

PATTERNS AND IMPLICATIONS OF LANGUAGE USED IN RESTRICTIVE STATE
ABORTION LAWS

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A Thesis
Submitted in Partial Fulfillment
of the Requirements for the Degree of
Master of Science
in Applied Criminology

Northern Arizona University

May 2023

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ABSTRACT

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Following the 2022 *Dobbs v. Jackson Women's Health Organization* Supreme Court decision that overturned *Roe v. Wade* and turned abortion regulation over to the states, many states across the country have banned or restricted abortion. While a significant amount of coverage has been afforded to the reactions of both pro-choice and anti-abortion politicians and activists surrounding the ruling, as well as the subsequent policy changes in various states, there has been an overall lack of attention paid to the actual language used in restrictive state abortion laws, both in popular media and academic literature. Thus, this thesis examines the patterns and themes present across language used in these laws, as well as the potential implications of this use of language. An exploratory qualitative textual analysis approach was utilized to identify important themes that appeared throughout the data, including selective humanization, exceptions to abortion restrictions, and moral appeals. These themes were then interpreted and discussed in the context of the reproductive justice framework and intersectional feminism, as well as other relevant social and political contexts.

Acknowledgements

I feel so fortunate to have had such wonderful people by my side during my time at Northern Arizona University. My time in Flagstaff has simultaneously been everything and nothing I ever could have imagined, and I am so thankful for all of the people who have touched my life and helped me grow into the person I am today. I wouldn't be here without you all.

To begin, I would like to thank my wonderful committee: Dr. Alex Alvarez, Dr. Brooke de Heer, and Dr. Emily Schneider. All three of you have been truly influential and inspirational. Alex, thank you for always challenging me and supporting me. Your insights and encouragement have been so important throughout this process, and I am so grateful that I had the opportunity to work with and learn from you. Brooke, your encouragement, support, and knowledge have been invaluable. Thank you for always being so willing to help, and for pushing me to do a thesis in the first place. Emily, thank you for your guidance and support. You have been a great asset to this project, and I am so thankful to have had the opportunity to have you on my committee.

I would also like to thank the NAU Department of Criminology and Criminal Justice for taking a chance on me and giving me the opportunity to be a part of the Applied Criminology program. I had no idea what I was getting myself into, but this program has exceeded my expectations in every way possible. I have grown immensely as a scholar and as a person, and I am forever thankful for this incredible experience.

I also would like to extend my gratitude to NAU cross country and track and field. My experience at NAU, including my enrollment in this graduate program, has been influenced in so many ways by my participation in this sport, and I am eternally grateful that seventeen-year-old me chose to come here and be a part of this program.

To my family, your constant love and support means everything. Thank you for always helping me keep things in perspective and for bringing levity to even the most stressful of moments. I love you guys so much. Also, a special shoutout to my mom for being the best editor around.

To my friends, teammates, and cohort, thank you for all the laughs, advice, and never-ending support. I am so grateful to have gained so many amazing friends these past five years.

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Chapter 1: Introduction

Statement of the Problem

Like many other American women, I grew up acutely aware of the precariousness of many of my rights, including the right to obtain an abortion. However, I never truly believed that the constitutional right to abortion would be revoked during my lifetime. This belief dissipated slowly over the years as I witnessed the way in which this supposedly fundamental right was undermined, as well as how women were consistently disregarded when decisions were made about their bodily autonomy. I held onto the last shreds of this illusion until June 24, 2022, when the Supreme Court overturned the constitutional right to abortion with their decision in the *Dobbs v. Jackson Women's Health Organization* case. Since the court released this ruling, the abortion landscape in America has been chaotic at best, with 18 states banning or restricting abortion, and six other states having bans or restrictions in place that have been blocked by state courts (The New York Times, 2023). In addition to generating policy responses, the *Dobbs v. Jackson Women's Health Organization* ruling and the restrictive state abortion laws that have taken effect since have elicited significant discourse from both anti-abortion and abortion rights activists and politicians. Proponents of anti-abortion ideology largely consider the Supreme Court's ruling to be a win that reflects their decades-long efforts to restrict abortion access once again (Abrams, 2022; Grabenstein, 2023). This viewpoint is commonly justified through rhetoric that depicts abortion restrictions as protecting the life of both the fetus and the pregnant woman¹ (Buchbinder, 2016; Doan, 2007; Doan, Candal, & Sylvester, 2018). On the other hand, some proponents of abortion rights argue that this decision, along with abortion restrictions as a whole,

¹ In this thesis, I use the words “woman” or “women” to refer to people capable of being pregnant and having a child. I recognize that not everyone who gets pregnant is a woman, but for the sake of simplicity and congruency with existing literature, I chose to use this terminology.

are more concerned with maintaining power and control than protecting life, especially considering how past reproductive restrictions have systematically harmed women, particularly marginalized women (Buchbinder, 2016; Ross & Solinger, 2017). Additionally, many abortion rights activists assert that the current restrictions will cause irreparable harm to women and therefore do not actually protect life (Coen-Sanchez et al., 2022).

However, while political reactions to the Supreme Court's ruling have dominated the news, I noticed that there was a conspicuous lack of attention being paid to the actual language utilized in restrictive state abortion laws, both in popular media and academic literature. As a result, I felt compelled to use this thesis as a window into understanding the language used in these laws, as well as the potential implications of this use of language. In order to conduct this research, I performed an exploratory qualitative textual analysis in accordance with the following research questions:

1. What are the large, overarching themes across the language used in current restrictive state abortion laws?
2. What are the potential implications of this use of language?

The reproductive justice framework and intersectional feminism, along with relevant social contexts, were used to guide my interpretations of the data. Historically, both reproductive justice and intersectionality have been used to analyze the ways in which previous laws regulating reproductive autonomy functioned to marginalize and harm vulnerable populations (Foster et al., 2018; Hall et al., 2020; Kapadia, 2022; Palacio, 2022). This thesis adds to the current body of literature by extending the application of reproductive justice and intersectionality to contemporary restrictive abortion laws.

Statement of Positionality

Positionality, or the way in which a researcher's social location and experiences influence their interpretation of the world around them, including their data, has been identified by many scholars as an important consideration when conducting qualitative research, as well as research that utilizes intersectionality (Bourke, 2014; Hankivsky et al., 2010; Jacobson & Mustafa, 2019; Suffla, Seedat, & Bawa, 2015). As a result, before moving into the body of my thesis, I felt it necessary to acknowledge how my own positionality played a role in this project. My status as a privileged white female undoubtedly influenced the way I conducted my research by helping shape the questions I asked, the way I coded the data, and the way I interpreted the data, among other elements of the research. However, I have worked to be guided as much as possible by theory and the literature to ensure that I objectively grounded my questions and interpretations in the data, as opposed to subjective assumptions based on my own experiences and belief systems. Nonetheless, it is important to recognize that my experiences and biases are present and affected the ways in which I approached and conducted the research that this thesis is comprised of.

Thesis Roadmap

This introductory chapter gives a brief overview of my thesis project, including the guiding research questions and the contribution of this research. This chapter also provides a roadmap for the rest of the thesis.

The second chapter of this thesis provides relevant background and contexts on abortion in the United States. Specifically, this chapter focuses on the definition of abortion, the history of significant court cases and laws relating to abortion, and the contemporary abortion landscape, so as to situate the current project within the larger issue of abortion in America.

The third chapter is a review of relevant literature related to abortion. This chapter covers why it is important to study the language used in laws before discussing rhetoric utilized by the anti-abortion movement. I then provide information on the consequences of abortion, specifically with respect to physical health, mental health, and socioeconomic outcomes. This chapter also contains a discussion of the reproductive justice framework and intersectional feminist theory, theoretical frameworks that guided my interpretations of the data.

In the fourth chapter, I discuss the methodological approach I used for this thesis. I provide information on how I selected laws for analysis, the research strategy I utilized, and the coding methods I employed.

The fifth chapter of my thesis consists of the analysis and discussion. In this chapter, I describe the overarching themes and patterns I identified in my data, including selective humanization, exceptions to abortion restrictions, and moral appeals. I then discuss these themes through the lens of relevant theoretical and social contexts in order to evaluate and discuss their potential implications.

The sixth and final chapter of this thesis concludes my project by summarizing the research and discussing its limitations. I also examine the implications of this thesis for future research.

Chapter 2: Background and Contexts

This chapter provides an overview of important historical and present contexts of abortion in order to contextualize the current struggle within the larger abortion debate that has been occurring for decades. To begin, I define the term “abortion” and describe common abortion procedures. I then discuss significant abortion laws and court decisions to show the evolution of the constitutional law governing abortion. Following this section, I provide information on the prevalence of abortion in America, including abortion rates and access to the procedure. This then leads into a discussion of the current, post-*Roe* abortion landscape in the United States. In particular, I focus on how the *Dobbs* decision has affected state and national-level politics. I also examine the human consequences of this decision, both those that have already been observed, and the ones predicted to come in the future.

What is Abortion?

In order to examine and understand the historical and current contexts of abortion, it is first important to define the term. Much like everything else in the abortion debate, the definition of the word “abortion” itself is contentious, with pro-choice and anti-abortion politicians and activists often disagreeing over what constitutes an abortion (Zernike, 2022). However, the most common medical definition of abortion is “any procedure that terminates a pregnancy,” (Zernike, 2022, n.p.). This medical definition will be used to define abortion for the purpose of this thesis in order to avoid any harmful political connotations that may come with other definitions.

In addition to defining abortion, it is important to briefly discuss how abortions are typically performed. There are two main types of abortion procedures: medical/medication abortions and surgical abortions (UCLA Health, n.d.) Medical abortions are very common and typically occur between four and ten weeks of pregnancy (UCLA Health, n.d.). In 2020, over

half of the abortions performed in the United States were medical abortions (Guttmacher Institute, n.d.). This procedure requires the pregnant woman to take two medications: mifepristone and misoprostol (Guttmacher Institute, n.d.; Planned Parenthood of Metropolitan Washington, DC, n.d.). Mifepristone is taken first and blocks progesterone, a necessary hormone for the progression of a pregnancy, in order to stop the growth of the fetus (Planned Parenthood of Metropolitan Washington, DC, n.d.). Misoprostol is taken after mifepristone and causes cramping, bleeding, and the eventual emptying of the uterus to remove the pregnancy tissue from the woman's body naturally (Planned Parenthood of Metropolitan Washington, DC, n.d.). This procedure is very safe and effective; in fact, Cleland et al. (2013) found that approximately 99 percent of medication abortions performed at Planned Parenthood in 2009 and 2010 were completed without medical complications.

In terms of surgical abortions, there are two different procedures that can be performed, depending on the gestational age of the fetus. Suction and aspiration abortions are safe procedures that are generally performed until approximately 14 weeks of pregnancy (UCSF Health, n.d.). This method involves dilating the pregnant woman's cervix before using a medical tube to gently suction out the fetal tissue (UCSF Health, n.d.). In the second trimester, dilation and evacuation (D&E) abortions are the most common procedure utilized to terminate a pregnancy, accounting for approximately 95 percent of these abortions (Donovan, 2017). This procedure is utilized instead of the dilation and extraction (D&X) abortions that were banned by *Gonzales v. Carhart* in 2007, something that will be discussed further later in this chapter (Donovan, 2017). The D&E abortion also dilates the woman's cervix and uses suction to remove fetal tissue (Donovan, 2017). While this procedure sometimes requires the use of surgical

instruments at later stages of pregnancy, it is nonetheless very safe and effective, similar to other types of abortion (Donovan, 2017).

History of Significant Abortion Laws and Court Decisions

Examining influential abortion laws and court decisions throughout history is also important for understanding the contemporary abortion landscape, as it gives insight into how the present situation came to be. While abortion has long been a contentious issue in American politics, laws restricting the procedure did not exist until the nineteenth century. In colonial America, there were no abortion laws, and women commonly used herbal remedies to induce an abortion in private (Blakemore, 2022). However, with the increased professionalization of the medical field in the nineteenth century, doctors argued that it should be the responsibility of male doctors to supervise the care of women throughout their pregnancy, as opposed to female midwives (Blakemore, 2022; Ross & Solinger, 2017; Wilson, 2016). This sentiment, along with an increase in discourse that painted abortion as negative, led to the passage of the first anti-abortion law in Connecticut in 1821 (Blakemore, 2022). By 1910, every state had an anti-abortion law, and by 1967, many states had criminalized abortion, which made it very difficult for women to access the procedure safely, though the demand still remained (Blakemore, 2022). This changed when the Supreme Court declared abortion to be a constitutional right in 1973 through the landmark case *Roe v. Wade*. In the majority decision for this case, the court asserted that state abortion bans were unconstitutional, and that abortion could not be banned for any reason before fetal viability (BBC News, 2022). The decision also set the precedent of a trimester framework, wherein women had a complete right to abortion in their first trimester of pregnancy, states could only regulate abortion in the second trimester to protect the health of the

mother, and states could restrict all third trimester abortions unless a doctor deemed the procedure necessary for the health of the pregnant person (BBC News, 2022).

To justify the *Roe v. Wade* decision, the court used the Fourteenth Amendment's Due Process Clause (Dyer, 2017). This clause uses substantive due process, or the idea that certain rights can be protected from governmental interference, regardless of whether they are explicitly named in the Constitution (Dyer, 2017). Thus, the Supreme Court asserted that abortion was a fundamental right, although it does not appear in the Constitution (Dyer, 2017). They also declared that abortion was included in a woman's right to privacy (Medhoff, 2014). Additionally, it is important to note that, within this ruling, personhood was defined through a legal lens, with the court stating that unborn individuals were not protected under the law, since their interaction with the law begins at birth (Dyer, 2017).

The case *Doe v. Bolton*, which was also decided in 1973, further bolstered the right to abortion by stating that a woman could get an abortion after fetal viability if it was absolutely necessary in order to protect her health (Medhoff, 2014). However, this case was one of the last to reaffirm the right to abortion. Following *Doe v. Bolton*, the Hyde Amendment of 1976 began eroding abortion protections by preventing federal funds from being used to pay for abortions unless the woman's life was in danger, or the pregnancy was a result of rape or incest (Medhoff, 2014).

Planned Parenthood v. Casey in 1992 was the first significant legal challenge to *Roe v. Wade*. In the majority decision, the Supreme Court upheld most of the precedent set by *Roe*, including the right to an abortion prior to viability (Tepich, 2008). However, *Planned Parenthood v. Casey* simultaneously gave states leeway to further restrict abortion (Dyer, 2017). In addition to rejecting the trimester framework set by *Roe* (Tepich, 2008), the court's decision

enabled states to regulate abortion as long as it did not place an undue burden on the woman seeking an abortion; that is, a “substantial obstacle” that would prevent her from obtaining the procedure (Medhoff, 2014, p. 226). Thus, after *Planned Parenthood v. Casey*, states began to pass increasingly restrictive abortion laws, including mandatory counseling and parental involvement laws (Medhoff, 2014).

After *Planned Parenthood v. Casey*, abortion remained a highly charged issue in the United States, but it was not until 2000 until there was another significant challenge to its legality. In *Stenberg v. Carhart (Carhart I)*, the Supreme Court ruled that a Nebraska law that banned “partial-birth abortion[s]” was unconstitutional, as it did not have any exceptions to preserve the life or health of the mother, and it imposed an undue burden on the right to obtain an abortion (Tepich, 2008, p. 365). Of particular importance, this case set the precedent that a health exception in abortion laws was always necessary for the law to be constitutional (Tepich, 2008). Despite this ruling, in 2003, the Federal Partial-Birth Abortion Ban Act (PBABA) was passed by Congress and signed into law by President George W. Bush (Tepich, 2008). This act prohibited doctors from performing a so-called partial-birth abortion, which was generally used after the twentieth week of pregnancy (Garrow, 2007; Rovner, 2006). However, it is important to note that partial-birth abortion is a political term created by the National Right to Life Committee; the proper medical term is an intact dilation and extraction (D&X) procedure (Rovner, 2006). The PBABA faced significant legal pushback, and multiple District Courts and Circuit Courts ruled that it was unconstitutional based on prior precedent set by *Casey* and *Carhart I*, in particular because it did not include a health exception for the mother (Garrow, 2007). However, two cases challenging the legality of the PBABA reached the Supreme Court in 2006: *Gonzales v. Carhart (Carhart II)* and *Gonzales v. Planned Parenthood Federation of America* (Tepich, 2008). The

Supreme Court issued a joint decision in this case and reversed the decisions of the lower courts, declaring that the PBABA did not place an undue burden on women attempting to obtain an abortion (Garrow, 2007; Tepich, 2008). The decision still upheld the central tenets of *Roe* and *Casey*, but it was the first time that the Supreme Court upheld a ban on a specific method of abortion, as well as a law that did not include a health exception, since *Roe* (Tepich, 2008).

Following *Gonzales v. Carhart* decision, the right to abortion survived other legal challenges until 2021, when the Supreme Court agreed to hear the *Dobbs v. Jackson Women's Health Organization* case (*Dobbs v. Jackson Women's Health Organization*, 2022). This case examined the constitutionality of Mississippi's Gestational Age Act of 2018 (*Dobbs v. Jackson Women's Health Organization*, 2022), which banned abortions after 15 weeks without exceptions for medical emergencies or fetal abnormalities (Byron et al., 2022). The Jackson Women's Health Organization asserted that the law was unconstitutional, and both the U.S. District Court for the Southern District of Mississippi and the U.S. Court of Appeals Fifth Circuit Court agreed, based on prior precedent set by *Roe v. Wade* and *Planned Parenthood v. Casey* (Byron et al., 2022). However, the case was then appealed to the Supreme Court, where the conservative majority completely reversed prior precedent and not only asserted that abortion is not a constitutional right, but that it is the right of each individual state to regulate the procedure (*Dobbs v. Jackson Women's Health Organization*, 2022). In order to justify this decision, the court outright rejected all of the reasoning utilized in *Roe v. Wade*, as well as *Planned Parenthood v. Casey*, stating that the right to an abortion is not protected under the Due Process Clause of the Fourteenth Amendment, as they claim that it is not deeply rooted in the history or tradition of the United States (*Dobbs v. Jackson Women's Health Organization*, 2022).

