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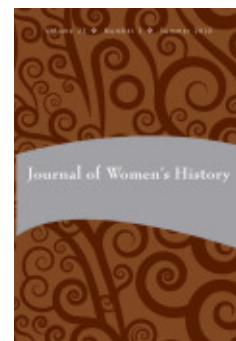
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Rethinking the Mantra that Abortion Should be “Safe, Legal, and Rare”

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REFLECTIONS

Rethinking the Mantra that Abortion Should be “Safe, Legal, and Rare”

Tracy A. Weitz

Abortion is the most contested social issue of our time.¹ Recent events, including the assassination of Dr. George Tiller, an abortion provider in Kansas, and the fight over health care reform, demonstrate the intense polarization of the ongoing debate over abortion.² This article examines how the desire to find an end to the abortion wars led to the widespread adoption of the rhetorical mantra that abortion should be “safe, legal, and rare.” By tracing the history and consequences of this paradoxical position, this paper provides insight into the intractability of the abortion conflict in the United States. The paper begins with a review of the transition from libratory to consolatory language regarding the role of abortion in society. I then argue that women’s health and well-being are harmed when desires to resolve the social conflict over abortion are prioritized over women’s need for abortion. Additionally, the adoption of the mantra that abortion should be rare increases the stigma associated with abortion. I demonstrate how focusing on making abortion rare reduces access to care and sets up unrealistic goals related to the number of abortions that should occur in the United States.

Analysis of fertility patterns in the United States find that before ending her reproductive years, one in three women will have an abortion.³ Perhaps the most powerful argument there is for the legality and morality of abortion is its commonness. An alternative approach to that of wanting abortion to be rare would recognize the importance of abortion access for women and the meaning of abortion for women’s equality. This new approach does not shy away from the difficult conversations about abortion but rather accepts abortion as a highly contentious issue in modern society and one for which there is no simple solution.

From Libratory to Conciliatory Language Regarding the Role of Abortion in Society

Within the feminist movement, the *Roe v. Wade* decision [410 U.S. 113, 1973] recognizing the constitutional right to abortion was greeted with libratory language about women’s freedom and right to bodily autonomy. Not

only was abortion necessary to save women's lives, the argument forwarded by physician advocates for legal abortion, it was central to women's place in society. Abortion was articulated as a way for women to shape the destiny and course of their lives and the right to abortion became synonymous with notions of modern feminism. "Abortion on demand" and "abortion without apology" were two slogans adopted by radical feminists to express an unqualified support for both the right to abortion and the use of abortion.⁴

The 1970's were also a time of growing strength of the anti-abortion movement. Single issue politics expanded through the formation of political action committees (PACs) with the sole purpose of electing candidates who were opposed to abortion rights. Efforts culminated in the 1980 election of Ronald Reagan as a "pro-life" president who would use the executive branch to forward an anti-abortion agenda.⁵

In the 1980s, the nature of the fight over abortion shifted dramatically from a struggle to change the legal status of abortion to a larger culture war over the social meaning of abortion. As articulated by abortion rights opponents, the goal was to change the hearts and minds of the American public and make abortion a non-normative practice that is unworthy of societal approval. The strategies were multidimensional and included humanizing the fetus through the widespread distribution of fetal images and exposing the "truth" about abortion by disseminating graphic images of the abortion procedure.⁶

Abortion clinics and their patients became the direct target of large-scale anti-abortion demonstrations at which anti-abortion activists blockaded clinics in order to prevent women from obtaining abortions. The most famous of these were the Siege on Atlanta, GA during the 1988 Democratic National Convention and the Summer of Mercy in Wichita, KS in 1991. In Kansas, thousands of pro-life protesters converged on the city over a forty-two-day period and more than 2,500 protesters were arrested.⁷ While many direct-action efforts were nonviolent, some activists began advocating for more violent tactics designed to shut down the clinics through bombings, arsons, buric acid attacks, and even the direct killing of physicians.⁸ Pro-choice groups responded with active clinic defense strategies and national marches. Media coverage was extensive and focused on the direct conflict between the supporters and opponents of abortion in public spaces.⁹ Consequently, abortion became understood by the American public as an angry hostile debate between two sides both aimed at winning at all costs.

