a major political party might temporarily speed up progress by increasing the rate at which legislation is proposed but might also increase the chances of stagnation longer-term by encouraging political deadlock on an issue that could otherwise have transcended party politics.

It seems intuitively likely that the number of pieces of anti-abortion legislation that have been introduced is only as large as it is<sup>686</sup> due to the strong Republican party political interest in achieving demonstrable anti-abortion victories. However, there is evidence that after the parties became polarized on abortion issues, the successful passage of legislation became partially tied to the outcome of elections when this had not previously been the case.<sup>687</sup> Although the counterfactual cannot easily be assessed, it seems plausible that without strong party alignment, the anti-abortion cause would have been less likely to reach the political deadlock and stagnation that it seems to face currently.

Indeed, by the end of the presidencies of Ronald Reagan, George H. W. Bush, and George W. Bush, legislative and legal victories seemed fairly limited. Anti-abortion advocates had moved away from efforts at securing a Human Life Amendment in favor of incrementally increasing restrictions on abortion,<sup>688</sup> and the

<sup>685</sup> David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009), 1 notes that “When Robert C. Byrd of West Virginia reached the U.S. Senate in 1959, Democrats supported high levels of defense spending and favored tax cuts to stimulate the economy, even at the risk of deficits. Byrd’s party was deeply divided over matters of race and on balance less supportive of civil rights than the Republicans. Democrats also retained an inclination toward freer trade that dated back to the antebellum period. Although party positions were evidence on these and other topics, issues that now polarize the parties like abortion and gun control were not on the political agenda.”

On pages 80 to 81, Karol notes that the Rapoport and Stone measure finding that conversion accounted for 45% of the parties’ realignment (see footnote 682) suggests that “conversion accounts for less of the change in this case than I find for trade or any of the other issues I study in this book.”

<sup>686</sup> NARAL Pro-Choice America, “Who Decides? The Status of Women’s Reproductive Rights in the United States” (January 2017),

<https://www.prochoiceamerica.org/report/2017-decides-status-womens-reproductive-rights-united-states/>, 4-5 notes that in 2016, the cumulative total of pieces of anti-abortion legislation enacted since 1995 was 932.

<sup>687</sup> See the section on “Institutional reform,” especially the paragraph beginning “Republican electoral gains...” and subsequent paragraph.

<sup>688</sup> See the paragraph beginning “In 1982, two separate anti-abortion bills were introduced into Congress...” in the section on “A Condensed Chronological History of the Anti-Abortion Movement.”

Supreme Court had modified, but not overturned, the legal precedent set by *Roe v. Wade*.<sup>689</sup> Although it seems plausible that the anti-abortion movement will secure further victories under Trump's presidency, the history of the anti-abortion movement so far demonstrates that close association with one of the major political parties may not necessarily lead to radical legal or legislative change, even when political allies hold power,<sup>690</sup> since those allies may continue to prioritize other issues.

Additionally, as abortion has become increasingly divided on party-political lines, party supporters have followed their leadership and changed their views on the issues.<sup>691</sup> Entrenched partisan views on abortion issues outside the party leadership's could plausibly make it more difficult for non-political educational campaigns to change people's attitudes.

- **Social change may be more likely to occur if credible professional groups advocate for change for technical reasons before broader participation and pressure is encouraged.**

The case for liberalization of abortion law seems to have been put forward in the 1950s and early 1960s primarily by medical, psychiatric, and legal professionals.<sup>692</sup> In comparison, Catholic preaching<sup>693</sup> and local organizing<sup>694</sup> suggest that the early anti-abortion movement had more of a focus on mass influence, though many early advocates were also professionals.<sup>695</sup> The extent to which this difference made abortion reform more likely or more successful is uncertain.<sup>696</sup> Nevertheless, given that abortion was decriminalized up to the

<sup>689</sup> See the paragraph beginning "In 1992, the *Planned Parenthood v. Casey* decision..." in "A Condensed Chronological History of the Anti-Abortion Movement."