Abortion in America

Abortion Statistics

In order to understand the abortion landscape in America, it is also important to examine how many people get abortions, as well as how abortion rates vary by population. After 1973, abortion rates increased until 1990 (Jones, Kirstein, & Philibin, 2022). From 1990 to 2017, rates decreased dramatically, and, in 2017, abortion rates in the United States were the lowest they had been since before the *Roe v. Wade* decision (Jones, Kirstein, & Philibin, 2022). Between 2017 and 2020, abortion rates went up again (Palacio, 2022), with an estimated 20.6% of pregnancies ending in abortion in 2020 compared with 18.4% in 2017 (Jones, Kirstein, & Philibin, 2022). However, within these statistics, “economically and socially marginalized populations” are overrepresented as a result of structural inequalities that limit their ability to access reproductive healthcare (Dehlendorf, Harris, & Weitz, 2013; Desai, Leong, & Jones, 2019, p. 1509; Ross & Solinger, 2017). According to Diamant and Mohamed (2022), in 2020, abortion rates were the highest for non-Hispanic black women, with a rate of 24.4 abortions per 1,000 women aged 15 to 44. For Hispanic women, the rate was 11.4 abortions per 1,000 women, and for non-Hispanic white women, the rate was 6.2 abortions per 1,000 women (Diamant & Mohamed, 2022). Non-Hispanic black women, as well as Hispanic women, are overrepresented in these rates, as black women account for around 38% of people who have abortions (Diamant & Mohamed, 2022), despite only making up approximately 13.6% of the general population (United States Census Bureau, n.d.). This is similar, albeit to a lesser extent, for Hispanic individuals, as they account for around 21% of people who get abortions (Deeb-Sossa & Billings, 2014), but only make up approximately 19% of the general population of the United States (United States Census Bureau, n.d.). In contrast, non-Hispanic white individuals make up about 33% of all people who get

abortions (Diamant & Mohamed, 2022), but are around 59% of the U.S. population, according to the 2020 Census (United States Census Bureau, n.d.).

It is also important to note how abortion rates vary among socioeconomic groups.

Economically marginalized populations are also overrepresented in abortion statistics; women with a family income below 100 percent of the federal poverty line had an abortion rate of 36.6 per 1000 people in 2014 (Jones & Jerman, 2022). Additionally, in 2014, this group accounted for nearly half of all women who obtained an abortion (Jones & Jerman, 2022). In contrast, women with a family income greater than or equal to 200 percent above the federal poverty line had an abortion rate of 6.0 per 1000 people in the same year and only made up around a quarter of all women who obtained an abortion (Jones & Jerman, 2022).

Access to Abortion

In addition to being overrepresented in abortion rates, marginalized women face significant barriers to accessing the procedure (Deeb-Sossa & Billings, 2014). Even when abortion was legal under *Roe*, access was highly inequitable (Luna & Luker, 2013), with race, class, citizenship status, and rurality all playing a role in disparate access (Calkin, 2021). Racial minorities and immigrants are often less likely to have healthcare, including reproductive healthcare, than the general population (Desai, Leong, & Jones, 2019; Kozhimannil, Hassan, & Hardeman, 2022), which can severely impede an individual's opportunity to obtain an abortion (Desai, Leong, & Jones, 2019). For people who do have health insurance, getting an abortion covered is still not a guarantee, as Medicaid coverage for this procedure is fickle at best (Foster, 2021). Even having private insurance does not guarantee that abortion will be covered (Foster, 2021).

Abortions are also expensive, something that represents a significant barrier for women seeking to undergo the procedure. In fact, Foster (2021) found that financial barriers were the biggest obstacle cited by women seeking an abortion. Abortions often cost between 500 and 1,800 dollars, with the cost of the procedure increasing with the gestational age of the fetus (Farmer, 2022). For low-income women, this can be a major setback for accessing reproductive healthcare, not to mention other costs they might incur when trying to get an abortion, including travel, childcare, and lost wages from missing work (Hall et al., 2020). Additionally, mandatory waiting period laws that exist in some states can exacerbate cost barriers to abortion (Foster, 2021). These laws require women to wait a certain amount of time between their abortion consultation and the actual procedure, which forces women to take multiple trips to the clinic and in turn raises the overall cost of obtaining the procedure as a result of increased travel, among other things (Foster, 2021). For women who live in rural locations, this travel is a primary deterrent, and research has found that the farther someone lives from an abortion provider, the less likely they are to get an abortion (Bearak, Burke, & Jones, 2017). This comes as abortion clinics, the main providers of abortion (Jones, Kirstein, & Philibin, 2022), are closing at unprecedented rates. In 2020, 89% of counties in the United States did not have a clinic that provided abortions, and the counties that did have a provider only housed 38% of American women aged 18-44, thus creating additional barriers for women looking to get an abortion (Jones, Kirstein, & Philibin, 2022). The overturning of *Roe* only increased the number of clinic closures, as well. In the first 100 days after the *Dobbs* decision, 66 clinics in 15 states stopped providing abortions (Fuentes, 2023), and 14 states currently have no open abortion clinics (Jones, Kirstein, & Philibin, 2022).

A Post-Roe America

While there is currently a lack of concrete data detailing the effects of the *Dobbs v. Jackson Women's Health Organization* decision on the abortion landscape in America, it is clear that this decision will have serious ramifications (Byron et al., 2022). These consequences are already evident in state abortion bans, as well as changes and conflict in national politics. Human impacts of this ruling are also apparent, and experts predict that they will only worsen, especially for marginalized women.

State-Level Abortion Bans. Since the Supreme Court released their decision for the *Dobbs v. Jackson Women's Health Organization* case, 18 states have banned or restricted abortion, and six other states have bans that are currently blocked by state courts (The New York Times, 2023). However, these abortion bans and restrictions are not without controversy. Since the *Dobbs* decision, 34 cases have been filed to challenge abortion bans in 19 states, 27 of which are still pending at trial or appellate levels (Brennan Center for Justice, 2023). Of the cases decided thus far, the most notable decisions have come from South Carolina and Idaho. The South Carolina Supreme Court ruled that the state constitution protects the right to an abortion, thus declaring the state's proposed ban unconstitutional (Brennan Center for Justice, 2023). The Idaho Supreme Court returned an opposite verdict, ruling that their state constitution does not protect the right to an abortion, and that the state's abortion ban is constitutional (Brennan Center for Justice, 2023). Other states voted on abortion in 2022 elections. California, Kansas, Kentucky, Michigan, Montana, and Vermont all voted to protect abortion rights in this election cycle, providing major wins for abortion rights activists (Byron et al., 2022; Reilly, 2022).

Effects on National-Level Politics. Beyond state-level abortion restrictions, national politics also stand to be affected profoundly by the overturning of *Roe v. Wade*, as for pro-choice and pro-life activists and politicians, the *Dobbs* decision is only the beginning (Roubein, 2022).

President Biden has signed two pro-abortion executive orders since the *Dobbs* ruling, but these orders will do little to truly combat the wide-reaching effects of the Supreme Court's decision (Byron et al., 2022). Congressional representatives have also been active in the post-*Roe* abortion debate, as abortion has become an issue of critical importance for both political parties, something that is showing no signs of waning (Abrams, 2022). Following the ruling, Democrats attempted to codify *Roe v. Wade*, while other Republican lawmakers have been outspoken in their belief that there should be a national abortion ban (Roubein, 2022). However, both efforts have been unsuccessful thus far (Roubein, 2022). Additionally, for Republican lawmakers, publicizing extreme anti-abortion viewpoints has become risky in the post-*Roe* political landscape (Lerer & Glueck, 2023). Prior to the *Dobbs* decision, being anti-abortion largely involved expressing support for overturning *Roe v. Wade*, supporting the appointment of pro-life judges to circuit courts and the Supreme Court, and voting against using tax money to fund abortion (Lerer & Glueck, 2023). However, now that the procedure is no longer legal across the United States, Republican lawmakers have felt pressure from anti-abortion advocacy groups to promote a nationwide abortion ban, something that politicians fear may deter moderate voters from supporting Republican candidates (Lerer & Glueck, 2023). Thus, experts predict that abortion stance could become a massive point of contention for Republicans in future elections (Lerer & Glueck, 2023).

Pro-choice and anti-abortion advocacy groups have also been active on the national level since the *Dobbs* decision. For groups that advocate for the right to an abortion, such as NARAL Pro-Choice America and Liberate Abortion Campaign, the ultimate goal is to restore the right to legal abortion across the country, but they recognize it will likely be a long road to legality (Cohen, Donley & Rebouché, 2022). In order to get there, they are focusing on electing

lawmakers who support abortion rights, helping women who live in states with restrictive abortion laws get access to the procedure, and challenging restrictive laws in court (Roubein, 2022). Other activists are fighting to retain access to the abortion pill and are teaching people how to use mifepristone and misoprostol to self-manage abortions outside of a medical setting (Abrams, 2022). However, abortion rights activists will have to broaden their advocacy strategies in order to create meaningful change (Cohen, Donley, & Rebouché, 2022). As stated by Cohen, Donley, and Rebouché (2022), it will be important for abortion rights activists to utilize creative solutions to chip away at the abortion restrictions legalized by *Dobbs*. This could include passing laws that they know will be unconstitutional in hopes of nullifying some restrictions through court decisions, something that was a common tactic used by anti-abortion lawmakers in the years following *Roe v. Wade*.

For anti-abortion groups like Susan B. Anthony Pro-Life America, “an entirely new pro-life movement” has begun following the *Dobbs* decision (Roubein, 2022, n.p.). Priorities for anti-abortion activists and lobbyists consist of banning abortion to the fullest extent possible through measures such as putting abortion bans in state constitutions and advocating for a nationwide abortion ban (Cohen, Donley, & Rebouché, 2022; Grabenstein, 2023; Roubein, 2022). However, achieving a national abortion ban appears to be unlikely in the present moment, given the extreme polarization of American politics (Grabenstein, 2023). With that, another goal of anti-abortion activists is to change public opinion on abortion (Abrams, 2022; Grabenstein, 2023). As stated by Grabenstein (2023), they aim to “change public sentiment so that people who can access abortions won’t want them” (n.p.). Other anti-abortion groups have placed their focus on restricting or eliminating medication abortions (Grabenstein, 2023; Lerer & Glueck, 2023). They are already experiencing some success on this front, as Walgreens recently announced that

they will not distribute mifepristone in 21 states (Belluck & Creswell, 2023). Mifepristone has also been the subject of legal battles, and federal judges have recently issued conflicting rulings regarding access to the drug (Kimball, 2023). A federal judge in Texas revoked the Food and Drug Administration's (FDA) approval of mifepristone, while a federal judge in Washington ordered the FDA to preserve access to the drug in 17 states and the District of Columbia. The Fifth Circuit Court of Appeals then ruled that the drug should be kept on the market, just with more restrictions (Yousif & Levinson-King, 2023). Following this ruling, the Supreme Court temporarily restored access to mifepristone, but is expected to rule on the proposed restrictions in the very near future (Kimball, 2023).

Human Effects. The human effects of state-level abortion restrictions are already evident, as women have been forced to contend with horrific situations in order to access life-saving reproductive healthcare. In Tennessee, a woman had to take an ambulance for six hours to get an abortion in North Carolina, as her high blood pressure was putting her life in danger, and, under Tennessee law, she could not obtain the procedure legally (Byron et al., 2022). In other states, medical exceptions to restrictive state abortion laws are so ambiguous that providers are wary of performing abortions unless there is an imminent threat to the mother's life, for fear of strict punishment (Cohen & Herman, 2022). For one pregnant woman in Texas who was told she was going to have a miscarriage at 18 weeks, she had to have a bacterial infection, a 103-degree fever, and symptoms of sepsis before she was considered sick enough to obtain an abortion under Texas law (Cohen & Bonifield, 2022). Now, she faces lasting consequences of uterine scarring that was a direct result of having to wait so long to get an abortion (Cohen & Bonifield, 2022).

Exceptions for rape and incest in restrictive abortion bans, or a lack thereof, have also come to the forefront since the *Dobbs* decision, with one case involving a ten-year-old girl from

Ohio gaining national prominence. This girl was raped and got pregnant as a result (Helmore, 2022). However, under Ohio law, she was not allowed to get an abortion, which forced her to travel to Indiana to obtain the procedure (Helmore, 2022). As stated by Helmore (2022), this case, as well as others like it, highlight the true absurdity of the *Dobbs* decision, as well as the potentially horrific consequences it could lead to.

Beyond these already-observable human effects, scholars and other experts are predicting that restricted access to abortion will disproportionately affect marginalized women, including, but not limited to, black women, Hispanic women, indigenous women, undocumented women, transgender women, transgender men, and non-binary individuals (Coen-Sanchez et al., 2022). This has the potential to result in even more inequities than existed under *Roe* (Byron et al., 2022; Coen-Sanchez et al., 2022; Kheyfets, Miller, & Amutah-Onukagha, 2022), with marginalized women bearing the brunt of serious financial, social, and health effects (Coen-Sanchez et al., 2022). For example, existing literature mentions the potential for maternal mortality rates to increase as a result of restrictive abortion laws; in fact, one study estimated that maternal mortality rates could increase by as much as seven percent following the imposition of abortion restrictions (Byron et al., 2022). For women of color, especially Black women, who already have maternal mortality rates higher than that of the general population, these effects could be devastating (Peacock, 2022). In addition, for low-income women, the economic burden of having a child if they are denied an abortion has the potential to push them further into poverty (Byron et al., 2022). The groundbreaking Turnaway Study, which will be discussed further in chapter three, found that women denied a wanted abortion experienced much worse socioeconomic outcomes than women who obtained a wanted abortion (Foster et al., 2018; Robinson et al., 2022). While past studies cannot answer questions directly about a post-*Roe*

world, (Burbank & Kwong, 2022), some scholars predict that these negative socioeconomic outcomes will continue, or even be exacerbated, in this new era of abortion restrictions (Burbank & Kwong, 2022; Palacio, 2022; Robinson et al., 2022). Additionally, given that the majority of abortion patients in the United States are low-income and/or racially minoritized women, it is possible that the brunt of these economic consequences will fall on these women (Palacio, 2022).

Chapter 3: Literature Review

This chapter provides an overview of relevant literature that was used to inform this thesis. To begin, I discuss the importance of studying the language used in laws, before giving an overview of past research that has specifically examined language in abortion laws. This was useful for contextualizing my first research question and for describing past research that this thesis is building upon. I then provide information on rhetoric used in the anti-abortion movement. This section is used to show how research has examined the use of language across the abortion debate more broadly, as well as to contextualize some of the language seen in my data in light of traditional anti-abortion rhetoric. Following this section, I give an overview of the research that has been done on the consequences of abortion. Specifically, I look at mental health, physical health, and socioeconomic outcomes of abortion. This section serves to contextualize my second research question that addresses the implications of language used in restrictive state abortion laws by providing information on what past scholars have found to be consequences of obtaining or being denied an abortion. I then discuss the reproductive justice framework and intersectional feminism, the two theories guiding my thesis, in order to describe their core tenets, as well as their previous applications to abortion research.

Language and the Law

Given that this thesis aims to explore patterns and themes in the language used in restrictive state abortion laws, it is important to understand why examining the language utilized in written law is impactful. The language used in written law is important, as language itself is the fundamental building block of law and the legal system (Gibbons, 1994; Gibbons, 1999). This language often reflects the values and morals of those creating the law, and, in some instances, society as a whole (Crowley, Watson, & Waller, 2008; Gibbons, 1999; Schneider &

Sidney, 2009). These morals and values then function to construct a social reality that is broadcasted to the general public (Doan & Schwarz, 2020). Within these realities, the elements of a particular issue deemed to be important by the policymakers are featured, which functions to reinforce the socially constructed knowledge that these individuals possess (Doan & Schwarz, 2020; Crowley, Watson, & Waller, 2008). The language used in these laws, as well as their subsequent social realities, often assign value to certain groups or populations, with common portrayals showing that a group is deserving or undeserving, as well as indicating the level of power they possess (Crowley, Watson, & Waller, 2008; Schneider & Sidney, 2009). For example, Schneider and Sidney (2009) discuss how the rhetoric of welfare policy in the United States perpetuated narratives of individual responsibility, particularly the idea that poverty is an individual failing. They then go on to discuss how this use of language has had widespread ramifications, including the potential creation of a self-fulfilling prophecy for individuals in poverty, as well as the way in which this language influences the way other members of the public think about poverty, which can make it less likely that they will help those less fortunate than themselves (Schneider & Sidney, 2009). Essentially, this language functioned to assign value and morality to a certain group, which created widespread effects beyond just the policy itself (Schneider & Sidney, 2009).