The amped up volatility of the abortion debate in the United States led many in politics and public advocacy to desire a way to end the abortion war. It was at this point in the history of abortion in the United States that the phrase "safe, legal, and rare" entered into the common discourse about

what American's should think about abortion. As the phrase suggests, the goal is to resolve the conflict over abortion by maintaining its legality but reducing its use.

The first national figure to adopt this approach was Bill Clinton during his 1992 presidential campaign. On his first day in office President Clinton, while reversing the anti-abortion policies of the Reagan-Bush I administrations, invoked this new paradoxical approach of affirming abortion rights within the context of wanting lower use of abortion: his vision was "an America where abortion is safe, legal and rare."¹⁰ Since the phrase's introduction in the mid-1990s, most pro-choice politicians have used it in answering a question about their support for abortion rights.¹¹ The mainstream press also recognizes the wide acceptance of this position. In 2003, *USA Today* wrote about abortion: "[A] right most Americans want preserved: reproductive choice that makes abortions safe, legal and rare."¹²

Advocacy organizations also began to adapt to this new desire for a middle ground to end the conflict. For example, NARAL, first formed in 1967 as the National Association for the Repeal of Abortion Laws and with legalization changed its name to the National Abortion Rights Action League in 1973. In 1993 NARAL changed its name to the National Abortion and Reproductive Rights Action League and launched the "Real Choices" campaign "to highlight the goals of its expanded mission: to preserve access to abortion while working to enact policies to make abortion less necessary." In 2003 the organization would go even further changing its name to "NARAL Pro-Choice America." In this iteration NARAL became an expression rather than an acronym, removing the word abortion from its name entirely. In 2005 NARAL's work prioritized a "prevention first campaign" to reduce the need for abortion.

A Critique of the Goal of Making Abortion "Rare"

What could be wrong about wanting abortion to be "rare?" At first glance the declaration seems imminently reasonable as it could be interpreted as the desire to make abortion rare in an individual woman's life. She would thus have the healthcare, contraception, gender equity, social change, and economic resources she needs to control her fertility. It is probably true that most women do not proactively desire to have an abortion in their lives. However, acknowledging women's individual desires to avoid an unintended pregnancy is qualitatively different from a social goal of making abortion rare on the aggregate.

First and foremost the desire to make abortion "rare" creates an immediate normative judgment about abortion. While a major piece of art may

be "rare" and thus even more valued, such is not the meaning in this case. Rather "rare" suggests that abortion is happening more than it should, and that there are some conditions for which abortions should and should not occur. It separates good abortions from bad abortions. It creates an understanding that women's individual decision making is somehow responsible for the violent disruptive social conflict over abortion in the United States. The general sentiment is that if women were just more responsible we as a nation would be less polarized over abortion. In an op-ed in the *New York Times* entitled "This Is the Way the Culture Wars End," liberal columnist William Saletan explained this location of blame: "This isn't a shortage of pills or condoms. It's a shortage of cultural and personal responsibility. It's a failure to teach, understand, admit or care that unprotected sex can lead to the creation—and the subsequent killing, through abortion—of a developing human being."¹³

Such individualization of responsibility is harmful to women. Abortion is currently one of the most stigmatized events in a woman's life and the widespread endorsement of "rare" both produces and reproduces this stigma.¹⁴ A recent review of mental health and abortion found profound psychological implications of stigma. According to experimental studies stigmatization can create negative cognitions, emotions, and behavioral reactions that can adversely affect social, psychological, and biological functioning. Societal stigma is seen as particularly pernicious because it leads to internalized stigma in which women adopt the negative societal beliefs and stereotypes about themselves.¹⁵

The inherent delegitimization of abortion in the call for it to be "rare" was pointed out early on by a conservative anti-abortion blogger "[T]he phrase actually brings up an important question: if abortion is merely a medical procedure—a simple choice, then why should it be rare?"¹⁶ Recently Pastor Rick Warren, who provided the invocation at President Obama's inauguration, reiterated the critique when challenging Obama's pro-choice position: "Now, I don't understand the, the idea of it should be rare and, and less. Well, either you believe it's life or you don't. It—why would you believe it should be rare? Because if, if it's not—if a baby, a fetus is not a life, then why restrict it?"¹⁷

As this sentiment suggests, support for making abortion rare, presupposes that abortion is wrong and somehow different than other health care. This ongoing marginalization of abortion as a different type of health care, one in which the goal is reduced use rather than expanded access and enhanced quality, has contributed to the significant decline in the number of locations where abortions are performed in the United States. In 2004, only 1,787 facilities continued to provide abortion care and 86 percent of counties

were without a known abortion provider.¹⁸ Increased access to care is not part of the “rare” message and efforts to expand services could be construed as working against the goal of making it less frequently used.