<sup>690</sup> See footnote 275.

<sup>691</sup> See the paragraph beginning "Using data on those who attended..." earlier in this section.

<sup>692</sup> See the paragraph beginning "In 1959, the American Medical Association..." in "A Condensed Chronological History of the Anti-Abortion Movement."

<sup>693</sup> See footnote 45.

<sup>694</sup> See the paragraph beginning "That same year, the National Right..." in "A Condensed Chronological History of the Anti-Abortion Movement."

<sup>695</sup> See, for example, the resistance efforts described in the paragraph beginning "In 1959, the American Medical Association..." in "A Condensed Chronological History of the Anti-Abortion Movement."

Luker, *Abortion and the Politics of Motherhood*, 127-8 also notes that "[i]n the course of our interviewing for this book, we spoke with eleven activists throughout the state who began their public opposition to abortion before the passage of the 1967 Beilenson bill [legislation that liberalized abortion in California]. Of these eleven, nine were Catholic male professionals and one was a house-wife active in conjunction with her husband, himself a Catholic male professional." The nine professionals "had graduated from elite Catholic universities such as Notre Dame and Georgetown; and they tended to be affiliated in their work lives with institutions such as Catholic hospitals, law schools, and colleges. Moreover, they were all professionally successful, having been officers in their professional organizations, notably bar associations and county medical societies... In this group of eleven activists, there were four lawyers, four physicians, one college professor, one scientist, and a housewife." Luker does not mention having taken any measures to ensure that the interviewees were representative of the anti-abortion movement at this time, but pages 249-5 mention several steps that were taken to ensure that they were some of the most active people in the area.

<sup>696</sup> Many successes for the abortion rights movement were not secured until after feminist arguments for abortion reform were made more widely and the women's movement began to support abortion rights more actively (see the paragraph beginning "Sociologist Suzanne Staggenborg notes that..." and the rest of the section on "1966-73: Legalization of abortion in some states and initial anti-abortion resistance"). This could therefore be interpreted as evidence that the professional advocates were ineffective.

point of twelve weeks of pregnancy by *Roe v. Wade*<sup>697</sup> and that this reform, as well as public opinion on the matter, have not substantially changed since then,<sup>698</sup> this provides weak evidence that social change is more likely to be successful if it is advocated for by professionals first. Additionally, the campaign for abortion reform in Hawaii in 1967-70 culminated in victory for the abortion rights movement; the abortion rights advocates seem to have been more focused on elite influencers than on the public, in contrast to the anti-abortion movement there.<sup>699</sup> These findings provide only very weak evidence for the claim that advocacy for specific issues, such as for particular changes to the manner in which food production is regulated in a country, will be more likely to succeed if professionals advocate for the change first. Farmed animal advocates should not place much weight on this strategic implication.

## Timing

- **High issue salience may contribute to political polarization and, more tentatively, to stagnation. Advocates should only focus on increasing issue salience if the timing is beneficial.**

Abortion has been a highly salient issue for decades, especially since the 1990s, but major change does not seem to have occurred to either restrict or liberalize abortion laws.<sup>700</sup> High salience may have contributed towards polarization and the two parties adopting opposing views on the issue. Although this has a variety of advantages and disadvantages, it may have contributed towards stagnation in Congress and the Supreme Court, where anti-abortion forces have gained sufficient influence to restrict abortion but not to overturn *Roe v. Wade*.<sup>701</sup> Researchers have hypothesized that high salience has contributed to political inaction in Canada, too.<sup>702</sup>

- **If a specific protest tactic is used routinely, the publicity and attention are likely to decrease. Advocates should use each protest tactic judiciously, to avoid these rapidly diminishing returns.**

<sup>697</sup> “*Roe v. Wade*,” Oyez, accessed July 16, 2019, <https://www.oyez.org/cases/1971/70-18>.

<sup>698</sup> See the section on “The Extent of the Success of the Anti-Abortion Movement in US.”