While there is an overall lack of research that specifically examines the language used in restrictive abortion laws, the studies that do exist indicate that the language used in these laws is significant. Doan and Schwarz (2020) found in their study of 282 state-level anti-abortion laws enacted between 2010 and 2015 that around 50 percent of the laws contained language insinuating that women need to be protected from abortion providers. They also found that approximately 88 percent of their selected laws played on traditional stereotypes describing

women as inherently maternal, stating that this use of language had the potential to further root gender stereotypes into policy, as well as reinforce state paternalism (Doan & Schwarz, 2020). Johnson (2014) found that Women's Right to Know Laws also contained distinct anti-abortion rhetoric, as the language in these bills overwhelmingly portrayed women as being coerced into getting an abortion. It is also important to note that the fetus was very humanized in these bills, with references to facial features and other fetal development being utilized to personify the fetus and portray it as a human child to emphasize the need to protect the vulnerable fetus from a murderous abortion (Johnson, 2014). Similarly, Valdez and Goodson (2019) found that the abortion bills they analyzed contained overwhelmingly negative language, especially when they were restricting abortion. In particular, this negative language was framed through a lens of political ideology, which, for restrictive laws, was generally anti-abortion discourse (Valdez & Goodson, 2019). Redd et al. (2023) examined medication abortion reversal laws from 2012 to 2021 in all 50 states, including Washington D.C., and found that the language used in these laws often focused on the ability to correct or counteract medication abortion, which reinforces abortion stigma by portraying the procedure as a mistake. Additionally, much of the medical language contained in these laws is inaccurate, which promotes the spreading of abortion misinformation, something that has been shown to lead to worse physical and mental health outcomes for women seeking an abortion, with these effects especially pronounced for women of color or low socioeconomic status (Redd et al., 2023). This thesis expands upon this research, as it focuses on contemporary laws that are broad in scope. Each of the studies mentioned above uses older laws, laws that focus on one specific element of the abortion process, or both. Thus, by focusing on contemporary laws that address abortion access on a general level, this research moves beyond past findings and contributes to this existing body of literature.

Rhetoric and the Anti-Abortion Movement

Despite the fact that research directly examining the language used in abortion laws is scarce, a lot of research exists that examines rhetoric utilized by the anti-abortion movement. The rhetoric employed by this movement was important for this project, as it was a driving force behind the changes that brought America from *Roe* to *Dobbs*. Additionally, this language is still visible in contemporary abortion rhetoric, so this research provides important context for some of the phrasing seen in present-day restrictive abortion laws. Prior to the 1970s, anti-abortion groups only organized in a very limited capacity, but after *Roe v. Wade*, these efforts exploded in an effort to fight back against the legalization of abortion (Doan, 2007). During the 1980s and early 1990s, activists traditionally shaped their rhetoric through a moral lens (Johnson, 2014). As a result, most discourse was fetus-centered, wherein the fetus was portrayed as an unborn child who was in need of protection from the murderous intentions of abortion providers (Doan, 2007; Doan & Schwarz, 2020; Siegel, 2008). Moral discussions about abortion also included making comparisons between abortion and genocide, particularly the Holocaust, in order to convey the supposedly horrific nature of the procedure (Doan, 2007). Abortion discourse took on a more religious tone during this time period (Doan, 2007), as well, which in part contributed to the rise of the religious right, a group that has significantly influenced abortion policymaking (Wilson, 2016). In addition to inflammatory rhetoric, anti-abortion activism at this time was characterized by protests outside of abortion clinics (Doan, Candal, & Sylvester, 2018; Wilson, 2016). These protests often relied on harassment and confrontation (Doan, 2007), making abortion clinics the site of frequent conflict and violence (Wilson, 2016). However, this violence, coupled with political setbacks, including significant election losses and an inability to pass meaningful pro-life legislation, put the anti-abortion movement on the defensive in the mid-1990s (Doan, 2007; Wilson, 2016).

Siegel, 2008). As a result, movement organizers sought to move beyond strategies utilized in the 1980s through centering women, especially regretful women, in their discourse (Doan, Candal, & Sylvester, 2018).

Women-centered rhetoric took center stage in the anti-abortion movement starting in the 1990s and generally painted women as victims in need of protection from their own ignorance about abortion, as well as unscrupulous doctors who would coerce them into getting an abortion against their will (Doan & Schwarz, 2020; Johnson, 2014). This rhetoric played heavily on gendered stereotypes, as it constructed women as “inherently maternal,” as well as uninformed about the costs of obtaining an abortion (Doan, Candal, & Sylvester, 2018, p. 35). The women-centered anti-abortion language commonly appeared through descriptions of a regretful woman suffering from post-abortion syndrome (Doan, Candal, & Sylvester, 2018; Johnson, 2014). Post-abortion syndrome and abortion regret are described as forms of post-traumatic stress disorder (PTSD) that result from the purported trauma of obtaining an abortion (Doan, Candal, & Sylvester, 2018; Kelly, 2014). These conditions supposedly put women at risk for depression, suicidal thoughts, drug or alcohol abuse, and even other serious medical conditions such as cancer and infertility (Doan, Candal, & Sylvester, 2018; Kelly, 2014). Post-abortion syndrome is also predicated on the idea that women are “meant to be mothers and thus abortion is an inevitable trauma” (Kelly, 2014, p. 20). While these claims have been discredited by many studies and medical professionals, they became an important part of legislative restrictions on abortion proposed by the anti-abortion movement (Doan, Candal, & Sylvester, 2018). Attempts to limit abortion access through policy changes in state legislatures gained popularity around 2010, and these legislative restrictions proved to be important for the ultimate rollback of abortion rights, with anti-abortion politicians routinely passing restrictive abortion legislation

that they knew would be unconstitutional in an effort to slowly chip away at protections granted under *Roe* (Cohen, Donley, & Rebouché, 2022). Organizations such as Americans United for Life created legislation templates for restrictive abortion laws and provided legislators with anti-abortion information yearly in an effort to encourage policymaking that reflected their values (Doan & Schwarz, 2020). Women-centered rhetoric took center stage in many of these policy recommendations, as well as the resulting legislative initiatives, such as mandatory counseling laws, waiting period laws, parental consent laws, and Targeted Regulation of Abortion Provider laws, where women were once again frequently framed as vulnerable and in need of protection (Flowers, 2020). This continued up until the *Dobbs* decision, where the appointment of multiple conservative justices to the Supreme Court led to an unprecedented resurgence in anti-abortion legislation and advocacy (Flowers, 2020).

Racialized rhetoric has also played an important role in both woman-centered and fetus-centered anti-abortion rhetoric. Some of this rhetoric has stemmed from the Hyde Amendment, which, as mentioned in chapter two, prevented federal funds from being used to pay for an abortion in most instances (Ross & Solinger, 2017). This piece of legislation had profound effects for not only poor women, but also women of color, painting them as unworthy of reproductive autonomy and making their bodies the focus of many public policy campaigns (Ross & Solinger, 2017). For example, in 2011 an anti-abortion billboard in New York City stated that “the most dangerous place for an African American is in the womb,” with another billboard in Atlanta stating that “Black children are an endangered species” (Johnson & Williams, 2015, p. 146; Ross & Solinger, 2017, p. 134). Asian women have also been subjected to harmful rhetoric that plays on cultural stereotypes, with policymakers stating that they only abort female fetuses (Ross & Solinger, 2017). This racialized rhetoric paints the anti-abortion

movement as saving women of color from themselves, which has become a common anti-abortion tool for attempting to strengthen the anti-abortion movement and weaken the abortion rights movement (Ross & Solinger, 2017).

In addition to being perpetuated by activists and organizations, woman-centered anti-abortion rhetoric, particularly abortion regret and post-abortion syndrome, has been echoed by the Supreme Court (Doan & Schwarz, 2020; Kelly, 2014). In the majority decisions for both *Planned Parenthood v. Casey* and *Gonzales v. Carhart*, language was utilized that promoted the anti-abortion movement's women-centered discourse (Doan & Schwarz, 2020; Johnson, 2014), with *Casey* alleging that “[s]tates are free to enact laws to provide a reasonable framework for a woman to make a decision that has such profound and lasting meaning” (*Planned Parenthood of Southeastern Pennsylvania et al. v. Casey, Governor of Pennsylvania et al.*, 1992, p. 873). This decision also incorporated language that placed value on the fetus, stating that the “State has an interest in protecting the life of the unborn” (*Planned Parenthood of Southeastern Pennsylvania et al. v. Casey, Governor of Pennsylvania et al.*, 1992, p. 873). *Carhart II* further perpetuated women-centered rhetoric, especially the idea that women experience regret after obtaining the procedure, by asserting that “it seems unexceptionable to conclude some women come to regret their choice to abort the infant life they once created and sustained. Severe depression and loss of esteem can follow” (*Gonzales v. Carhart*, 2007, p. 29). This was followed by a further assertion that women lack knowledge about the procedure and thus experience regret, with the majority decision stating that:

It is self-evident that a mother who comes to regret her choice to abort must struggle with grief more anguished and sorrow more profound when she learns, only after the event, what she once did not know: that she allowed a doctor to pierce the skull and vacuum the fast-developing brain of her unborn child, a child assuming the human form (*Gonzales v. Carhart*, 2007, p. 159-160)

Additionally, the *Carhart II* majority decision further reinforces the idea that women are inherently maternal by stating that “respect for human life finds an ultimate expression in the bond of love the mother has for her child” (*Gonzales v. Carhart*, 2007, p. 159).

Consequences of Abortion

Beyond the language used in restrictive abortion laws, this thesis also explores potential implications of the language used in restrictive state abortion laws. Thus, it is important to examine literature on the consequences of abortion, both of obtaining and being denied one. The anti-abortion movement frequently cites the extreme dangers of abortion for women as a reason that it must be outlawed (Doan, Candal, & Sylvester, 2018), yet the empirical evidence used to test this claim has been notably weak (Foster, 2021). In particular, major methodological flaws have plagued much of the research on this topic (Major et al., 2009). The Turnaway Study, a groundbreaking study that interviewed just under one thousand women in the five years after they obtained or were denied a wanted abortion (Foster, 2021), changed that. Between 2008 and 2010, researchers from the Turnaway Study recruited around one thousand women from 30 abortion clinic waiting rooms in 21 states (Foster, 2021). The study sought to examine what happens to women who are denied a wanted abortion, as well as if abortion truly does harm women, through interviewing participants twice a year for five years after they got or were denied an abortion (Foster, 2021). They were asked questions about their mental health, physical health, and socioeconomic status, among other categories, which gave researchers the most comprehensive picture of the long-term effects of abortion to date (Foster, 2021). This study aimed to correct methodological flaws present in prior research by comparing women who got an abortion to women who wanted one but were denied, as opposed to comparing women who got an abortion to women who gave birth without ever having considered terminating their

pregnancy (Foster, 2021). It also studied women in similar enough situations that the difference in their results could be reliably attributed to whether or not they received the wanted abortion, instead of comparing women who had such different life circumstances that their situations were not comparable (Foster, 2021). Relevant findings from the Turnaway Study, as well as other research that has examined these phenomena, will be discussed below, including mental health, physical health, and socioeconomic outcomes related to abortion.

Mental Health Consequences of Abortion

The anti-abortion movement commonly cites harm to women's mental health as a reason that abortion should not be legal, stating that undergoing the procedure can cause increased rates of depression, anxiety, substance abuse, and suicidal ideation (Doan, Candal, & Sylvester, 2018). Multiple reviews and meta-analyses have been conducted on data and studies relating to the psychological impacts of abortion, with some finding that the conclusions that can be made from past studies are extremely limited, in part due to the fact that they often compared women who had an abortion with women who gave birth voluntarily or who had miscarriages, without considering the circumstances surrounding the pregnancy (Bellieni & Buonocore, 2013; Major, 2009). Despite that, studies have shown mixed outcomes regarding the mental health effects of abortion. As stated by Bellieni and Buonocore (2013), within the 36 studies they analyzed, there was a wide variety of results, but abortion was shown to be a risk factor for mental health challenges when women who obtained an abortion were compared with women who gave birth. Additionally, even when compared with women who had miscarriages or gave birth to an unplanned baby, it was found that abortion did result in a slightly higher likelihood for mental health challenges (Bellieni & Buonocore, 2013). However, it is important to note that this comes with the caveat that the majority of these studies did not control for potential confounding

variables, nor did they use validated scales to measure mental health outcomes (Bellieni & Buonocore, 2013). A review conducted by Thorp Jr, Hartmann, and Shadigan (2005) provided similar results, stating that studies showed that there was a link between elective abortions and subsequent mental health issues. However, this was once again presented with the stipulation that research in this area is convoluted and rife with results confounded by outside factors (Thorp Jr, Hartmann, & Shadigan, 2005). Major et al. (2009) also published a review of evidence on the connection between abortion and mental health challenges, and found, yet again, that “major methodological challenges pervade most of the literature on abortion and mental health” (p. 884). Charles et al. (2008) echoed the conclusions of the aforementioned scholars, but went a step further and stated that the studies that published rigorous empirical data actually showed little to no correlation between abortion and mental health, whereas the studies that contained significant methodological flaws were the ones supporting the idea that abortion causes significant mental health issues. As a result, it is difficult to draw many meaningful conclusions from past studies on the connection between abortion and mental health (Major et al., 2009).

Despite methodological challenges in past studies that examine the connection between abortion and mental health, the more reliable Turnaway Study provides convincing evidence that there is likely no link between obtaining an abortion and negative mental health outcomes. In fact, while there were short-term differences in mental health outcomes between the women who received and were denied abortions, in the long term, there was virtually no difference between the groups (Foster, 2021). Following the denial of a wanted abortion, women were more likely to report high levels of anxiety, stress, and low self-esteem than women who did receive the wanted abortion (Biggs et al., 2017). They were also more likely to report lower levels of life satisfaction (Biggs et al., 2017). However, these measures leveled out over time, and, by the five-year mark,

women from both groups had very similar mental health outcomes, thus providing no evidence that abortion wreaks havoc on the mental health of the pregnant woman (Foster, 2021). An earlier study conducted by Major et al. (2000) had similar findings, reporting that depression levels in participants were consistently higher before obtaining an abortion and decreased thereafter. As opposed to abortion itself being the cause of poor mental health outcomes, multiple studies have also found that the most reliable predictor of mental health challenges following an abortion are prior mental health conditions and traumatic life experiences (Biggs et al., 2017; Major et al., 2000; Major et al., 2009).

Similarly, studies have found a lack of evidence that having an abortion increases suicidal ideation. Biggs et al. (2018), using data from the Turnaway Study, found that rates of suicidal ideation were similar between the groups of women who received and were denied an abortion, and that they were extremely low for both groups. The Turnaway Study also found that substance abuse does not increase after having an abortion; rather, women who had and were denied an abortion both reported stable drug and alcohol use in the five years following their wanted abortion or being turned away (Foster, 2021). Additionally, it was found through the Turnaway Study that approximately 95 percent of women who participated in the study did not regret their abortion, thus further showing that the link between poor mental health and abortion is weak at best (Biggs et al., 2017; Foster, 2021).

Physical Health Consequences of Abortion

Similar to issues found in studies examining the link between mental health and abortion, studies that look at the physical health consequences of abortion are often marred by methodological flaws and an overall lack of meaningful data (Thorp Jr, Hartmann, & Shadigan, 2005). However, anti-abortion rhetoric still commonly paints abortion as causing a breadth of

physical health issues, from chronic headaches to more serious issues like future infertility or breast cancer (Doan, Candal, & Sylvester, 2018). Despite these claims, the majority of past studies have not found a significant correlation between abortion and subsequent pregnancy losses, ectopic pregnancies, or subfertility (Thorp Jr, Hartmann, & Shadigan, 2005). Thorp Jr, Hartmann, and Shadigan (2005) only reviewed one quantitative study examining the correlation between breast cancer and abortion, which yielded a positive association, but Guo et al. (2015) found that prospective studies do not provide sufficient evidence that there is a correlation between the two.

In order to expand on the sparse prior research looking at the connection between abortion and physical health, the Turnaway Study once again examined this potential linkage. Similar to previous studies, this study found that long-term complications from abortion are rare (Foster, 2021). This study also takes it a step further and shows that, in many cases, abortion is actually safer than carrying a pregnancy to term. According to Upadhyay et al. (2015), in a sample of 54,911 abortions, only around two percent resulted in complications, a rate that is lower than many other common procedures. Additionally, it was found that major complications from abortion, such as surgery, blood transfusions, or hospitalization occurred in less than 0.25 percent of cases (Upadhyay et al., 2015). Death was even less common, with only approximately one in 160,000 women dying from an abortion (Upadhyay et al., 2015), which is around 14 times less likely than dying from pregnancy complications (Gerdts et al., 2015). In terms of long-term health effects, women denied an abortion were more likely to report serious health concerns than women who obtained a wanted abortion (Foster, 2021). Women who received their wanted abortion were not only less likely to report chronic headaches and joint pain than those who were denied a wanted abortion, but they were also less likely to self-report that they were in poor

health by a margin of 20 percent to 27 percent (Foster, 2021; Ralph et al., 2019). Thus, this study found that it is actually more dangerous to be forced to carry a pregnancy to term than to have an abortion, debunking yet another widespread anti-abortion myth.

Socioeconomic Consequences of Abortion

Prior to the Turnaway Study, there was a resounding lack of evidence examining how obtaining or being denied an abortion affects financial outcomes for women (Foster et al., 2018). A major finding of the Turnaway Study was the way in which being denied an abortion can have negative effects on an individual's financial status. Women denied an abortion were more likely to live in poverty than their counterparts who successfully obtained a wanted abortion (Foster, 2021). In fact, carrying an unwanted pregnancy to term made it four times more likely that a woman would have a total household income below the federal poverty line (Foster et al., 2018). Unemployment levels, use of public assistance, and credit report data also indicate that there is a socioeconomic gap between women who receive and women who are denied a wanted abortion (Foster, 2021). Even one week after the abortion was either performed or denied, 60 percent of women denied an abortion reported being unemployed versus only 45 percent of women who got their wanted abortion (Foster, 2021; Foster et al., 2018). On average, it took four years for the women denied an abortion to have a similar level of employment to women who successfully underwent the procedure (Foster, 2021). In addition to lower employment, women who were denied an abortion also reported higher usage of public assistance (Foster, 2021). Almost twice as many women denied an abortion received public welfare than women who got an abortion, and 44 percent of women turned away used food stamps compared to only 33 percent of women who got abortions (Foster, 2021). These differences remained statistically significant until the five-year point of the study, as well (Foster, 2021). Women denied an abortion were also six

times more likely to be receiving Temporary Assistance for Needy Families (TANF), although this difference was no longer statistically significant at the five-year mark of the study (Foster et al., 2018). It is also interesting to note that women who were turned away had worse credit outcomes, including more past-due payments, bankruptcies, and evictions than women who got their wanted abortion, with these differences also remaining statistically significant for several years (Miller, Wherry, & Foster, 2023). As a result of this data, it is evident that being denied a wanted abortion can wreak havoc on women's financial livelihood, leading to consequences that extend far beyond the abortion denial itself.