Similarly, the call for abortion to be rare negates mandates for routine training in abortion. In the United States today, less than half of all obstetrics and gynecology residency programs offer routine training in abortion care and only 11 of the 480 family practice programs acknowledge attention to abortion care within the curriculum.¹⁹

More insidious, the uniform acceptance that fewer abortions is good creates the inability to recognize the consequences of reduced access or to accept credit for efforts that actually increase the number of abortions. For example, in 2009, the Guttmacher Institute released a reanalysis of earlier data regarding the effect of Medicaid restrictions on women’s use of abortion. Abortion opponents quickly utilized the data to demonstrate the success of their efforts at reducing abortion: “Overall, the results indicate that there is a very strong consensus among both the public-health researchers and economists that public funding restrictions lower abortion rates.”²⁰ Instead of supporting the conclusion that the number of abortion in the United States should be higher than it is given barriers to care, the Guttmacher Institute released a statement qualifying their findings: “The availability of coverage, while important at the individual level, cannot be expected to increase the overall numbers of abortion more than nominally—if at all.”²¹ The author of this statement was a proponent of the “rare” mantra.²²

The third critique is that the call for abortion to be “rare” legitimizes efforts to restrict its use. Prior to 1989, laws interfering with a woman’s right to abortion were ruled unconstitutional. The shift in the composition of the Court under the Reagan and Bush I administrations led to the 1989 and 1992 *Webster* and *Casey* Supreme Court decisions establishing a threshold of “undue burden” for the constitutionality of state-based restrictions.²³ Under this new legal regime, states can demonstrate a preference against abortion through the implementation of waiting periods, parental involvement, mandatory information, and scripted provider speech requirements; since 1994, almost every state has done so. These laws vary in their construction and studying the effects of these laws is difficult but suggests that additional barriers to abortion disproportionately affect traditionally vulnerable populations.²⁴ For example, the most severe waiting periods require two in-person visits to the clinic with a prescribed time between visits. In a world where many women lack paid sick leave and childcare, access to a provider in their community, and affordable transportation/lodging, a two-visit requirement may be insurmountable to some women.

Mandatory information laws often include significant amounts of misinformation.²⁵ For example, six states require that women be informed

of the unsubstantiated link between abortion and breast cancer, eight states the unsupported ability of a fetus to feel pain at a certain point in gestation, and seven states the supposed long-term negative mental health consequences.²⁶ Each of these claims is contrary to recognized science.²⁷ The content of scripted provider speech continues to negatively evolve. For example, in South Dakota physicians must tell a women that the abortion will "terminate the life of a whole, separate, unique, living human being; that the pregnant woman has an existing relationship with that unborn human being, and that the relationship enjoys protection under the U.S. Constitution and under the laws of South Dakota; and that by having an abortion, her existing relationship and her existing constitutional rights with regards to that relationship will be terminated."²⁸ Notions that abortion should be "rare" contribute the environment in which these pejorative laws are seen as acceptable.

The fourth flaw in the call for abortion to be "rare" is that it sets up an expectation that abortion can be reduced to a specific number at which the country will come to an agreement about abortion being acceptable and uncontroversial. Central to the rare argument is a belief that the conflict surrounding abortion is related to frequency.

Unfortunately, numbers have little to do with ongoing opposition to abortion and the rarity of some abortions seem to be their reason for aversion. Take for example the situation of George Tiller, MD, the physician recently killed in Wichita, KS. In addition to having a robust practice of first-trimester and early second-trimester procedures, Dr. Tiller also provided medically indicated abortions in the third trimester. While these abortions were "rare" in numerical sense, occurring only 2,400 times a year in the entire country, they were the abortions for which he was most reviled.²⁹ The rarity of these procedures did not provide any protection for Dr. Tiller. Instead the specialness of those abortions provided evidence that such abortions were abnormal.