<sup>699</sup> See the paragraph beginning “Between 1967 and 1970, campaigners for abortion liberalization in Hawaii...” in “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>700</sup> Farmed animal advocacy has been ongoing to some extent since the 1970s. For example, the “Timeline of animal welfare and rights,” Wikipedia, accessed May 6th, 2019, [https://en.wikipedia.org/wiki/Timeline\\_of\\_animal\\_welfare\\_and\\_rights](https://en.wikipedia.org/wiki/Timeline_of_animal_welfare_and_rights) lists that Animal Rights International was founded in 1974, the Animal Liberation Front was founded in 1976, and People for the Ethical Treatment of Animals was founded in 1980. Clearly, it is too late for the farmed animal movement to ensure that professionals advocate for the issues before seeking a wider audience.

Additionally, the features of the abortion rights movement are not the same as the “Features of the Anti-Abortion Movement.” For example, the intended beneficiaries of the abortion rights movement—primarily women—can advocate for change directly, without having to rely on allies to represent them. Overall, the abortion rights movement seems less comparable to the farmed animal movement than the anti-abortion movement.

<sup>701</sup> See the section on “The Extent of the Success of the Anti-Abortion Movement.”

<sup>702</sup> See the section on “The Extent of the Success of the Anti-Abortion Movement.”

<sup>703</sup> Mildred A. Schwartz and Raymond Tatalovich, “Public Opinion and Morality Policy: Lessons from Canada and the United States,” *Comparative Sociology* 18, no. 1 (January 2019) suggest that “the very salience of the issues inhibited political action from conflict-avoidant politicians.”

A study (conducted by a conservative news group) found that “the three broadcast networks (ABC, CBS, NBC) covered the [2017] women’s march 129 times more than they did the 2016 March for Life.”<sup>704</sup> This suggests that regular marches do not gather much publicity, and that, if media attention is an important goal, marches may be more effective if organized in response to national developments. Of course, marches may have other goals, and it seems likely that the March for Life has grown in attendance over time.<sup>705</sup>

- **Opposition groups may mimic or directly counter the tactics used by social movements. On occasion, it may be worth temporarily delaying the use of some tactics, if opposing advocacy is a substantial threat.**

Several of the tactics employed by the anti-abortion movement were subsequently imitated by the abortion rights movement. Sociologist Suzanne Staggenborg explains that NARAL intentionally adopted certain tactics after seeing that “the pro-choice side was making a poor showing” in these areas: The use of graphic images (in their case, images of illegal abortions, rather than legal ones) and the rallying of constituents to write letters to members of Congress.<sup>706</sup> In this sense, if social movements come up against organized opposition, they should be wary that their own tactics may be used against them if those tactics are perceived to be effective. If both sides are using similar tactics, it seems intuitively more likely that progress toward a social movement’s goals will stagnate or will be decided by a war of attrition where the side with the greatest resources will prevail; there is some evidence that these outcomes occurred in the anti-abortion movement.<sup>707</sup>

## Messaging

- **As well as reducing movement credibility, the use of exaggeration and misinformation may contribute towards stagnation.**

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<sup>704</sup> Katie Yoder, “Networks Cover Women’s March 129x More Than March for Life” (January 2017), <https://www.newsbusters.org/blogs/culture/katie-yoder/2017/01/25/networks-cover-womens-march-129x-more-mar-ch-life>.

<sup>705</sup> See, for example, the attendance estimates at “March for Life (Washington, D.C.),” Wikipedia, last edited March 2019, [https://en.wikipedia.org/wiki/March\\_for\\_Life\\_\(Washington,\\_D.C.\)#Attendance](https://en.wikipedia.org/wiki/March_for_Life_(Washington,_D.C.)#Attendance). Note, however, that the estimates of march organizers may be inaccurate.

<sup>706</sup> Staggenborg, *The Pro-Choice Movement*, 69-70.

<sup>707</sup> See footnote 382.