Theory

In this thesis, the reproductive justice framework and intersectional feminist theory were employed to help guide my interpretation of the linguistic patterns and themes present in state-level abortion laws. These theories helped contextualize the current legislation in light of historical patterns that have been identified through previous research that utilized these frameworks. In addition, while the legislation may not mention systems of power or marginalized women directly, these theories provided critical analyses of these topics that helped unpackage and explain some of the underlying motivations and implications that were revealed through the textual analysis of these laws.

Reproductive Justice Framework

Reproductive justice was coined in 1994 by a group of 12 Black women who were attempting to address the reproductive healthcare needs of women of color from a social justice standpoint (Kapadia, 2022). This framework aims to eliminate reproductive oppression, or the “controlling and exploiting of women and girls through [their] bodies, sexuality, and reproduction,” which necessitates understanding that the experiences of white, middle-class

women are not representative of all women (Luna & Luker, 2013, p. 330; Ross & Solinger, 2017). As a result, this framework takes an intersectional approach to examine how intersecting identities, “such as race, class, gender, sexuality, and ability” combine to create a person’s unique status in society (Luna & Luker, 2013, p. 330). It is also grounded in a human rights framework (Ross & Solinger, 2017). The reproductive justice framework has three main tenets, which, as described by Kapadia (2022), state that women should have the right to:

1. decide if and when she will have a baby and the conditions under which she will give birth,
2. decide if she will not have a baby and her options for preventing or ending a pregnancy,
3. parent the children she already has with the necessary social supports in safe environments and healthy communities without fear of violence from individuals or the government (p. 1107).

In focusing on more than just a woman’s right to choose, reproductive justice separates itself from other women’s reproductive movements, particularly the reproductive rights movement (Luna & Luker, 2013; Ross & Solinger, 2017). The reproductive rights movement primarily operates on an individual level and focuses on an individual woman’s right to choose to prevent or terminate a pregnancy without much regard for circumstances that may impact their ability to make that choice (Ross & Solinger, 2017). On the other hand, reproductive justice takes a more holistic and intersectional approach, with the understanding that the social context and communities in which an individual lives strongly dictate the reproductive choices that are available to them (Ross & Solinger, 2017).

The reproductive justice framework is also unique in that it focuses on unequal power relations and acknowledges that those who have reproductive privilege often obtain it at the expense of those who’s rights are restricted (Luna & Luker, 2013). Structural forces, such as capitalism, patriarchy, racism, sexism, and systems of immigration, healthcare, and incarceration

are examined under this framework, as well, in order to understand how they perpetuate structural inequalities and prevent the realization of true reproductive justice and equity (Luna & Luker, 2013; Ross & Solinger, 2017). Additionally, these very structures, particularly structural racism and sexism, are also reinforced and perpetuated by abortion restrictions, thus creating a mutually reinforcing cycle (Riley et al., 2022). The focus on structural oppressions and intersectional identities are important for this thesis, as it provides a framework through which language used in abortion laws can be examined critically.

Reproductive justice research and theorizing goes far beyond abortion. Ross and Solinger (2017) discuss the relationship between a wide variety of reproductive oppressions and reproductive justice, including healthcare, transgender rights, and disability rights. They also examine the ways in which larger systems, such as racism, immigration, incarceration, education, and access to housing impact the realization of reproductive justice, with particular attention paid to the ways in which these phenomena prevent women from deciding if and how they will have a child, as well as the conditions under which they will raise that child (Ross & Solinger, 2017). In terms of reproductive restrictions, reproductive justice has been used to describe how these laws have marginalized vulnerable groups of women and have been used to “protect the identity of the United States as a ‘white country’” (Ross & Solinger, 2017, p. 15). Historically, studies focused on reproduction during slavery, as well as the eugenics movement of the twentieth century, to demonstrate harm caused by reproductive restrictions (Ross & Solinger, 2017). Reproductive justice has also been useful for understanding reproductive inequities that existed while *Roe* was the law of the land, particularly in terms of racial disparities in access to reproductive healthcare and health outcomes of abortion procedures, both of which disproportionately affect minority women (see Byron et al., 2022; Foster et al., 2018;

Robinson et al., 2022). It is also important to note that reproductive justice is not just a theoretical framework; it is also a practice utilized in movement-building efforts that target reproductive oppressions and inequities within a broader social justice agenda (Ross & Solinger, 2017). This thesis moves beyond past applications of the reproductive justice framework by focusing on the contemporary abortion landscape, as most of these past studies have not addressed laws in a post-*Roe* world.

Intersectional Feminism

Given the importance of intersectionality to the reproductive justice framework, as well as to theoretical applications of this thesis, it is necessary to examine its core components. Traditional first and second wave feminism largely erased the experiences and contributions of women who were not white, middle-class, and heterosexual, which created a hegemonic feminist narrative wherein white feminism is depicted as the “original and primary feminism that is copied by others” (Perez, 2021, p. 20). However, this is highly inaccurate, as women of color have made important feminist contributions for decades (Perez, 2021). One such example is intersectional feminism, which originated in political movements spearheaded by women of color (Carastathis, 2014). Kimberlé Crenshaw is generally credited with coining the term intersectionality, but other individuals and organizations, such as the Combahee River Collective, introduced this idea prior to Crenshaw’s publications (Carastathis, 2014). The Combahee River Collective was a group of black feminists who worked to fight against racial, sexual, and class oppressions (Collective, 1977). Importantly, this group acknowledged the way in which “major systems of oppression are interlocking,” which is an important tenet of intersectionality (Collective, 1977, p. 1). As such, intersectionality moves beyond hegemonic feminist narratives and focuses on the ways in which intersecting identities influence the lived

experiences of women, particularly women of color (Crenshaw, 1989). Intersectionality essentially posits that power among women is not distributed equally; rather, it is distributed in accordance with various diverse elements of an individual's identity, including but not limited to: "gender, race, ethnicity, social class, sexuality, age, national origin, [and] physical ability" (Renzetti, 2013, p. 66). These interlocking inequalities determine access to opportunities, privilege, and power (Renzetti, 2013; Smyth, 2020; Warde, 2022). However, it is important to recognize that these inequalities are not additive; instead, intersectionality acknowledges that social locations are "multidimensional and relational," in that they reflect the ways in which categories of identity intersect to form individual experiences of privilege and oppression, which can be experienced simultaneously (Hankivsky et al., 2010, p. 3; Warde, 2022). Additionally, intersectionality resists treating members of a social group as though they all have the same life experiences and instead opts to look at individual social locations within larger groups (Hankivsky et al., 2010).

When used in research, intersectionality is beneficial in that it allows the researcher to view multiple, complex categories of identity at the same time, without having to see them as mutually exclusive (Carastathis, 2014). With that, it can help move the focal point from the experiences of white, middle-class, heterosexual women to those of marginalized groups of people, such as women of color, women who are sexual and gender minorities, indigenous women, and disabled women, among others (Morris & Bunjun, 2007). This can be seen in examples provided by Morris and Bunjun (2007), where they discuss studies that have shown how domestic violence laws have disproportionately affected indigenous women in Canada. They also discuss how race, gender, and disability can impact the extent to which law enforcement responds to allegations of violence, which in turn influences the way in which an

individual interacts with law enforcement (Morris & Bunjun, 2007). Intersectionality is also useful for addressing multiple avenues of explanation for a particular social phenomenon (Carastathis, 2014). However, within this methodology, it is important to recognize that research projects themselves are products of social constructions and that the researcher has their own social location within the research that can both alleviate and reproduce categories of difference (Hankivsky et al., 2010). Additionally, research applications of intersectional feminism have been critiqued, as it can be difficult to look at interlocking oppressions systematically (Morris & Bunjun, 2007). On top of that, even when looking at the intersection of multiple oppressions, it can be difficult to discuss the systems of power at play without placing people in binary categories, such as man or woman, black or white, able or disabled, and gay or straight, among others (Morris & Bunjun, 2007). Other scholars have criticized intersectionality by saying that the potential categories of difference that create an individual's unique social location are infinite, which makes it difficult to decide which ones stand out or warrant analysis (Carastathis, 2014).

Intersectionality is particularly important to consider when studying abortion, as studies have shown that not only are marginalized women overrepresented in abortion statistics (Desai, Leong, & Jones, 2019), but they are also the ones who stand to be most affected by abortion restrictions (Coen-Sanchez et al., 2022). Thus, it is important to move beyond the experiences of white, middle-class women in order to truly understand the abortion landscape, as well as the potential effects of abortion restrictions. Previous studies have utilized intersectionality to decenter hegemonic feminist narratives and to explore how marginalized women experience and are affected by the issue of abortion. There is a wide variety of research encompassing this topic, with some focusing directly on the lived experiences of women and others emphasizing policy

implications of an intersectional approach to abortion rights. Foster's (2021) book detailing the Turnaway Study is a good example of intersectional research, as, in addition to presenting the results of the study, narratives of the experiences of women seeking abortion are included, showing how the unique social location of each woman led to her experience of being granted or denied a wanted abortion. Other intersectional applications of abortion include work done by Desai, Leong, and Jones (2019), Deeb-Sossa and Billings (2014), Hall et al. (2018), and Kozhimannil, Hassan, and Hardeman (2022), among others, as they move beyond hegemonic feminist narratives and focus on the realities of minority women in relation to this issue. Other scholars, such as Matos (2018), discuss the potential for incorporating intersectionality into policymaking. This thesis goes beyond previous applications of intersectional feminism to abortion, as it considers the way in which the most recent legal developments in the abortion debate have the potential to affect all women, which is something that is yet to be seen in current literature.

Chapter 4: Methodology and Data

The review of relevant background contexts and other literature in previous chapters revealed that, while abortion restrictions have a widespread effect on women across the United States, few studies have examined the language used in restrictive state abortion laws and there is very limited scholarship that analyzes restrictive state abortion laws in a post-*Roe* world. As a result, I generated two research questions for this project in an effort to further examine the language used in contemporary restrictive abortion laws:

1. What are the large, overarching themes across the language used in current restrictive state abortion laws?
2. What are the potential implications of this use of language?

This chapter discusses the methodology that I employed in order to explore the aforementioned research questions. Specifically, I explain why a qualitative methodology was necessary for this project and why a textual analysis strategy was the method of choice. I then discuss how I chose which restrictive state abortion laws to analyze, with a specific focus on explaining the inclusion criteria for the laws. I also provided an overview of how I analyzed the laws themselves through a discussion of the coding methods I employed. In this section, I also briefly discuss the overarching themes generated by my analysis.

Research Strategy

For this thesis, I utilized an exploratory qualitative textual analysis methodology to examine the language used in current restrictive state abortion laws. While textual analysis can be conducted both quantitatively and qualitatively (Smith, 2017), a qualitative approach was selected for this project, as this type of methodology enabled me to explore the research questions more in-depth and inductively than a restrictive quantitative approach would have

allowed for. Qualitative methodologies utilize open-ended questions in an effort to examine and understand topics that are “novel or complex” (Sofaer, 1999, p. 1109) and do not fit into rigid, numerical categories utilized in quantitative analyses (Queiros, Faria, & Almeida, 2017). Restrictive state abortion laws certainly do not fit into narrow categories, as they are influenced by a plethora of social and political factors, thus making qualitative analysis the best fit for this project. Additionally, qualitative research is very useful for understanding a topic “deeply and in detail,” as these methodological designs allow for the “discovery of central themes and [the] analysis of core concerns” (Atieno, 2009, p. 16). Given that the goal of this project was to discover major patterns and implications of the language used in restrictive state abortion laws, it was important to select a methodology that would enable me to utilize the data to gain an in-depth understanding of the phenomena at hand, which reaffirmed the need to use a qualitative methodology for this thesis. With that, qualitative methodologies also enable the researcher to recognize and interpret ambiguities present in the data set (Atieno, 2009). This was particularly useful for my project, as the language used in laws is very nuanced and complicated, so employing a qualitative research strategy gave me the freedom to analyze and interpret the data as necessary, while still conducting a rigorous study. It is also important to note that qualitative methods are ideal for exploratory research, where little is known about the topic in question (Gerring, 2017). Given the recency of the Supreme Court decision, there has yet to be a significant amount of research conducted on current restrictive abortion laws, much less the specific language they contain. The lack of current literature necessitated an exploratory approach, which fit in well with the qualitative approach, as well.

Textual analysis was the qualitative methodology of choice for this thesis, as qualitative textual analysis is generally used to “assess meanings, values, and messages” that are conveyed

through texts (Smith, 2017, p. 1). In this type of analysis, the data being analyzed are words and symbols present in the text, which enables the researcher to infer what meanings could potentially be attached to the selected data (Smith, 2017). This was useful for the current project, as analyzing the words and symbols present in restrictive state abortion laws was necessary to answer the research questions, particularly for discerning the potential implications of the language used in these laws. However, as stated by McKee (2001), this methodology is utilized with the understanding that there is no correct interpretation of a text; rather, interpretations depend heavily on the context in which the texts are analyzed. For this reason, this methodological approach requires that data be coded within the context in which it was created (Kuckartz, 2014), whether that be the text as a whole, its relationship to other texts, or the social context in which the text was created and disseminated (McKee, 2001). The emphasis on context was particularly important in this project for understanding why the language used in restrictive abortion laws is significant, as a strong understanding of the present and historical contexts of abortion was instrumental in identifying patterns and themes in the data. It is also important to acknowledge that this process of analysis is reflexive, with a constant interplay between the research question, the texts, the codes, and the analysis (Smith, 2017).

Data Collection

For this thesis, state laws restricting abortion that were allowed to take effect or remain in effect because of the Supreme Court's *Dobbs v. Jackson Women's Health Organization* decision were selected for analysis. To be included in the dataset for this project, the legislation needed to meet the following three criteria:

1. The legislation must have been signed into law between 2018 and 2022.

2. The law must ban abortion or restrict the legality of the procedure to a gestational age prior to viability.
3. The law must have been influenced by the *Dobbs v. Jackson Women's Health Organization* decision.

While there are states that have trigger laws from before 2018, this year was chosen as the starting point for this project due to the desire to focus on contemporary political contexts and legislation. As stated by Bustillo (2022), there have been two large waves of abortion bans in recent history: one between 2005 and 2007, and one between 2019 and 2022. The political climate surrounding abortion changed between 2007 and 2019, with abortion politics after 2016 being characterized in part by the conservative, pro-life justices that Donald Trump appointed to the Supreme Court and circuit courts (Singh, Villaseñor, & Berg, 2019). With the belief that judges would uphold restrictions to reproductive rights, there was an “unprecedented wave” of trigger bans and other unconstitutional abortion laws during Trump’s presidency (Singh, Villaseñor, & Berg, 2019, n.p.). Thus, only abortion laws from 2018 or later were included in this sample, as they were the most likely to reflect the contemporary political climate surrounding abortion. Even though the surge of abortion bills was identified as beginning in 2019, 2018 was chosen as the starting point for this project, as it enabled Mississippi’s Gestational Age Act, the bill that was taken to the Supreme Court in the *Dobbs v. Jackson Women's Health Organization* case, to be included in the analysis.

The laws selected for analysis also must have banned abortion or made it illegal prior to viability, as legal abortion until viability was the precedent set by *Roe v. Wade*. For the third criteria, to be influenced by the Supreme Court decision, the law must have either been a trigger law, a law that was reinstated following the ruling, or a law that took effect after the court’s

decision was released. With that, it is important to note that some states have multiple abortion laws on the books, but only comprehensive laws identified to be influenced by the Supreme Court decision were selected for analysis. Legislation that is not connected to the decision or only makes minor amendments to more comprehensive legislation was not included.

To find the laws that were analyzed, I first obtained a list of all states that currently restrict or are attempting to restrict abortion. This list included 24 states, 13 of which have near-total bans on abortion, five that have gestational limits, and six that have passed restrictive laws that have temporarily been banned by state courts (The New York Times, 2023). Alabama, Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin all have near-total abortion bans in effect (The New York Times, 2022). Arizona, Florida, Georgia, Utah, and North Carolina have gestational restrictions on abortion ranging from six weeks to 20 weeks (The New York Times, 2023). Indiana, Iowa, North Dakota, Montana, Ohio, and Wyoming have a variety of restrictive abortion laws that have been blocked by judges in each respective state (The New York Times, 2023). Laws that are currently blocked will still be included in the dataset, as they are still an accurate representation of the current political climate surrounding abortion.

For each state, I then conducted a simple Google search to find the name of the abortion law in effect. After obtaining the name of each law, I found a full text version on either the state government website or other websites that track legislative progress by state, such as LegiScan. For each law, I then found the year it was passed, what restrictions it imposed on abortion, and how it was influenced by the *Dobbs v. Jackson Women's Health Organization* decision. The laws that met the aforementioned criteria were saved to be included in this thesis. In total, there were 18 laws that met the inclusion criteria. These laws range from 2 pages to 44 pages and

came from the following states: Alabama, Arizona, Arkansas, Florida, Georgia, Idaho, Indiana, Iowa, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, Utah, West Virginia, and Wyoming (see Appendix B for a brief description of each law). Laws from Louisiana (2006), North Carolina (1973), North Dakota (2007), South Dakota (2005), and Wisconsin (1849) were excluded, as they were signed into law before 2018. Montana's law was also excluded, as abortion is still legal in the state due to a past State Supreme Court ruling that abortion is protected by the state constitution (The New York Times, 2023). Similarly, South Carolina's law was excluded, as the state Supreme Court decided in January of 2023 that the state constitution protects the right to an abortion (Brennan Center for Justice, 2023). Michigan's law was also excluded, as not only was it from 1931, but voters in the state also voted to protect the right to abortion in the state constitution in 2022, a move that invalidated the law from 1931 (Reilly, 2022). It is also important to note that the Mississippi law chosen for analysis was replaced by a trigger ban from 2007, but since this law was the one taken to the Supreme Court, I decided it was important to include it in the analysis.