Other examples support the argument that the frequency of abortion is unrelated to the size or strength of the conflict. For example, one of the largest fights over abortion in recent years was waged in South Dakota when in 2006 the state legislature banned abortion and the ban was narrowly reversed in two public referendum. Ironically, in 2005, the year prior to the ban, only 790 women obtained abortions in South Dakota, suggesting that frequency and controversy are not associated.³⁰ Likewise, in Texas a 2003 law mandating that abortions after sixteen weeks be performed only in facilities licensed as ambulatory surgical facilities led to a 87 percent decline in the number of later abortions performed in 2004 in that state.³¹ The conflict over abortion in Texas, however, remains unchanged. Finally, the significant

decline in the teen pregnancy and abortion rates in California between 1996 and 2000 did not result in a subsequent reduction in the fight over abortion among adolescents.³² California still experienced resource-intensive ballot initiative fights over parental consent in 2004, 2005, and 2007.³³

But just how far could the United States reduce the number of abortions and would that meet the threshold for “rare”? The answer to this question employs the standard set by the NIH Office of Rare Diseases Research which defines a rare disease as one having a prevalence of fewer than 200,000 affected individuals in the United States.³⁴ Currently there are 1.2 million abortions per year in the United States. Thus the number of abortions would need to decline by 83 percent to meet this threshold. Such a reduction is both unrealistic at a practical level and impossible with current contraceptive options. All contraceptive methods have failures—both due to the method themselves and due to user errors. Currently 54 percent of all abortions happen to women using birth control.³⁵ For the purposes of this argument let us assume that all women used contraception perfectly over the course of their sexual lives when not trying to get pregnant and used the method with the very lowest failure rate, the intrauterine contraception or IUC. With 61 million women of reproductive age and a desire for an average of two children per woman, the number of unintended pregnancies would still be greater than 200,000 per year.³⁶

The Netherlands provides an example of what might be more realistic and possible. With one of the lowest abortion rates in the world at 8.4 per 1,000 women, there are still over 34,000 abortions per year—not meeting the incidence rate for “rare” given the population of only 16 million.³⁷ While held up as a model for family planning and sexuality education, abortion happens routinely in the Netherlands.³⁸ And U.S.-based pro-life groups remain loudly opposed to abortion in Netherlands.³⁹ In August 2009, the World Congress of Families, an international coalition of pro-family groups, held their fifth international meeting in Amsterdam. U.S. pro-life groups were well represented and very active in opposing Dutch policies on abortion.

Accepting the Difficulty of the Abortion Debate in the U.S.

As this article suggests the rhetorical strategy to support making abortion “safe, legal, and rare” does not achieve the underlying goal of reducing the social conflict over abortion and has real consequences for women’s health and well-being, including reducing access to care, increasing stigma, justifying restrictions, and establishing unattainable goals. Consequently, it is unrealistic to equate the debate over abortion to the number of abortions that occur and to assume that a reduction would be met by an equal reduction in the strength of the conflict.

While serving as a short term diversion for those seeking to avoid immediate conflict, the strategy of wanting abortion to be "rare" does nothing to secure the ongoing right to abortion that is grounded in real access to excising that right. A more realistic approach to securing the right to have and use abortion requires work to articulate abortion as a social good and to significantly increase access to services. Advocates for abortion rights should be realistic that such changes represent fundamental shifts in the role and power of women in society and thus will not happen without social conflict and debate. The linguistic trick of affirming the right to abortion while simultaneously devaluing it is both harmful and ineffective as a strategy to securing rights. Instead I proposed a four part approach: 1) acceptance that abortion is a polarizing issue in the U.S.; 2) acknowledgement that abortion has and will always be part of the human condition; 3) validation of the rights of women to equal participation in society and control over their reproductive lives; and 4) engagement in the hard conversations about abortion regarding the moral status of life, the extent of the rights and autonomy of women, the limits of the state to intervening in personal decisions, and the role of religion in public life. Finally, I remind the reader that the desire to help an individual woman achieve her reproductive desires by avoiding an abortion is a laudable goal, not because it reduces the need for abortion, but because it is what that woman wants for her life.

NOTES

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