Various anti-abortion interventions have used exaggeration, misinformation, or false advertising. For example, the film *Silent Scream* was met with criticism for its inaccuracy<sup>708</sup> and CPCs have been accused of “practicing medicine without a license” and of being “fake clinics.”<sup>709</sup>

However, abortion rights advocates have also been accused of using information misleadingly.<sup>710</sup> Sociologist James Davison Hunter argues that lying is rare but that other “distortions” are common among both sides, where advocates overstate a point of view.<sup>711</sup> To the extent that the use of such “distortions” invites the opposing side to do the same,<sup>712</sup> this may encourage stagnation by reducing the opportunity for progress through informed discussion and by polarizing attitudes.

- **Imagery that encourages bonding and builds a connection with the intended beneficiaries of a social movement may be particularly effective.**

Some states enforce mandatory ultrasound viewings for women seeking abortion, presumably on the assumption that seeing the image will increase bonding between the mother and the fetus and reduce the

<sup>708</sup> Rosalind Pollack Petchesky, “Fetal Images: The Power of Visual Culture in the Politics of Reproduction,” *Feminist Studies* 13, no. 2 (Summer 1987), 267 notes that aspects of the film raise “important questions about what one means by ‘evidence,’ or ‘medical information,’ because the ultrasound image is presented as a *document* testifying that the fetus is ‘alive,’ is ‘human like you or me,’ and ‘senses pain.’ The *Silent Scream* has been sharply confronted on this level by panels of opposing medical experts, *New York Times* editorials, and a Planned Parenthood film. These show, for example, that at twelve weeks the fetus has no cerebral cortex to receive pain impulses; that no ‘scream’ is possible without air in the lungs; that fetal movements at this stage are reflexive and without purpose; that the image of rapid frantic movement was undoubtedly caused by speeding up the film (camera tricks); that the size of the image we see on the screen, along with the model that is continually displayed in front of the screen, is nearly twice the size of a normal twelve-week fetus, and so forth. Yet this literal kind of rebuttal is not very useful in helping us to understand the ideological power the film has despite its visual distortions and verbal fraud.”

<sup>709</sup> Hartshorn, “Putting It All Together,” 109-11. Hartshorn also notes that CPCs have been subjected to undercover investigations by Planned Parenthood that were intended to show that the centers were being deceptive about their interventions.

<sup>710</sup> For example, James Davison Hunter, “What Americans Really Think About Abortion,” *First Things* 24 (June-July 1992) argues that “Survey questions are framed in ways that allow the side doing the surveying... to claim that it represents the views of the majority of Americans. The simplistic way that questions are typically worded (e.g., ‘Is abortion murder?’ ‘Should abortion be legal?’ etc.) only makes matters worse. Add to this the overt bias of research operations like the Guttmacher Institute, a kind of ministry of scientific propaganda for the abortion rights movement, and one finds very little reliable information on how Americans really view abortion and the abortion controversy.”

Hunter adds that “The day Justice Thurgood Marshall retired from the bench, and speculation about the fate of *Roe v. Wade* began to stir, Peter Jennings announced the results of a new ABC survey showing that about six of every ten Americans favored keeping *Roe* just as it is. On the surface, this seemed like compelling evidence for maintaining the status quo. But the truth of the matter... is that only about one out of every ten Americans has any real understanding of what *Roe v. Wade* actually prescribes. According to the Gallup survey, one out of four Americans thought Roe permitted abortions only during the first three months of pregnancy regardless of a woman’s reason for wanting one.” He goes on to show other common misunderstandings.

<sup>711</sup> James Davison Hunter, *Before the Shooting Begins: Searching for Democracy in America’s Culture War* (New York: The Free Press, 1994).