Data Analysis

In order to analyze the selected texts, I used Atlas.ti software. To begin, I selected the first five laws and used inductive, open coding to construct descriptive codes grounded in the data (Kuckartz, 2014). This coding process included going through each text line-by-line to create codes as I went, with every word or phrase that appeared to hold significant meaning being recorded (Kuckartz, 2014). After coding the first five laws using inductive coding, I created a flexible, yet systematic codebook in order to guide my coding of the remaining laws. I selected a subsample of the data to conduct this initial coding, as scholars such as DeCuir-Gunby, Marshall, and McCulloch (2011) recommend coding a small portion of the data prior to

the whole sample in order to create data-driven codes that are reliable and can be used to systematically code the rest of the data. The codes that I included in the initial codebook were applied to the remaining 13 laws, but given the fact that creating and utilizing a codebook is an iterative process (DeCuir-Gunby, Marshall, & McCulloch, 2011), I modified the codebook as necessary as I coded. For example, any word or phrase that appeared to hold significant meaning and did not fit into any of the categories identified in the original codebook was put into a new code category, with the codebook being updated accordingly. After coding all 18 laws according to the aforementioned method, I engaged in secondary, axial coding. This process was utilized to examine each code created in the first round of coding in order to identify “patterns or groupings of codes within the data” (Tracy, 2013, p. 195). It is important to note that this process was reflexive, and I consistently referred back to the research questions, as well as other relevant contexts, throughout the coding process, as recommended by Tracy (2013). Through this analysis process, I found three overarching themes present in the data, all of which are made of up smaller subthemes. Table 1 shows the themes I generated from my data analysis, with the overarching patterns on the left, and the subthemes within that pattern on the right.

Table 1

Code Themes and Subthemes

Code Themes	Code Subcategories
Selective Humanization	<ul style="list-style-type: none"> • Women as victims • Women as mothers • Personification and humanization of the fetus
Exceptions to Abortion Restrictions	<ul style="list-style-type: none"> • Exceptions for physical vs. mental health • Exceptions for rape and incest
Moral Appeals	<ul style="list-style-type: none"> • References to the Declaration of Independence • References to genocide and crimes against humanity

	<ul style="list-style-type: none">• References to past Supreme Court cases
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In addition to the themes shown in Table 1, there were other patterns present in the text that were not selected for further analysis in this thesis. For example, medicalization was a trend in the data, but the language used in this category fit more appropriately into other themes, as medicalization was not the main point of the language; rather, it was being used to project values onto other subjects.

Following the coding process, the themes and subthemes identified in Table 1 were then examined through the lens of relevant theoretical and social contexts, including the reproductive justice framework and intersectional feminism. Through this analysis, the potential implications of these patterns in the use of language across restrictive state abortion laws were examined, as will be discussed in the following chapter.

Chapter 5: Analysis and Discussion

This chapter includes a description of the major themes and subthemes generated from my exploratory qualitative textual analysis, as well as my interpretation of the potential implications of these themes. Specifically, I discuss patterns of selective humanization, exceptions to abortion restrictions, and moral appeals. Examples of these themes from the data are given before I discuss them through the lens of relevant theories and contexts. A full breakdown of the themes seen in each law can also be found in Appendix A.

Selective Humanization

Across the restrictive state abortion laws that were analyzed, there was a marked difference between the language used to describe the pregnant woman and the language used to describe the fetus. In particular, the woman was often stripped of her agency and portrayed as a helpless victim, whereas the fetus was hyper-humanized and personified. This theme is best exemplified by three subthemes: women as victims, women as mothers, and personification and humanization of the fetus, all of which will be discussed in detail below.

Women as Victims

Across the data, 14 total laws portrayed women to be victims who are devoid of agency. Eleven of the laws, including Idaho, Indiana, Iowa, Kentucky, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, and West Virginia, did so by using phrases that depicted the pregnant women as having an abortion performed on them, as opposed to electing to undergo the procedure. For example, each of these laws referred to the “woman upon whom an abortion is performed or induced,” or a similar variation of this phrase. In the case of the Indiana law, this took the form of “the woman submitting to the abortion.” By using language such as “upon whom” or “submitting,” these laws may be giving the impression that women are nothing but

passive actors in the abortion process who are victimized by abortion providers and the procedure itself. The word “submitting,” in particular, gives important insights into the connotation of this phrasing. For women, being submissive has traditionally been seen as a “normal, moral, and natural behavior” that reflects their lack of agency and freedom (Garcia, 2021, p. 3). Additionally, Garcia (2021) asserts that women who embody their stereotypically submissive nature may in turn be seen as “passive victims” (p. 4). I argue that this connotation can be applied here, given the direct use of the word submission. This meaning can also extend to the idea of “the woman upon whom an abortion is performed or induced,” as the depiction of a woman having an abortion performed on her indirectly implies that she lacks agency and is simply submitting herself to the procedure and to the provider. Thus, this use of language in restrictive state abortion laws may give the impression that the women who are obtaining an abortion are merely victims of the procedure and the person performing it. In turn, this also implies that women are not capable of making important choices for their bodies and livelihoods, as that goes against their inherently submissive nature.

It is also important to note that the portrayal of women as passive victims who have an abortion performed upon them is very similar to the language that scholars have identified as being used in the anti-abortion movement (Doan & Schwarz, 2020). In particular, the lack of agency given to women through this characterization may reinforce the anti-abortion trope that women are frequently coerced into getting an abortion against their will, and thus that they have no choice in that decision (Doan & Schwarz, 2020). This conceptualization may in turn also support the idea that abortion restrictions are saving women. Specifically, the idea that women lack agency and thus are unable to make appropriate decisions for themselves without being coerced into undergoing a procedure they do not actually want may support the narrative that

abortion restrictions are protecting women, as they directly showcase women's supposed inability to protect themselves.

The restrictive state abortion laws analyzed also perpetuate the victim narrative through the way in which penalties for unlawfully performing an abortion are discussed. Sixteen laws briefly lay out punishments for violating the law, with penalties ranging from a fine or loss of a medical license to a felony conviction. It is directly stated that these penalties may apply to doctors, abortion clinics, or even people who help a woman obtain an abortion, depending on the state. However, in 11 of the states that discuss punishments, there is a clause that expressly states that the pregnant woman cannot be charged with a criminal or civil violation for obtaining an illegal abortion. For example, in Alabama's law, it is stated that "no woman upon whom an abortion is performed or attempted to be performed shall be criminally or civilly liable." This sentiment is echoed nearly identically in laws from Arizona, Arkansas, Indiana, Iowa, Kentucky, Missouri, Ohio, Oklahoma, Tennessee, and West Virginia, with the common trend being that it is unlawful for a woman to be held responsible for obtaining an abortion. By exempting women who obtain an abortion from any penalties under the law, these laws may once again be giving the impression that women do not have control over the procedures that are performed on their bodies. Rather, they are merely victims of providers or other individuals who aid in the performance of the abortion. Similar to the language that portrays women as having an abortion performed on them, this use of language strips women of their agency and once again potentially gives the impression that women must be protected from abortions. The fact that abortion providers can be punished for performing an abortion further reinforces this, as the punishment may indicate that the provider is the perpetrator, and the lack of punishment for the woman can indicate that she is nothing more than a victim of the actions of the provider.

In order to further understand the impact of the language that portrays women as victims, it is important to analyze it through a lens of reproductive justice. The agency of women is central to this framework, as its three main tenets (that women have the right to have a child and to decide how they want to give birth, that women have the right to not have a child and to prevent or end a pregnancy, and that women have the right to parent their children in a safe environment) are all directly predicated on a woman's right to choose what to do with her body (Ross & Solinger, 2017). Without this fundamental right to choose, reproductive justice simply cannot be realized (Ross & Solinger, 2017). Thus, by using language that paints women as being passive victims who are incapable of deciding to have an abortion on their own, these laws are directly contradicting the central tenets of this framework, thereby potentially preventing true reproductive justice from becoming a reality.

Reproductive justice also focuses heavily on unequal power structures, as well as how reproductive oppressions can be used to perpetuate these inequalities (Luna & Luker, 2013; Ross & Solinger, 2017). By portraying women as passive actors who lack agency to control their own reproduction to the extent to which it must be controlled for them, these laws could be perpetuating centuries-old patriarchal rhetoric. Patriarchy is a system that paints women to be weak beings who must serve others and be caretakers (hooks, 2004). As a result of their purported weakness and status as the subordinate sex, patriarchy also asserts that women must be controlled and protected by men, as they are the superior, dominant sex (hooks, 2004). Thus, the depiction of women as being devoid of agency and unable to make important decisions for themselves in abortion laws may reinforce the patriarchal idea that they are weak and must be protected. With that, restrictive state abortion laws arguably act as the protectors and, in turn, reinforcers of the patriarchy. Not only do they severely limit the control that women have over

their own reproduction, but they also represent another instance in which the needs and wants of women are subordinate to another entity. As a result, these restrictive state abortion laws may function to keep women locked into the roles prescribed to them by the patriarchy by limiting their ability to commit an act that would go against the best interest of the patriarchy, which is presented under the guise of being contrary to the best interest of the woman.

Women as Mothers

Throughout the abortion laws analyzed, women were also portrayed as being inherently maternal. Seven of the laws directly conflate pregnant women with mothers, with the laws from Alabama, Missouri, and Oklahoma all describing the woman as the “unborn child’s mother.” This sentiment is echoed in the laws from Arizona and Mississippi, where the woman is referred to as the “maternal patient.” Similarly, the laws from Indiana and Wyoming simply refer to the woman as the “mother.” Describing the woman as the “unborn child’s mother,” the “maternal patient,” or the “mother” reduces the agency of the woman once again, as it portrays her as being subservient to yet another being: the fetus. This gives the impression that the woman is controlled by her duty to her fetus, leaving little room for her to have agency of her own. Additionally, the depiction of women as mothers relegates them to a single role: the mother of the fetus they are carrying. This essentially reinforces the idea that there is nothing more important to a woman’s identity than being a mother; once she has children, or, in the case of these laws, once she is simply pregnant, her status as a mother overpowers any other statuses or characteristics that she may possess. Essentially, being a mother is her master status (Hughes, 1945; Waggoner, 2017).

The idea that women are meant to be mothers is also seen in traditional anti-abortion rhetoric (Doan, Candal, & Sylvester, 2018), as well as broader discourse that has equated

womanhood with motherhood for centuries (Waggoner, 2017). In fact, as Waggoner (2017) discusses, this rhetoric runs so deep that some even believe that “a woman is a mother from the time of her own conception” (p. 94) and that women “don’t have value unless they’ve got a belly” (p. 115). Thus, these laws explicitly reflect and perpetuate these ideas. The connection between women and motherhood is also highly prevalent in patriarchal ideology, where it is believed that being a mother is the “instinctive vocation” of women (Roberts, 1993, p. 4). In turn, the way in which these laws equate women with mothers directly reflects this patriarchal ideology. However, this use of language does not merely reflect patriarchal values; it also reinforces them. Roberts (1993) asserts that the role of women as mothers is central to social constructions of gender, as well as the maintenance of male superiority, as it relegates women to unpaid and undervalued roles that are only deemed valuable if they ascribe to normative constructions of motherhood. Thus, the conflation of women with mothers in restrictive state abortion laws may indirectly reinforce the patriarchal subordination of women, as it puts their value in motherhood and portrays them to be lacking in agency and humanity outside of their all-consuming role as a vessel for producing children. This perpetuation of patriarchal power systems may also prevent reproductive justice from being realized, as seen above with women as victims.

With the maternal nature of women on full display in these laws, it is also important to consider the ways in which motherhood is constructed, particularly through an intersectional lens. In general, the maternal ideals that women are conditioned to strive for are based on the experiences of white, middle-class, heterosexual women who form part of a traditional nuclear family (Ross & Solinger, 2017). Good mothers fit into the aforementioned categories, and there is a long history of demonizing women who do not ascribe to them (Thakkilapati, 2019;

Waggoner, 2017). Given that the restrictive state abortion laws analyzed contain traditional anti-abortion tropes, as well as patriarchal values, it is reasonable to infer that the idea of maternity they reflect is inextricably linked with white, middle-class motherhood. This has the potential to have negative consequences for any woman who does not fit into this idealized version of motherhood, as their experiences and needs are not reflected within these normative standards. As stated by Thakkilapati (2019), marginalized women's decisions to obtain an abortion are influenced heavily by normative constructions of motherhood, which makes it difficult for them to control their own reproductive outcomes. Instead, they tend to make reproductive choices that are constrained by this ideology (Thakkilapati, 2019). By continuing to center motherhood on the white, middle-class, heterosexual perspective, these laws may be further constraining the reproductive choices available to marginalized women. This lack of choice yet again directly contradicts the tenets of reproductive justice and can also result in disproportionately negative health and economic outcomes, which, as seen in chapter three, have the potential to wreak havoc on women's livelihood, both in the short-term and in the long-term (Foster, 2021).

In addition to contradicting the central tenets of reproductive justice and subjecting women to potentially negative health and economic outcomes, this use of language in restrictive state abortion laws has the potential to reinforce structural inequalities, particularly structural racism. As stated by Riley et al. (2022), anti-abortion laws have historically been rooted in white supremacy and are just one element of structural racism that contributes to poor health outcomes for women of color. Given the centrality of the experiences of white motherhood in this section, as well as the potential for reproductive restrictions in the post-Roe world to disproportionately affect marginalized women (see chapter 2), it is evident that these policies have the potential to contribute to the perpetuation of these harmful inequalities.

Personification and Humanization of the Fetus

In all 18 laws, the fetus is most commonly referred to as an “unborn child,” or some other phrase that emphasizes its humanity. In 13 states, including Alabama, Arkansas, Georgia, Indiana, Iowa, Kentucky, Missouri, Oklahoma, Tennessee, Texas, Utah, West Virginia, and Wyoming, the fetus is referred to as an “unborn child” on one or more occasions. Other states, including Alabama, Arizona, Arkansas, Georgia, Idaho, and Ohio, refer to the fetus directly as a “human being.” Other states utilize similar phrases to humanize the fetus, with Florida referring to it as a “human embryo,” Ohio using the phrase “unborn human individual,” and Idaho describing the fetus as a “preborn child.” Some laws take the humanization of the fetus a step further by describing certain human physical characteristics that fetuses have at various stages of gestational development. Laws from Alabama, Arizona, Georgia, Mississippi, and Missouri all exemplify this personification of the fetus. For instance, the law analyzed from Arizona states the following about fetal development:

2. Medical and other authorities now know more about human prenatal development than ever, including that:
 - (a) Between five and six weeks’ gestation, an unborn human being’s heart begins beating.
 - (b) An unborn human being begins to move about in the womb at approximately eight weeks’ gestation.
 - (c) At nine weeks’ gestation, all basic physiological functions are present. Teeth and eyes are present, as well as external genitalia.
 - (d) An unborn human being’s vital organs begin to function at ten weeks’ gestation. Hair, fingernails and toenails also begin to form.
 - (e) At eleven weeks’ gestation, an unborn human being’s diaphragm is developing, and he or she may even hiccup. The unborn human being is beginning to move about freely in the womb.
 - (f) At twelve weeks’ gestation, an unborn human being can open and close his or her fingers, starts to make sucking motions and senses stimulation from the world outside the womb. Importantly, the unborn human being has taken on “the human form” in all relevant aspects.

Similar sentiments are seen in the other laws that specifically discuss fetal development.

The use of language that describes the fetus as an “unborn child,” as well as the language that highlights physical characteristics of the fetus, is similar to traditional language used by the anti-abortion movement. In particular, it mirrors fetus-centered tropes that portray the fetus as an unborn child with highly personified traits in order to justify ‘protecting’ it through abortion restrictions (Doan, 2007; Johnson, 2014). This use of language is important, as it has the potential to assign a certain moral value to the fetus. In this case, using language that highlights the vulnerable humanity of the fetus may indicate that it is a living being that needs to be protected from inhumane abortion procedures. However, it is also necessary to examine how the hyper-humanization of the fetus may affect the value assigned to the pregnant woman. The humanizing language used to describe the fetus exists in stark contrast with the passive language used to describe the woman, as seen above. These nearly opposite portrayals function to shift the attention from the woman and her rights and autonomy to the supposed rights of the cluster of cells growing inside of her. Essentially, these conceptualizations of women and their fetuses distract from the real human person present in the situation to an abstract, idealized person, which is the fetus. This arguably once again reflects the idea that women are simply a vessel for procreation, as opposed to being a human being in her own right, as the life growing inside of her is shown to be more important than her own. Similar to the women as victims and women as mothers themes, this depiction of women may reinforce patriarchal ideals by inextricably linking them with their children, as well as by portraying them as passive beings who lack agency. As a result, reproductive justice yet again cannot be realized under these conditions, as they directly contradict the central tenets of the framework.

It is also important to note that the importance given to the fetus in these laws is somewhat ironic. Despite the value afforded to them while they are in the womb, once they are

born, it has been alleged that people in power do not care nearly as much about their wellbeing and human rights. This is evidenced in particular by policies that restrict free school lunches and ban gender affirming care for transgender youth, as well as the overall lack of importance placed on protecting children from school shootings, among others (Bouie, 2023). These policies (or lack thereof) give the impression that, once they become their own beings, lawmakers do not actually care very much about children. In turn, this may also imply that the idea that abortion restrictions protect children is merely a smokescreen that hides the true purpose of the laws: controlling women.