<sup>712</sup> James Davison Hunter, *Before the Shooting Begins: Searching for Democracy in America’s Culture War* (New York: The Free Press, 1994) provides several examples of this. One example is the use of graphic images on both sides; images of aborted fetuses by the anti-abortion movement, and of bloody coathangers (used in illegal abortions) by the abortion rights movement.

likelihood of abortion. In addition to anecdotal evidence,<sup>713</sup> there is indirect evidence from surveys and randomized controlled trials that this is likely to be effective. In a 1992 survey of 50 sonographers, 46 answered “yes” to the question “Do you believe that maternal-fetal bonding is strengthened by the sonographic demonstration of the fetus?” and 29 believed that “‘seeing’ the fetus [had] in some way influenced [their own] opinions on the elective termination of a healthy pregnancy.”<sup>714</sup> Two systematic reviews noted a lack of experimental evidence showing that ultrasound increased women’s attachment to the fetus.<sup>715</sup> Nevertheless, one included study did compare a “high feedback” group to a “low feedback group” where both groups were shown ultrasound images; “[w]omen in both conditions evidenced more positive attitudes towards being pregnant and towards the fetus following the scan.”<sup>716</sup> Five subsequent studies have found

<sup>713</sup> John C. Fletcher and Mark I. Evans, “Maternal Bonding in Early Fetal Ultrasound Examinations,” *New England Journal of Medicine* 308, no. 7 (1983), 392-3 detail “two cases in which women in late first or early second trimester of pregnancy reported feelings and thoughts clearly indicating a bond of loyalty toward the fetus that we and others had associated only with a later stage of fetal development.” These feelings were expressed after viewing ultrasound, both of which explicitly mentioned that the ultrasound viewing made them more likely or determined to carry the baby through to term. The authors therefore suggest that, “[u]ltrasound examination may thus result in fewer abortions and more desired pregnancies.” Of course, neither of these examples had any sort of control, and the findings are in no way the result of any sort of scientific experiment.

<sup>714</sup> Miguel A. Ruiz and Kathleen Murphy, “Sonographer-Fetus Bonding,” *Journal of Diagnostic Medical Sonography* 8, no. 5 (September 1992). There was a notable shift towards more restrictive self-reported views among the sonographers; a total of 7 had previously believed “Prior to [their] experience in obstetrical sonography” that “elective termination of a healthy pregnancy” “Should be permitted throughout term” or “Should be permitted throughout 2nd trimester.” This fell to 3 “today” [i.e. in 1992]. 12 had previously believed that it “Should not be permitted at all” and this rose to 17. Note that questions 8 and 9 ask how their views had changed with time, and do not specify that their “experience in obstetrical sonography” needed to have caused the changes, although this is implied by the phrasing of the previous question.

<sup>715</sup> Jo Garcia, Leanne Bricker, Jane Henderson, Marie-Anne Martin, Miranda Mugford, Jim Nielson, and Tracy Roberts, “Women’s Views of Pregnancy Ultrasound: A Systematic Review,” *Birth* 29, no. 4 (December 2002), 233 summarize that attachment “has not been assessed in trials comparing ultrasound with no ultrasound.”

C. Baillie, J. Hewison, and G. Mason, “Should ultrasound scanning in pregnancy be routine?” *Journal of Reproductive and Infant Psychology* 17, no. 2 (1999), 153 note that “Despite the compelling nature of these verbatim accounts, many are drawn from self-selected samples and may not generalize to the majority of women receiving routine ultrasound examinations. Two trials failed to demonstrate differences in maternal-fetal attachment in scanned and unscanned ‘low risk’ pregnant women (Heidrich & Cranley, 1989; Kemp & Page, 1987). Kemp and Page (1987), comparing attachment in normal and high risk pregnancies, found no significant relationship between undergoing an ultrasound examination and attachment in the third trimester of pregnancy in their ‘low risk’ sample.” Heidrich and Cranley (1989) found no significant differences in attachment between women who had experienced ultrasound guided amniocentesis (on the basis of maternal age), a routine ‘dating’ ultrasound scan or routine manual examination. Several authors have also reported that attachment was not increased by knowledge of fetal sex (Grace, 1984; Wu & Eichmann, 1983) nor being able to see the ultrasound monitor (Reading et al., 1984). All prospective studies have reported a significant linear increase in attachment regardless of technological intervention. These results suggest that prenatal attachment, which may occur naturally or be facilitated by aspects of antenatal care, increases independently of ultrasound examination.”<sup>716</sup>

<sup>716</sup> A. E. Reading and S. Campbell, “The Psychological Effects of Ultrasound Scanning in Pregnancy,” in H. J. Prill, M. Stauber, and P. G. Pechatschek (eds.) *Advances in Psychosomatic Obstetrics and Gynecology* (Berlin and Heidelberg, Springer, 1982). They explain that “The high feedback group were shown the monitor screen and provided with standardised visual and verbal feedback as to fetal size, shape and movement. The scan was prolonged to ensure movement was seen. The women in the low-feedback group received scans but were unable to see the screen and received only a global evaluation of the form ‘all is well.’”

similar results but all six studies lacked no-scan control groups.<sup>717</sup> One study also found that “the odds of a woman having an abortion who lives in a state with an ultrasound law are only 25.4 percent of the odds for a woman having an abortion who lives in a state without such a law” but this study did not account for potential confounding factors like advocacy or attitudes in the state.<sup>718</sup> It is plausible that these results reflect the effects of graphic and emotive imagery, rather than images that encourage bonding; there is also anecdotal evidence that graphic imagery has been effective in the anti-abortion movement.<sup>719</sup>

- Some issue framings, such as violent or highly religious rhetoric, may mobilize specific subsets of advocates but have unclear (possibly counterproductive) effects on wider movement outcomes.

A book by Carol Mason provides evidence of the importance of violent messaging in the anti-abortion movement, arguing that “The apocalyptic narrative of pro-life politics is what, in effect, creates new abortion warriors, producing soldiers in the Army of God.”<sup>720</sup> Although it seems clear that some committed anti-abortion activists are influenced by and further propagate such language, this is not strong evidence that such language is convincing to the wider public, or to those with especially strong influence over the law

Although they do not provide much detail of their methodology, omitting information such as the questions used to assess attitude or the sample size, they note that “The groups were comparable in terms of age, social class distribution and obstetric details. The adjective ratings towards the fetus and being pregnant were subjected to a repeated measures analysis of variance.”

<sup>717</sup> B. Sedgmen, C. McMahon, D. Cairns, R. J. Benzie, and R. L. Woodfield, “The impact of two-dimensional versus three-dimensional ultrasound exposure on maternal–fetal attachment and maternal health behavior in pregnancy,” *Ultrasound in Obstetrics and Gynecology* 27, no. 3 (March 2006), 245–51 found that “Maternal–fetal attachment increased after both 2D and 3D ultrasound exposure.” They add that “and the effect was moderated by the timing of exposure, with women receiving their first ultrasound examination at around 12 weeks [as opposed to 18 weeks] showing the greatest change.” The study only contained 68 women, however, and did not include a control group.

Three other studies comparing different types of ultrasound exposure (without control groups) included in Jeanne L. Alhusen, “A Literature Update on Maternal-Fetal Attachment,” *Journal of Obstetric, Gynecologic and Neonatal Nursing* 37, no. 3 (2008), 315–328 suggest that ultrasound increases attachment overall, by comparing pre- and post-exposure measurements.

A similar result was found subsequently in E. A. P. de Jong-Pleij, L. S. M. Ribbert, L. R. Pistorius, E. Tromp, E. J. H. Mulder, and C. M. Bilardo, “Three-Dimensional Ultrasound and Maternal Bonding, a Third Trimester Study and a Review,” *Prenatal Diagnosis* 33, no. 1 (January 2013). They summarize that “One hundred sixty Caucasian women attended a third trimester 3D/4D or 2D US [ultrasound] examination. Women filled out the Maternal Antenatal Attachment Scale (MAAS) 1 to 2 weeks before (MAAS1) and 1 to 2 weeks after (MAAS2) the US examination... Within both US groups, the MAAS2 scores were significantly higher than the MAAS1 scores ( $p < 0.0001$ ). No differences in MAAS scores between the US groups emerged.”