Exceptions to Abortion Restrictions

Throughout the laws selected for analysis, another major theme was the way in which exceptions to abortion restrictions were described. These exceptions appeared most predominately through two categories: exceptions for physical versus mental health and exceptions for rape and incest.

Exceptions for Physical versus Mental Health

Of the 18 laws analyzed, every single one contained an exception to the abortion restriction in the case of a medical emergency for the pregnant woman. However, even more notable than the presence of this exception is the way in which it was framed in nearly every state, where the exception was only for physical conditions, not psychological ones. This distinction appeared primarily in two ways: the law only referenced physical ailments, with no mention of psychological conditions whatsoever, or the law explicitly stated that mental health conditions did not fall under the exception. In laws from Arkansas, Kentucky, Mississippi, Missouri, Oklahoma, and Texas, exceptions for medical emergencies were depicted to only be

physical ailments, with no reference to psychological conditions. The laws from Arkansas and Oklahoma directly defined a medical emergency as

a condition in which an abortion is necessary to preserve the life of a pregnant woman whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

The law from Mississippi presents a nearly identical definition of a medical emergency. In Kentucky, the exception states that a licensed physician may perform an abortion if the procedure is necessary “in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman.” Missouri provides a similar definition of a medical emergency, asserting that an abortion may be performed to avoid the death of the pregnant woman, or in times where delaying an abortion would “create a serious risk of substantial and irreversible physical impairment of a major bodily function of the pregnant woman.” The law from Texas is similar, as well, as it states that an abortion may be performed if

the pregnant female on whom the abortion is performed, induced, or attempted has a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that places the female at risk of death or poses a serious risk of substantial impairment of a major bodily function unless the abortion is performed or induced.

It is also important to note, that, in the laws that reference a major bodily function, this is generally defined as including, “but is not limited to, functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.” Thus, no psychological functions are mentioned in this definition, either. Laws from Arizona, Idaho, Ohio, and Utah solely frame exceptions through the lens of damage to major bodily functions, which in turn restricts the exceptions to solely physical conditions, as well.

Other laws, including those from Alabama, Florida, Georgia, Indiana, Iowa, Tennessee, West Virginia, and Wyoming, explicitly state that mental health conditions are not included under the exception to the law. Each of these states defines a medical emergency similarly to the states who solely mention physical conditions, especially with respect to conditions that threaten the life or a major bodily function of a pregnant woman. However, in addition to that definition, all of these states assert that psychological conditions are not a valid medical emergency. For example, the law from Georgia states that

no such greater risk shall be deemed to exist if it is based on a diagnosis or claim of a mental or emotional condition of the pregnant woman or that the pregnant woman will purposefully engage in conduct which she intends to result in her death or in substantial and irreversible physical impairment of a major bodily function.

The laws from Tennessee and West Virginia are similar, as they echo the sentiment that even the threat of a woman hurting herself is not sufficient to constitute an exception to the law. The laws from Florida, Indiana, Iowa, and Wyoming do not discuss psychological conditions in-depth; rather, they just state that the exception exists for conditions "other than a psychological condition," or another similar phrase. The language used in the law from Alabama is slightly different from those mentioned above. It still reflects the same sentiment that psychological conditions do not constitute a medical emergency, but it does state that a valid psychological condition can exist if

a second physician who is licensed in Alabama as a psychiatrist, with a minimum of three years of clinical experience, examines the woman and documents that the woman has a diagnosed serious mental illness and because of it, there is reasonable medical judgment that she will engage in conduct that could result in her death or the death of her unborn child.

However, this stipulation still excludes exceptions for psychological conditions that fall outside the realm of serious mental illness.

The language used in these laws that either does not mention mental health conditions or explicitly excludes them from exceptions is an extremely important theme. The explicit separation of physical and mental health may give the impression that, at least in these circumstances, physical health is more important and valid than mental health. As a result, this language has the potential to further stigmatize psychological conditions. Stigmatizing mental illness has been empirically shown to limit life opportunities of individuals experiencing these conditions, including by discouraging them from seeking treatment and making it more difficult for them to access housing or employment (Michaels et al., 2012). Additionally, such an open public stigma can result in self-stigmatization, which can impact an individual experiencing mental illness very negatively through decreasing their self-esteem, self-efficacy, and overall quality of life (Michaels et al., 2012). Thus, it is clear that using language that so explicitly assigns varying values to physical and mental illness may cause repercussions far beyond just determining who is legally able to obtain an abortion.

Restricting exceptions to laws that limit abortion also have the potential to contribute to poor mental health outcomes in women who are denied an abortion. As seen in the Turnaway Study, women denied an abortion initially experienced worse psychological outcomes than their counterparts who were able to obtain their wanted abortion (Foster, 2021). Additionally, Biggs et al. (2017) assert that women with pre-existing mental health conditions are at a greater risk of experiencing these adverse mental health outcomes following the denial of a wanted abortion than their counterparts without pre-existing conditions. For postpartum psychological conditions, including postpartum depression, past instances of mental illness have also been shown to be a primary risk factor (Bloch et al., 2006). These conditions can harm both the mother and the baby and have even been shown to be detrimental to the baby's development (Bloch et al., 2006).

Thus, it is reasonable to infer that provisions of restrictive state abortion laws that do not allow for exceptions to the law for psychological conditions may cause women who would have sought an abortion because of their mental health to have significant mental health challenges, both after being denied an abortion and after giving birth. These adverse outcomes can negatively impact the quality of life of the mother (Michaels et al., 2012), and may even harm their child, as well.

It is also important to discuss the language used in these laws in relation to physical and mental health through the context of the way women are treated within the healthcare system. There is a significant data gap between men and women in medicine, and unless women present symptoms that match those of a typical male, which they sometimes do not, they are often misdiagnosed or given inadequate medical treatment (Criado Perez, 2019). This may take the form of women's symptoms being dismissed, or providers telling them that it is just in their head; in fact, there is a long history of women who present unusual or unexplainable symptoms being diagnosed as hysterical, as opposed to actually investigating the source of her symptoms (Thompson & Blake, 2020). Women are also more likely to have their pain dismissed and are less likely to receive pain medication than men (Cho, 2019). This is still common today, as women report that they often feel dismissed by medical providers (Criado Perez, 2019), and that they are too frequently told that their symptoms are simply in their head or are the result of an underlying mental health condition (Thompson & Blake, 2020). These diagnostic errors have been shown to cause serious harm to patients (Cho, 2019). This medical negligence is particularly pronounced for marginalized women, with black women being a glaring example of bias in the healthcare system. Empirical evidence has shown that black women are more likely to be denied pain medication or be dismissed entirely by medical professionals, in part due to the harmful idea that black individuals do not feel pain like other racial groups (Cho, 2019).

Additionally, African American women are more likely to be misdiagnosed with serious psychiatric conditions than the general population (Baker, Buchanan, & Spencer, 2010). Given the way in which women are treated by healthcare professionals, not allowing women to obtain an abortion unless they have a serious physical condition has the potential to cause a myriad of problems. If a woman with serious symptoms is dismissed by her doctor, it could inhibit her ability to obtain necessary reproductive healthcare, which in turn could pose a risk to her health as well as, ultimately, her life. Beyond that, the focus on physical conditions may reinforce the disadvantage that women face in the healthcare system, as decisions are being made for them based on male-dominated experiences, instead of listening to their own unique circumstances. This in turn may also indicate that the experiences of women are not to be trusted; instead, their symptoms and perceptions must be validated by medical professionals and by diagnoses that primarily reflect the conditions of men, as they do not have the capacity to report their own symptoms accurately.

With the idea that language used in restrictive state abortion laws largely devalues mental health and reinforces harmful conditions for women, it is important to examine another way in which certain laws reference mental health: post-abortion syndrome. Three laws explicitly mention supposed consequences of abortion that are directly in line with what past scholars (Doan, Candal, & Sylvester, 2018; Kelly, 2014) have classified as post-abortion syndrome. For example, the laws from Arizona and Mississippi use supposed mental health consequences of abortion to justify the creation of their law by stating that medical complications from dilation and evacuation abortions can include “depression, anxiety, substance abuse and other emotional or psychological problems.” The law from Missouri also states that “adverse psychological effects” may be associated with abortion, which is also used as a reason that abortion should be

banned in the state. These references to post-abortion syndrome are somewhat ironic, as the lack of exceptions to the laws for mental health reasons demonstrates that the mental health of women is of minimal importance to lawmakers, yet they apparently care about it when it conveniently supports their argument that abortion should be outlawed. This contradiction can reinforce the notion that the purpose of these laws is simply to control women, something that was also seen in the subtheme regarding the personification and humanization of the fetus.

The reference to post-abortion syndrome in these laws can also be viewed in connection with the women as mothers subtheme. As stated by Kelly (2014), the concept of post-abortion syndrome is centered on the idea that women are designed to be mothers, so abortion itself is a major trauma for them. With that, references to post-abortion syndrome in restrictive state abortion laws may have a similar effect to the language seen in the women as mothers section. In particular, the use of this concept may function to further portray motherhood as the master status of women, which has the potential to perpetuate patriarchal values, hinder the actualization of reproductive justice, and harm some minority women by solely centering normative constructions of motherhood.

Exceptions for Rape and Incest

Exceptions for rape and incest was another important theme that emerged from my analysis of restrictive state abortion laws. Eight of the 18 laws analyzed, including those from Georgia, Idaho, Indiana, Iowa, Oklahoma, Utah, West Virginia, and Wyoming, contained an exception for cases of rape and incest. The fact that less than half of the laws selected for analysis contained an exception for rape or incest is striking and reveals important information about the attitudes surrounding sexual assault in these laws. By not including exceptions for rape or incest, these laws may be indirectly asserting that experiences of rape or incest are not valid,

or that women cannot be trusted to be honest about their experiences, so the law must protect them from their misconceptions about their own lives. Additionally, these laws may once again be demonstrating that the value of the pregnant woman is far less than that of the fetus. This language insinuates that it does not matter that the pregnant woman endured a deeply traumatic event that resulted in her pregnancy; the only thing that matters is the fetus she is carrying. This in turn can further imply that the experiences of women are of no concern whatsoever and that the hyper-humanized fetus is the only being worth protecting, no matter the cost for the pregnant woman. Examining this phenomenon through the lens of the reproductive justice framework may once again suggest that, not only is this depiction of women perpetuating patriarchal systems of power that limit the agency of women, but it is also preventing reproductive justice itself from being realized.

Within this theme, another important element is that, for six states with an exception for rape and incest, for the exception to be invoked, the instance of rape or incest must be reported to law enforcement or a medical provider. Laws from Georgia, Idaho, Iowa, Oklahoma, Utah, and West Virginia require that the assault be reported to law enforcement. For instance, in the law from Georgia, it is asserted that an abortion may be performed if “the pregnancy is the result of rape or incest in which an official police report has been filed alleging the offense of rape or incest.” This is similar for Oklahoma, where the only requirement given is that the assault be reported to law enforcement. In Idaho, not only does an official police report have to be made, but that report also must be given to the doctor that is to perform the abortion. In Utah, the physician must independently verify that the report was filed. Other states restrict the rape and incest exception further by requiring that the incident be reported to law enforcement within a certain amount of time after it occurred. In Iowa, for an exception for rape to be granted, the

pregnancy must be the “result of a rape which is reported within forty-five days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician.” The exception for incest is similar, as it must be “reported within one hundred forty days of the incident to a law enforcement agency or to a public or private health agency which may include a family physician.” In West Virginia, the exceptions for rape and incest are only available for when the fetus is a certain gestational age. This law states that the restriction on abortion imposed by the law

shall not apply to an adult within the first 8 weeks of pregnancy if the pregnancy is the result of sexual assault, as defined in §61-8B-1 of this code, or incest, as defined in §61-8-12 of this code, and at least 48 hours prior to the abortion the patient has reported the sexual assault or incest to a law enforcement agency having jurisdiction to investigate the complaint and provided the report to the licensed medical professional performing the abortion.

For a “minor or an incompetent or incapacitated adult,” an abortion can be obtained in cases of sexual assault or incest up to 14 weeks of pregnancy.

Having these reporting requirements may act as a disincentive for women seeking an abortion, as by requiring that a third party validate their experience, it is demonstrating that women cannot be trusted to accurately perceive their own experiences. It also gives law enforcement and medical providers an immense amount of power, as they are essentially given the ability to dictate whether or not a woman in their care can obtain an abortion. This may be especially problematic for women who do not fit into the narrative of an ideal victim. Ideal victims are generally defined very narrowly, with most women who violate standards of traditional femininity, such as LGBTQIA+ women, or women who use illicit substances, being outside of this characterization (Carbone-Lopez, Slocum, & Kruttschnitt, 2016). Women who are of low socioeconomic class or are a racial minority may also fall outside of the stereotypical ideal victim (Randall, 2011). For women who are not considered an ideal victim, the fact that

law enforcement or a medical professional has to validate their experience of sexual assault is dangerous, as they may be taken less seriously since they do not fit into traditional conceptions of sexual violence (Randall, 2011). In the event that their experiences are not legitimated, they may be prevented from receiving an abortion, which could put them at a higher risk for adverse mental, physical, and socioeconomic outcomes, something that could prove disastrous (Foster, 2021).

The idea that law enforcement or a medical professional must validate women's experiences of sexual assault also may function to once again deprive women of agency, as, instead of making the decision to obtain an abortion independently, they are forced to rely on the conceptions of others for access to this care. Similar to aforementioned applications of reproductive justice, the lack of agency afforded to women in these situations makes it impossible for reproductive justice to become a reality, while simultaneously upholding oppressive power structures that relegate women to lower societal positions than their male counterparts.

It is also important to examine these exceptions for rape and incest in the context of contemporary law enforcement responses to sexual assault, as well as relationships between the police and minority communities. Sexual violence is one of the most underreported violent crimes, with estimates showing that less than 20 percent of rapes are reported to law enforcement (Carbone-Lopez, Slocum, & Kruttschnitt, 2016). Women cite many reasons for not reporting, including the belief that the police will not believe them or take any action, as well as an overall lack of confidence in the criminal justice system (RAINN, n.d.). These fears are not unfounded, as among rapes that get reported, only between 0.4 and 5.4 percent are prosecuted, and only between 0.2 and 5.2 percent result in a conviction (Shaw & Lee, 2019). For marginalized

women, particularly women of color, these outcomes are even worse, as Shaw and Lee (2019) found that criminal justice system investigations were generally less thorough when the victim was a woman of color. This is on top of the fact that poor minority communities tend to be overpoliced, and that residents of these neighborhoods often report lower levels of confidence in the police than their white counterparts, something that makes it even less likely that they will seek police assistance even if they are victims of a crime (Desmond, Papachristos, & Kirk, 2016; Lanni, 2022). Given the criminal justice response to sexual assault cases, as well as the relationship between minority individuals and the police, the fact that some restrictive state abortion laws require women to report sexual assault to law enforcement before being able to obtain an abortion could be cause for concern. In particular, it could make women, particularly poor women of color, less likely to seek to end pregnancies that resulted from sexual assault. Decreasing the likelihood that women will seek a wanted abortion could also result in a myriad of adverse outcomes for these women, including poor health and socioeconomic outcomes, similar to those seen in the Turnaway Study (Foster, 2021).

Moral Appeals

Another theme that appeared throughout the textual analysis of the selected laws was the use of moral appeals to justify the creation or implementation of the restrictive law. This theme did not appear as widely throughout the data as others, but it offers interesting insights into attitudes around abortion that are important to explore. Moral appeals most commonly appeared in the data through references to the Declaration of Independence, references to genocide and crimes against humanity, and references to past Supreme Court cases.

References to the Declaration of Independence

Three laws used language from the Declaration of Independence to justify the implementation of restrictive abortion laws. In the law from Alabama, it is stated that the legislature found that

In the United States Declaration of Independence, the principle of natural law that “all men are created equal” was articulated the self-evident truth found in natural law, that all human beings are equal from creation, was at least one of the bases for the anti-slavery movement, the women’s suffrage movement, the Nuremberg war crimes trials, and the American civil rights movement. If those movements had not been able to appeal to the truth of universal human equality, they could not have been successful.

This statement then sets the stage for further assertions that supposedly justify the need for a restrictive abortion policy in the state that views fetuses as legal persons. The law from Georgia also includes language from the Declaration of Independence as a legislative finding to justify the law, as well as the recognition of fetuses as legal persons, stating that

in the founding of the United States of America, the State of Georgia and the several states affirmed that: “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.”

Similarly, the law from Missouri was justified through the assertion that the general assembly of the state found that

ending any current bias or discrimination against pregnant women, their partners, and their family members, including unborn children, is a legitimate purpose of government in order to guarantee that those who “are endowed by their Creator with certain unalienable Rights” can enjoy “Life, Liberty and the Pursuit of Happiness.”

The use of language from the Declaration of Independence to justify abortion restrictions is important, as the Declaration itself is often considered to be a crucial symbol of the foundational morals and values of America, including human rights, equality, and democracy (Miller, 2015; Tsesis, 2016). Thus, by citing this document, these laws may be implying that not only is abortion a violation of these natural rights, but it also threatens the very principles upon which the United States was founded. Additionally, by depicting abortion to be contrary to the

most sacred morals and values of this country, the phrasing used in these laws may give the impression that abortion in and of itself is inherently anti-American, as are women who obtain the procedure and medical professionals who perform it, because it prevents the realization of these foundational principles. In a country where patriotism and Americanism are highly valued, these words have the potential to hold a lot of weight. This in turn indicates that lawmakers may be referencing the Declaration in order to elevate the moral platform of their legislation, so as to portray themselves as taking the moral high ground in order to justify the introduction and implementation of the legislation.