<sup>718</sup> Mark Gius, “The Impact of Ultrasound Laws on the Demand for Abortions by Young Women,” *Journal of Applied Business and Economics* 12, no. 5 (2011), 54–65.

<sup>719</sup> Williams, *Defenders of the Unborn*, 133 notes that Fr. Paul Marx, “a Benedictine sociology professor at Saint John’s University in Minnesota” showed “a medical film of a vacuum aspiration abortion procedure... to some Catholic college students in order to alert them to the full horrors of abortion. ‘A few students who were sympathetic to abortion were turned off completely, and some even walked out in disgust,’” wrote Marx to the bishop of Duluth.

See also the paragraph beginning “In 1984, the NRLC and Bernard Nathanson...” in “A Condensed Chronological History of the Anti-Abortion Movement.”

<sup>720</sup> Carol Mason, *Killing for Life: The Apocalyptic Narrative of Pro-Life Politics* (Ithaca: Cornell University Press, 2002), 4.

affecting abortions. Intuitively, such language seems divisive and likely to reduce the mainstream credibility of the movement.

## Potential Items for Further Study

Has the passage of laws restricting abortion or abortion providers led to greater momentum for the anti-abortion movement or complacency that the battle has already been won at the state level? An in-depth look at individual states and considering opinion poll results in comparison to local legislative efforts could provide better evidence. I did not identify any books that analyzed such processes in sufficient detail; the closest was Mary C. Segers and Timothy A. Byrnes, *Abortion Politics in American States* (Abingdon: Routledge, 2015; first published 1995), which includes a series of state case studies, but focuses on the localized political struggles and causes of legislative outcomes, rather than their consequences.

How did the anti-abortion movement develop in other Western nations? Was it more or less successful than the US movement? What effects did the strategic factors considered here have in those countries? For example, how important was the lesser alignment between party politics and positions on abortion in determining the extent of success or failure of the anti-abortion movements there? How did the varying importance of morality issues in party politics in different countries affect the abortion issue? If certain findings seem consistent across countries, this would suggest that we should place more weight on them when seeking to understand the best strategy and tactics to use in the farmed animal movement. Note that some scholars have written works directly comparing the US anti-abortion movement with anti-abortion movements in individual other countries.<sup>721</sup>

How important were different messaging tactics and specific arguments in swaying the judgements of Supreme Court justices? A more detailed analysis of the legal history of the anti-abortion and abortion rights movements could provide more actionable insights for the judicial strategy of advocates seeking to secure rights for animals, such as through legal personhood. “The Right to Abortion and the U.S. Supreme Court, 1971-1973” in David J. Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: MacMillan, 1994), 473-599 would be a good starting point for this enquiry.

What important evidence relating to the effectiveness of the anti-abortion movement is known by advocates but is not well-documented in the historical and social scientific literature? Interviews with anti-abortion advocates and their opponents could lead to further insights and provide evidence on questions more specifically tailored to the interests of the farmed animal movement.

What effect have different messaging strategies had on the US public? Surveys of the current US population could be conducted to seek answers on questions more specifically of interest to the farmed animal movement such as this.

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<sup>721</sup> See, for example, Mildred A. Schwartz and Raymond Tatalovich, “Public Opinion and Morality Policy: Lessons from Canada and the United States,” *Comparative Sociology* 18, no. 1 (January 2019) and Annilla Linders, “Victory and Beyond: A Historical Comparative Analysis of the Outcomes of the Abortion Movements in Sweden and the United States,” *Sociological Forum* 19, no. 3 (September 2004), 371-404.

How much money have anti-abortion groups spent on various tactics? Are there any indications of volunteer time inputs? How does this compare to the spending of their abortion rights opponents? What, if anything, does this tell us about the cost-effectiveness of the movement's various tactics? A systematic check through the annual reports of all the "Advocacy and Abolitionist Groups" listed by the Death Penalty Information Center<sup>722</sup> could be informative, if they are accessible.

Does a closer reading of analyses of issue framing offer a better understanding of the causes of particular successes or failures of the anti-abortion movement? Several books and articles examine the anti-abortion movement's "framings" and narratives, but I did not spend long looking at these, as they seemed to offer little empirical information. Beyond abortion, does the social science literature offer much empirical evidence about the importance of framing, or how to best influence narratives positively? Reading Mario Diana, "Linking Mobilization Frames and Political Opportunities: Insights from Regional populism in Italy," *American Sociological Review* 61 (December 1996), 1053-69 and the papers that cite this article could be a good starting point.

Are there important contributions in the historical and social scientific literature on the anti-abortion movement that I have not included here?

Beyond abortion, how and why have political parties developed polarized positions on social issues? What proportion of social issues have developed polarized party political lines? What effects has this had on the development of those issues? Searching through the papers that cite David Karol, *Party Position Change in American Politics: Coalition Management* (New York: Cambridge University Press, 2009) would be a good starting point.

Beyond abortion, how well does the theory proposed in Charles H. Franklin and Liane C. Kosaki, "Republican Schoolmaster: The U.S. Supreme Court, Public Opinion, and Abortion," *The American Political Science Review* 83, no. 3 1989), 751-71 hold up? The theory suggests that in contexts in which groups have homogenous views, widely publicized, salient events and developments will lead individuals to converge towards a group norm. This will increase polarization between groups, even if effects on the aggregate attitude of the whole population seem negligible. However, in contexts in which groups lack homogenous views on an issue, the effects of widely publicized events will vary more by individual. The article has 348 citations on Google Scholar, and a fuller understanding of the empirical evidence supporting or challenging this theory could be useful. In the longer-term, how important are these effects in comparison to effects on shifting framings of an issue that arise from the salient event or development? At the time of publication of this case study, Sentience Institute has already begun additional research into some of these questions.

Beyond abortion, what are the determinants of Supreme Court decisions? A good place to start for a review of this literature would be to look up the references listed in Linda Greenhouse, "Public Opinion & the

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<sup>722</sup> "Related Websites," Death Penalty Information Center, accessed October 16, 2019, <https://deathpenaltyinfo.org/resources/related-websites>.

Supreme Court: The Puzzling Case of Abortion," *Daedalus* 141, no. 4 (2012), 69-82. Sentience Institute has also begun research into this question.

Beyond abortion, what do social scientists find about the extent to which public opinion affects policy, and how does this compare to the importance of variables such as partisan control? A good place to start for a review of this literature would be to search the papers citing Matthew E. Wetstein, *Abortion Rates in the United States: The Influence of Opinion and Policy* (Albany, NY: State University of New York Press, 1996).

Beyond abortion, does the social scientific literature focused on "morality policy" have empirical findings of interest to the farmed animal movement?

Beyond abortion, what proportion of social and moral issues do religious groups appear to have adopted active political stances on in recent times (say, since 1945)? Is there other evidence that religious groups may adopt active stances based substantially on practical considerations, rather than theological ones? Searching the papers citing many of the works referenced here, such as Kenneth D. Wald and Allison Calhoun-Brown, *Religion and Politics in the United States* (Lanham, MD: Rowman and Littlefield, 2014), could be a useful starting point.

Beyond abortion, does the sociology literature on social movement mobilization offer much empirical evidence about the importance of various factors or triggers in driving individuals to get actively involved in a social movement? The sociology literature on this topic seems to be very large, and so a full literature review could be very time consuming, possibly without bringing much benefit. There may, however, be some low-hanging fruit from a review of textbooks and existing literature reviews. Searching the the papers that cite Ziad W. Munson, *The Making of Pro-life Activists: How Social Movement Mobilization Works* (Chicago: The University of Chicago Press, 2008) could be a good starting point.

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