References to the Declaration of Independence in restrictive state abortion laws may also function to further humanize and personify the fetus. For example, the law from Missouri explicitly states that protecting fetuses is necessary to ensure that all beings can enjoy the natural rights given to them by their creator. This phrasing is indirectly implying that fetuses deserve to have the same rights as adult human beings, which once again hyper-humanizes them and assigns them a high moral value. Additionally, by putting fetuses on such a high moral pedestal, these laws may be indicating that abortion is so immoral that it is akin to stripping away someone's most precious rights. This humanization of the fetus also functions to once again reflect the lack of value placed on women in these laws. Although the Missouri law does recognize that pregnant women have natural rights, it does not acknowledge that obtaining an abortion could allow a pregnant woman to exercise her right to life, liberty, and the pursuit of happiness. As a result, this use of language indicates that the fetus takes precedent over the woman, as their natural rights are portrayed to be more important. This may also further diminish the agency of the pregnant woman, because it shows her to be at the whim of the supposed natural rights of the fetus. In turn, this phrasing has the potential to further reinforce harmful

patriarchal values by portraying women to be caretakers who are ruled by the needs of others. With that, the reproductive justice framework can also suggest that this language impedes the realization of true reproductive justice, similar to the challenges posed by the language discussed in previous sections.

References to Genocide and Crimes Against Humanity

Language that references genocide and crimes against humanity was another tactic utilized to justify restrictive abortion laws or to discuss why the Supreme Court needed to overturn *Roe*. This language appeared in two laws: Alabama and Arkansas. In the law from Alabama, it is stated that

It is estimated that 6,000,000 Jewish people were murdered in German concentration camps during World War II; 3,000,000 people were executed by Joseph Stalin's regime in Soviet gulags; 2,500,000 people were murdered during the Chinese "Great Leap Forward" in 1958; 1,500,000 to 3,000,000 people were murdered by the Khmer Rouge in Cambodia during the 1970s; and approximately 1,000,000 people were murdered during the Rwandan genocide in 1994. All of these are widely acknowledged to have been crimes against humanity. By comparison, more than 50 million babies have been aborted in the United States since the *Roe* decision in 1973, more than three times the number who were killed in German death camps, Chinese purges, Stalin's gulags, Cambodian killing fields and the Rwandan genocide combined.

The Arkansas law takes a similar tone, though it is portrayed through the lens of crimes against humanity, stating that "a crime against humanity occurs when a government withdraws legal protection from a class of human beings resulting in severe deprivation of their rights, up to and including death," before asserting that "it is time for the United States Supreme Court to redress and correct the grave injustice and the crime against humanity which is being perpetuated by their decisions in *Roe v. Wade*, *Doe v. Bolton*, and *Planned Parenthood v. Casey*."

Putting abortion on the same moral plane as genocide and crimes against humanity is certainly a powerful tactic utilized by the authors of these laws. As stated by Alvarez (2014), genocide has come to represent the "the worst possible kind of violence and criminality" (p.

163). The connotation associated with crimes against humanity is similar, with Wald (2007) asserting that crimes against humanity are said to be so deplorable that they are not only immeasurably harmful to the victims, but also to humanity as a whole. Thus, given the connotations of genocide and crimes against humanity, it is reasonable to infer that the supposed connection between abortion and these atrocities is intended to indicate that abortion, too, is one of the most heinous crimes that can possibly be perpetrated, and that the supposedly despicable nature of the crime affects all of humankind. However, it is important to note that the language utilized in the Alabama law may go a step further and imply that abortion is actually worse than any genocide ever seen before on this planet, simply because the death toll is higher.

Beyond portraying abortion as the worst crime possible, this use of language seen in both the Alabama and Arkansas laws once again reveals important values given to women, medical providers, and fetuses in anti-abortion legislation. The depiction of abortion as genocide or a crime against humanity has the potential to paint pregnant women and abortion providers in an exceedingly negative light. If the act of abortion is genocide, then it is reasonable to assume that the pregnant woman, as well as her medical provider, would be considered the perpetrators of this supposedly senseless violence. In turn, it is indirectly implied that these individuals are the worst types of criminals. However, this portrayal of pregnant women is contradictory to other ways that they are described in anti-abortion laws, as language used that presents them as victims or mothers, as seen above, generally paints them as beings who lack agency and have no control over the abortions that are performed “upon” them. Thus, it is ironic that, in these two laws, pregnant women are simultaneously being portrayed as perpetrators of the worst crime possible and helpless victims who need protected. It is also important to note that, while the lives of fetuses are equated with lives lost in genocide, there is no mention of the lives that have been

lost, or even forever changed, because a woman was forced to carry a pregnancy to term against her will. While this is not on par with genocide (abortion arguably is not either), it is necessary to recognize the value this lack of acknowledgement projects onto the pregnant woman. Specifically, it once again indicates that she has no agency and that her life is of no importance, as it is her duty to allow the fetus to exercise its rights above her ability to exercise her own. The application of the reproductive justice framework is useful here, as it allows us to infer that this lack of agency afforded to pregnant women impedes the realization of reproductive justice and enables the reproduction of harmful systems of power, as it violates the central tenets of the framework.

On the other hand, the comparison between abortion and genocide and crimes against humanity projects immense moral value onto fetuses. The idea that abortion is such a heinous crime committed against fetuses, or, as stated by the Arkansas law, is depriving them of their rights to the point of death, further amplifies the pedestal that they are placed on throughout these laws. The idea that abortion is such a supreme crime equates the life of a fetus, regardless of if it is even viable outside of the womb, with the lives of people who were killed tragically in some of the worst mass atrocities that our world has ever seen. This in turn functions to give fetuses highly human qualities yet again. Additionally, this language may give the impression that fetuses are so human and so valuable that it is a crime not to protect them.

Reference to Past Supreme Court Cases

The use of moral appeals to justify restrictive state abortion laws also appeared through references to past Supreme Court cases. In particular, Arkansas and Missouri attempt to legitimate their legislation by using influential precedents set by the Supreme Court to justify and

support their anti-abortion stances. In that vein, the law from Arkansas made multiple references to *Brown v. Board of Education*, as well as other cases related to racial justice, asserting that:

- (2) The United States Supreme Court committed a grave injustice and a crime against humanity in the Dred Scott decision by denying personhood to a class of human beings, African-Americans;
- (3) The United States Supreme Court also committed a grave injustice and a crime against humanity by upholding the “separate but equal” doctrine in *Plessy v. Ferguson* which withdrew legal protection from a class of human beings who were persons under the United States Constitution, African-Americans.

The law then goes on to laud the *Brown v. Board* decision in light of the miscarriages of justice perpetuated by *Dred Scott* and *Plessy v. Ferguson*, stating that

In *Brown v. Board of Education*, the United States Supreme Court corrected its own grave injustice and crime against humanity created in *Plessy v. Ferguson* by overruling and abolishing the fifty-eight-year-old “separate but equal” doctrine, thus giving equal legal rights to African Americans.

Finally, the law explicitly connects *Brown v. Board of Education* to abortion rights by expressing that

The State of Arkansas urgently pleads with the United States Supreme Court to do the right thing, as they did in one of their greatest cases, *Brown v. Board of Education*, which overturned a fifty-eight-year-old precedent of the United States, and reverse, cancel, overturn, and annul *Roe v. Wade*, *Doe v. Bolton*, and *Planned Parenthood v. Casey*.

It is necessary to examine this connection between abortion rights and *Brown v. Board of Education*, as the importance of this case is widely acknowledged among many scholars (Fine, 2004, Jones, 2006; Parker, 2018). In fact, *Brown v. Board of Education* is largely considered to be a pivotal case in American history, as not only did it overturn the “separate but equal doctrine,” but it also acknowledged the harms caused by racial inequality (Jones, 2006; Parker, 2018). Additionally, *Brown v. Board* has come to be considered a “canonical” case that “belong[s] to every American”; that is, people widely agree upon the principles set forth in the case (Graber, 2015, p. 534-535). Thus, given that *Brown v. Board* is such an influential case, it is

no surprise that lawmakers from Arkansas chose to utilize it to elevate the legal and moral standing of their legislation. However, this comparison may also indicate that lawmakers are intending to enshrine *Dobbs* as a canonical case, as well, which gives important insight into their motivations. It is not enough to leave abortion regulation to the states; rather, anti-abortion legislation must become the law of the land supported by the vast majority of the public.

It is also important to note how the comparison between racial justice cases and abortion yet again functions to project immense value onto the fetus. In particular, the sentiment that both *Dred Scott* and *Plessy v. Ferguson* were “grave injustice[s]” as a result of the way in which they denied “personhood to a class of human beings, African-Americans” and “withdrew legal protection from a class of human beings who were persons under the United States Constitution, African-Americans,” is crucial. By portraying these restrictions to be the pitfall of these cases, this legislation is indirectly implying that the lack of legal personhood afforded to fetuses in *Roe v. Wade*, along with other cases that affirmed the right to abortion, was also a “grave injustice.” Thus, this use of language portrays the fetus as deserving of equal legal protections, which yet again reinforces the sentiment that fetuses are human beings who deserve to be protected at all costs. Additionally, by stating that overturning *Roe* would be akin to *Brown v. Board* overturning *Plessy v. Ferguson*, the law was directly implying that only by making abortion illegal can the rights of fetuses be realized. However, that the use of the legal personhood of African Americans to justify the legal personhood of fetuses is curious. Historically, conservative lawmakers and activists have endorsed and enacted policies, such as voter identification laws, that have the potential to significantly restrict the rights of African American individuals in the United States (Valentino & Neuner, 2017). Thus, comparing the fetuses that are consistently hyper-humanized throughout restrictive abortion laws with African Americans, a group that conservatives so often

disenfranchise, is somewhat contradictory. However, it is clear that the intention of the law arguably was not to diminish the humanization of the fetus with this sentiment; instead, it was to support the idea that fetuses deserve to be treated equally under the law.

It is also important to discuss the fact that this law references cases predicated on race when there are very real racial implications of the very law this language is contained in. The Arkansas law lauds the decision in *Brown v. Board of Education* for giving equal legal rights to African Americans, yet the law neglects to mention that African American women stand to be disproportionately affected by abortion restrictions. As a result, the lack of attention paid to the actual impacts of the law could indicate that this moral appeal is merely a smokescreen utilized by lawmakers to justify their stance on abortion when, in reality, they do not actually care about the way in which abortion restrictions have the potential to affect the livelihood of women, specifically marginalized women. Additionally, the failure to mention women may also indicate that the value of women is significantly less than that of the fetus, something that has been seen across previous themes discussed, as well. Thus, this also has implications for reproductive justice, as by relegating women, particularly marginalized women, to a status lower than that of the fetus, this law may once again be restricting their agency and thereby may also be preventing the realization of reproductive justice.

The combined effects of the lack of acknowledgement of the potential implications of the *Dobbs* decision for women of color and the endorsement of fetal personhood are also significant, as this selective use of language may indicate that fetal personhood is used to distract from the underlying effects of these laws: the perpetuation of structural inequities. By focusing on the fetus and its supposed rights as a legal person, these laws put positive values at the forefront, indicating that, under these laws, people are gaining rights, not losing them. However, as seen

repeatedly throughout this thesis, the effects on women, as well as other marginalized populations, are consistently ignored. Additionally, as seen in chapter three, reproductive oppressions often are both rooted in and perpetuate inequitable systems of power (Riley et al., 2022; Ross & Solinger, 2017). As a result, I argue that this idea of fetal personhood is being used to distract from the structural inequities being perpetuated by these laws through the systematic reduction of access to healthcare for marginalized women and constant portrayals of women to be lesser than the fetus, as well as in accordance with traditional patriarchal values.

The law from Missouri references different Supreme Court cases, albeit for a similar effect, as the Arkansas law. In this law, the cases *Roper v. Simmons* and *Bucklew v. Precythe* are cited, particularly to justify banning the controversial D&E abortions that are commonly used later in pregnancy, with the law reporting that

(27) In *Roper v. Simmons*, 543 U.S. 551 (2005), the Supreme Court determined that “evolving standards of decency” dictated that a Missouri statute allowing the death penalty for a conviction of murder in the first degree for a person under eighteen years of age when the crime was committed was unconstitutional under the Eighth and Fourteenth Amendments to the United States Constitution because it violated the prohibition against “cruel and unusual punishments.”

(28) In *Bucklew v. Precythe*, 139 S. Ct. 1112, 1123 (2019), the Supreme Court noted that “[d]isgusting practices” like disemboweling and quartering “readily qualified” as ‘cruel and unusual’, as a reader at the time of the Eighth Amendment’s adoption would have understood those words;

(29) Evolving standards of decency dictate that Missouri should prohibit the brutal and painful D&E abortion method at fourteen weeks gestational age or later, with a medical emergency exception, because if a comparable method of killing was used on:

(a) A person convicted of murder in the first degree, it would be cruel and unusual punishment; or

(b) An animal, it would be unlawful under state law because it would not be a humane method, human euthanasia, or humane killing of certain animals.

The fact that this law references *Roper v. Simmons* and *Bucklew v. Precythe* is impactful on many levels. The use of *Roper v. Simmons* essentially implies abortion is so inhumane that banning the procedure, specifically D&E abortions, is akin to prohibiting the death penalty for

people under the age of 18. Citing *Bucklew v. Precythe* similarly paints abortion as an abomination, as it explicitly indicates that D&E abortions are so vile and monstrous that a comparable procedure would not even be performed on a murderer or an animal. The use of the phrase “evolving standards of decency” is also important here, as it implies that just as society has evolved to no longer view the death penalty for minors as acceptable, contemporary society has reached the point of evolution where the true harms caused by abortion are recognized. As a result, they are able to portray abortion restrictions as the next logical step so as to ensure congruency between the law and widely agreed upon standards of decency, which in turn justifies the creation and implementation of this law.

The idea that abortion is inherently inhumane may also reinforce the need to protect the humanity of the fetus, as seen throughout aforementioned themes. By referencing cruel and unusual punishments, as well as inhumane killings of animals, these laws are appealing to basic morals regarding the treatment of living beings. Thus, by connecting these basic morals to abortion, it is reasonable to conclude that this law is implying that these same moral standards must apply to fetuses. Comparing abortions to the juvenile death penalty or disemboweling a person convicted of first-degree murder further reinforces that idea, as it demonstrates that since these basic morals apply to people who have committed horrible crimes, it is only right that they also apply to fetuses, especially given the hyper-humanity of fetuses that is portrayed consistently throughout anti-abortion laws.

With the phrasing used in these laws contributing once again to the humanization of the fetus, it is necessary to recognize once again that there is no mention of how these basic moral values might apply to a pregnant woman, nor how forcing her to carry a pregnancy to term can wreak permanent havoc on her life. Thus, it is evident that the wellbeing of women is of virtually

no concern in these laws and that the standards of treatment that apply to other living beings do not apply to them. This once again may perpetuate patriarchal narratives that depict women as subordinate beings (hooks, 2004). As a result, reproductive justice can also be employed to discuss how this language, and the way in which it has the potential to reinforce harmful patriarchal systems of power, may restrict the autonomy of women and prevent the actualization of the central tenets of this framework.

Chapter 6: Conclusion

In this project, I sought to explore the patterns and implications of language used in restrictive state abortion laws. In order to examine the language used in these laws, I conducted an exploratory textual analysis in accordance with the following research questions:

1. What are the large, overarching themes across the language used in current restrictive state abortion laws?
2. What are the potential implications of this use of language?

In this chapter, I detail the key findings that I generated from my analysis, as well as limitations of this thesis and implications for future research.

Key Findings

Through my analysis, I identified three important themes present in the data: selective humanization, exceptions to abortion restrictions, and moral appeals. Selective humanization refers to the fact that, across all of the restrictive state abortion laws analyzed, the language used to describe women stripped them of their agency, whereas the fetus was hyper-humanized and personified. This phenomenon was particularly evident through three subthemes: women as victims, women as mothers, and the humanization and personification of the fetus. Women as victims detailed how women were frequently depicted as lacking agency and responsibility in the abortion process, both through language that described the abortion as being performed “upon” a woman and through the idea that punishments for violating the law could not be applied to pregnant women. The reproductive justice framework was useful for examining the implications of this subtheme, as it enabled me to highlight the ways in which this phrasing not only reinforces oppressive patriarchal values, but also how it may prevent the ideals posited by this framework from being actualized.

The subtheme that addressed women as mothers primarily focused on language that depicted women as being a mother above all else; essentially, being a mother was shown to be the master status of pregnant women. Reproductive justice and patriarchy were once again useful for examining the potential implications of this linguistic pattern, as this conception of women depicted them as being devoid of agency, as well as subservient to everyone's needs but their own. Intersectionality was also employed in this section, as examining normative constructions of motherhood revealed that the inherent focus on white, middle-class motherhood has the potential to further restrict the reproductive choices available to marginalized women, which can in turn contribute to disproportionately negative health outcomes that women in these groups tend to experience.

The personification and humanization of the fetus existed in stark contrast with the subthemes describing women as victims and as mothers, as the humanity and inherent rights of the fetus were consistently emphasized. However, this language used to describe the fetus not only functioned to project a high moral value onto the fetus, but it also reinforced the idea that the women were not nearly as important as these so-called “unborn child[ren].” As such, reproductive justice was once again a useful framework for this section.

Following the major theme of selective humanization, I explored the second major theme: exceptions to abortion restrictions. This section was comprised of two subthemes, including exceptions for physical versus mental health, as well as exceptions for rape and incest. In terms of exceptions for physical and mental health, my analysis revealed that, while exceptions for physical health were ubiquitous, mental health was largely ignored. As a result, I argued that this use of language not only has the potential to reinforce stigma surrounding mental health, but also that it may subject women to adverse mental health outcomes both during and

after pregnancy. Additionally, I used this section to explore how the poor treatment of women, especially minority women, in the healthcare system may exacerbate the potential consequences of the lack of exceptions for mental health in restrictive state abortion laws, as dismissing women could wreak havoc on their wellbeing. Laws that referenced post-abortion syndrome were mentioned in this section, as well, as they demonstrate lawmakers' selective care for the mental health of women, as well as a connection between this theme and women as mothers.

In terms of exceptions for rape and incest, this subtheme was enlightening not only because of what was written in the laws, but also because of what was excluded from them. The exclusion of exceptions for rape and incest in the majority of laws revealed harmful attitudes towards sexual assault, as well as women themselves, that are prevalent in these laws. For the laws that included an exception for rape and incest, I argued that stipulations that require individuals to report their victimization to law enforcement or a medical professional function to further restrict the agency of pregnant women, thereby yet again contradicting the central tenets of the reproductive justice framework. Intersectionality was also useful in my analysis of this language, as conceptions of ideal victims, as well as police relations with minority communities both proved important for the potential implications of this subtheme.

Finally, the theme relating to moral appeals discussed how references to the Declaration of Independence, genocide and crimes against humanity, and past Supreme Court cases were utilized to justify overturning *Roe v. Wade* or to support the imposition of restrictive state abortion laws. Laws that Referenced the Declaration of Independence were important because this use of language placed abortion on the same moral plane as the very foundational values of the United States. Additionally, references to the Declaration reinforced the devaluation of women and the over-valuation of the fetus exemplified across other themes, as well.

References to genocide and crimes against humanity were significant, as they equated abortion with the worst crimes in existence. In turn, I argued that this language was noteworthy not only because it implied that not banning abortion would be deplorable, but also because it yet again served to demonize pregnant women and place high moral value on fetuses so as to justify the protection of fetuses at all costs.

The use of references to past Supreme Court cases to justify abortion restrictions had a similar effect to other moral appeals, but this language went a step further by using influential legal precedents to take the legal high ground on this issue. The application of previous legal precedent to the present abortion issue not only made abortion appear to be an issue of canonical significance, but it also appealed to the purportedly inherent rights of the fetus. However, women were absent from this discussion, which enabled the use of principles of patriarchy and reproductive justice to discuss how this language may cause significant harm to pregnant women.

Limitations

Like any research project, this thesis has limitations. A primary limitation of this project is the fact that, due to the qualitative methodology utilized, the findings are not generalizable to other laws (Atieno, 2009). This has the potential to limit the application of the implications I gleaned from the data to other laws or situations, as my arguments are grounded in the specific language contained in these laws. Additionally, given that the abortion landscape is changing so rapidly, the sentiments and values perpetuated by the language contained in these restrictive state abortion laws may not be reflected in future laws and policies, which once again restricts the generalizability of my findings.

Another limitation of this project is the potential for researcher bias. In qualitative methods, researcher bias is a common limitation (Sofaer, 1999; Smith, 2017), as the biases of the investigator influence the way in which they conduct the research and interpret the data. As seen in chapter one, my positionality impacted my perceptions and understandings throughout the entire research project, from my research questions to my interpretations of the data and beyond. I aimed to mitigate the effects of my own biases to the fullest extent possible by grounding my research in relevant literature and theory, as well as by using a rigorous and systematic methodology. However, despite taking these actions, it is undeniable that my own positionality played a role in my research and that people with different social locations and life experiences may interpret this same data very differently than I did.

Despite the limitations of this research, I believe that the qualitative approach I utilized enabled me to generate rich and meaningful data that provides important insights into contemporary abortion law. However, I also argue that these findings can be relevant to broader issues. Abortion is just one conflict within many broader culture wars that are being waged across America right now, including widespread debate over LGBTQIA+ rights, race, and public education, among others (Donegan, 2023; Nawaz & Conciatori, 2021). Despite the different issues these culture wars encompass, many of them address similar core values, including patriarchy and other forms of social organization (Gerstle, 2022). As a result, I think that some of the findings and analyses from the present research can potentially be applied to these culture wars and can contribute to important discussions regarding underlying agendas and attitudes that they reflect, as well.

Implications for Future Research

This thesis project lends to many implications for future research. In order to truly understand the patterns of language used in restrictive state abortion laws, it would be useful for future studies to analyze all laws that are currently in effect, as opposed to using a restricted timeline as I did in this project. Additionally, it is important that future research move beyond the analysis of language used in laws to incorporate the voices of people involved in lawmaking, as well as people directly affected by the laws. Conducting interviews or participant observations of lawmakers debating and writing these abortion laws could provide great insight into their thought processes, as well as the underlying motivations behind the laws. It is also imperative that future research incorporate the voices of women who are directly affected by restrictive state abortion laws. Qualitative methods, such as in-depth interviews, could be very useful for this, as they could give researchers the opportunity to gain a deeper understanding of the effects of these laws on women that cannot be obtained from theoretical applications alone. However, these studies should also study the effects of anti-abortion laws on men, non-binary, and transgender individuals, so as to get a more comprehensive understanding of the overall implications of restrictive state abortion laws. Eventually, it would also be important to conduct quantitative research on this topic so as to get a more generalizable picture of how restrictive state abortion laws affect women. However, regardless of how future research is conducted, it is imperative that we continue to study and have hard conversations about abortion. We must also work to use these conversations to challenge and think critically about dominant power structures and ideologies, so as to work towards a world in which the right to bodily autonomy without government interference is a given, and where women and other minorities are free from the stereotypes and roles society has placed upon them.

References

Abrams, A. (2022, June 24). *The fight over abortion has only just begun*. Time.
<https://time.com/6190995/abortion-future-after-roe/>

Alvarez, A. (2014). *Native America and the question of genocide*. Rowman & Littlefield.

Atieno, O. P. (2009). An analysis of the strengths and limitation of qualitative and quantitative research paradigms. *Problems of Education in the 21st Century*, 13, 13-18.

Baker, T. A., Buchanan, N. T., Spencer, T. R. (2010). Commentary: Disparities and social inequities: Is the health of African American women in peril? *Ethnicity & Disease*, 20, 304-309.

BBC News. (2022, June 24). *Roe v Wade: What is US Supreme Court ruling on abortion?*
<https://www.bbc.com/news/world-us-canada-54513499>

Bearak, J. M., Burke, K. L., & Jones, R. K. (2017). Disparities and change over time in distance women need to travel to have an abortion in the USA: A spatial analysis. *The Lancet Public Health*, 2(11), e493-e500. [https://doi.org/10.1016/S2468-2667\(17\)30158-5](https://doi.org/10.1016/S2468-2667(17)30158-5)

Bellieni, C. V., & Buonocore, G. (2013). Abortion and subsequent mental health: Review of the literature. *Psychiatry and Clinical Neurosciences*, 67, 301-310.
<https://doi.org/10.1111/pcn.12067>

Belluck, P., & Creswell, J. (2023, March 7). *Walgreens faces blowback for not offering abortion pill in 21 states*. The New York Times.
<https://www.nytimes.com/2023/03/07/business/walgreens-abortion-pill.html>

Biggs, M. A., Gould, H., Barar, R. E., & Foster, D. G. (2018). Five-year suicidal ideation trajectories among women receiving or being denied an abortion. *The American Journal of Psychiatry*, 175(9), 845-852. <https://doi.org/10.1176/appi.ajp.2018.18010091>

Biggs, M. A., Upadhyay, U. D., McCulloch, C. E., & Foster, D. G. (2017). Women's mental health and well-being 5 years after receiving or being denied an abortion: A prospective, longitudinal cohort study. *JAMA Psychiatry*, 74(2), 169-178.

<https://doi.org/10.1001/jamapsychiatry.2016.3478>

Blakemore, E. (2022, May 17). *How U.S. abortion laws went from nonexistent to acrimonious*. National Geographic. <https://www.nationalgeographic.com/history/article/the-complex-early-history-of-abortion-in-the-united-states>

Bloch, M., Rotenberg, N., Koren, D., & Klein, E. (2006). Risk factors for early postpartum depressive symptoms. *General Hospital Psychiatry*, 28(1), 3-8.

Bouie, J. (2023, March 31). *The Republican party says it wants to protect children, but not all children*. The New York Times.

<https://www.nytimes.com/2023/03/31/opinion/protecting-children-republicans.html>

Bourke, B. (2014). Positionality: Reflecting on the research process. *The Qualitative Report*, 19(33), 1-9.

Brennan Center for Justice. (2023, January 6). State court abortion litigation tracker.

<https://www.brennancenter.org/our-work/research-reports/state-court-abortion-litigation-tracker>

Burbank, M., & Kwong, E. (2022, May 15). A landmark study tracks the lasting effect of having an abortion – or being denied one. NPR. <https://www.npr.org/sections/health-shots/2022/05/15/1098347992/a-landmark-study-tracks-the-lasting-effect-of-having-an-abortion-or-being-denied>

Bustillo, X. (2022). *Who and what is behind abortion ban trigger law bills? Two groups laid the groundwork*. NPR. <https://www.npr.org/2022/07/08/1110299496/trigger-laws-13-states-two-groups-laid-groundwork>

Byron, J. J., Avalos, M., Xiao, K. A., Klein, A. A., & Lehestre, J. R. (2022). Health equity in a post ‘Roe versus Wade’ America. *Cureus*, 14(12), e32100.

<https://doi.org/10.7759/cureus.32100>

Calkin, S. (2021). Legal geographies of medication abortion in the USA. *Transactions – Institute of British Geographers*, 47(2), 378-392.

<https://doi.org.libproxy.nau.edu/10.1111/tran.12506>

Carastathis, A. (2014). The concept of intersectionality in feminist theory. *Philosophy Compass*, 9(5), 304-314. <https://doi.org/10.1111/phc3.12129>

Carbone-Lopez, K., Slocum, L. A., & Kruttschnitt, C. (2016). “Police wouldn’t give you no help”: Female offenders on reporting sexual assault to police. *Violence Against Women*, 22(3), 366-396. <https://doi.org/10.1177/1077801215602345>

Charles, V. E., Polis, C. B., Sridhara, S. K., & Blum, R. W. (2008). Abortion and long-term mental health outcomes: a systematic review of the evidence. *Contraception*, 78(6), 436-450. <https://doi.org/10.1016/j.contraception.2008.07.005>

Cho, H. L. (2019). Can intersectionality help lead to more accurate diagnoses? *American Journal of Bioethics*, 19(2), 37-39. <https://doi.org/10.1080/15265161.2018.1557279>

Cleland, K., Creinin, M. D., Nucatola, D., Nshom, M., & Trussell, J. (2013). Significant adverse events and outcomes after medical abortion. *Obstetrics & Gynecology*, 121(1), 166-171.

Coen-Sanchez, K., Ebenso, B., El-Mowafi, I. M., Berghs, M., Idriss-Wheeler, D., & Yaya, S. (2022). Repercussions of overturning *Roe v. Wade* for women across systems and beyond borders. *Reproductive Health*, 19(1), 1-5. <https://doi.org/10.1186/s12978-022-01490-y>

Cohen, D. S., Donley, G., & Rebouché, R. (2022). Rethinking strategy after Dobbs. *Stanford Law Review*, 75(Online 1), 1-14.

Cohen, E., & Bonifield, J. (2022, November 16). *Texas woman almost dies because she couldn't get an abortion*. CNN. <https://www.cnn.com/2022/11/16/health/abortion-texas-sepsis/index.html>

Cohen, E., & Herman, D. (2022, September 22). *Ohio's new abortion law forces doctor to fight to protect her patient's life*. CNN. <https://www.cnn.com/2022/09/22/health/ohio-abortion-patient-doctor/index.html>

Collective, C. R. (1977). The Combahee River collective: A black feminist statement. *Capitalist patriarchy and the case for socialist feminism*, 362-372.

Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *The University of Chicago Legal Forum*, 140, 139–167.

Criado Perez, C. (2019). *Invisible women: Exposing data bias in a world designed for men*. Abrams Press.

Crowley, J. E., Watson, M., & Waller, M. R. (2008). Understanding “power talk”: Language, public policy, and democracy. *Perspectives on Politics*, 6(1), 71-88.

Decker, M. R., Holliday, C. N., Hameeduddin, Z., Shah, R., Miller, J., Dantzler, J., & Goodmark, L. (2019). “You do not think of me as a human being”: Race and gender inequities

intersect to discourage police reporting of violence against women. *Journal of Urban Health*, 96, 772-783. <https://doi.org/10.1007/s11524-019-00359-z>

DeCuir-Gunby, J. T., Marshall, P. L., & McCulloch, A. W. (2011). Developing and using a codebook for the analysis of interview data: An example from a professional development research project. *Field Methods*, 23(2), 136-155.
<https://doi.org/10.1177/1525822X10388468>

Deeb-Sossa, N., & Billings, D.L. (2014). Barriers to abortion facing Mexican immigrants in North Carolina: Choosing folk healers versus standard medical options. *Latino Studies*, 12(3), 399-423.

Dehlendorf, C., Harris, L. H., & Weitz, T. A. (2013). Disparities in abortion rates: A public health approach. *American Journal of Public Health*, 103(10), 1772-1779.

Desai, S., Leong, E., & Jones, R.K. (2019). Characteristics of immigrants obtaining abortions and comparison with U.S.-born individuals. *Journal of Women's Health*, 28(11), 1505-1512.

Desmond, M., Papachristos, A. V., & Kirk, D. S. (2016). Police violence and citizen reporting in the black community. *American Sociological Review*, 81(5), 857-876.
<https://doi.org/10.1177/0003122416663494>

Diamant, J., & Mohamed, B. (2022, June 24). *What the data says about abortion in the U.S.* Pew Research Center. <https://www.pewresearch.org/fact-tank/2022/06/24/what-the-data-says-about-abortion-in-the-u-s-2/>

Doan, A. E. (2007). *Opposition and intimidation: The abortion wars and strategies of political harassment*. Ann Arbor: University of Michigan Press.

Doan, A. E., & Schwarz, C. (2020). Father knows best: “Protecting” women through state surveillance and social control in anti-abortion policy. *Politics & Policy*, 48(1), 6-37.

<https://doi.org/10.1111/polp.12337>

Doan, A. E., Candal, C. C., & Sylvester, S. (2018). “We are the visible proof”: Legitimizing abortion regret misinformation through activists’ experiential knowledge. *Law & Policy*, 40(1), 33-56. <https://doi.org/10.1111/lapo.12094>

Dobbs v. Jackson Women’s Health Organization, No. 19-1392, 597 U.S. ____ (2022).

Donegan, M. (2023, February 5). *Schools and universities are ground zero for America’s culture war*. The Guardian. <https://www.theguardian.com/commentisfree/2023/feb/05/schools-and-universities-are-ground-zero-for-americas-culture-war>

Donovan, M. K. (2017). D&E abortion bans: The implications of banning the most common second-trimester procedure. *Guttmacher Policy Review*, 20, 35-38.

Dyer, J. B. (2017). Constitutional confusion: Slavery, abortion, and substantive constitutional analysis. *American Journal of Economics and Sociology*, 76(1), 33-64.

Farmer, L. (2022, June 24). *How overturning Roe v. Wade affects taxpayer-funded abortions*. Forbes. <https://www.forbes.com/sites/lizfarmer/2022/06/24/how-overturning-roe-v-wade-affects-taxpayer-funded-abortions/?sh=3602b5975859>

Fine, M. (2004). The power of the *Brown v. Board of Education* decision: Theorizing threats to sustainability. *American Psychologist*, 59(6), 502-510. <https://doi.org/10.1037/0003-066X.59.6.502>

Flowers, P. (2020). The purists and the pragmatists: The right-to-life movement and the problem of exceptional abortion in the United States, 1980s-2010s. *Women’s Studies International Forum*, 78(102326), 1-7. <https://doi.org/10.1016/j.wsif.2019.102326>

Foster, D. G. (2021). *The Turnaway Study: Ten years, a thousand women, and the consequences of having—or being denied—an abortion*. Scribner.

Foster, D.G., Biggs, M.A., Ralph, L., Gerdts, C., Roberts, S., & Glymour, M. (2018).

Socioeconomic outcomes of women who receive and women who are denied wanted abortions in the United States. *American Journal of Public Health*, 108(3), 407-413.

<https://doi.org/10.2105/AJPH.2017.304247>

Fuentes, L. (2023, January 17). *Inequity in US abortion rights and access: The end of Roe is deepening existing divides*. Guttmacher Institute.

<https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-roes-deepening-existing-divides>

Garcia, M. (2021). We were not born submissive: How patriarchy shapes women's lives. Princeton University Press.

Garrow, D. J. (2007). Significant risks: Gonzales v Carhart and the future of abortion law. *The Supreme Court Review*, 2007(1), 1-50.

Gerdts, C., Dobkin, L., Foster, D. G., & Schwarz, E. B. (2015). Side effects, physical health consequences, and mortality associated with abortion and birth after an unwanted pregnancy. *Women's Health Issues*, 26(1), 55-59.

<https://doi.org/10.1016/j.whi.2015.10.001>

Gerring, J. (2017). Qualitative methods. *Annual Review of Political Science*, 20, 15-36.

<https://doi.org/10.1146/annurev-polisci-092415-024158>

Gerstle, G. (2022, April 5). *America's culture wars distract from what's happening beneath them*. The Guardian. <https://www.theguardian.com/commentisfree/2022/apr/05/america-politics-culture-wars-republicans-democrats>

Gibbons, J. P. (1994). *Language and the law*. Routledge.

Gibbons, J. P. (1999). Language and the law. *Annual Review of Applied Linguistics*, 19, 156-173.

Gonzales v. Carhart, 550 U.S. 124 (2007).

Goodwin, J., & Horowitz, R. (2002). Introduction: The methodological strengths and dilemmas

Grabenstein, H. (2023, January 13). *In a post-Roe U.S., what's next for the anti-abortion movement?* PBS. <https://www.pbs.org/newshour/politics/in-a-post-roe-u-s-whats-next-for-the-anti-abortion-movement>

Graber, M. (2015). The Declaration of Independence and contemporary constitutional pedagogy. *Southern California Law Review*, 89, 509-540.

Guo, J., Huang, Y., Yang, L., Xie, Z., Song, S., Yin, J., Kuang, L., & Qin, W. (2015). Association between abortion and breast cancer: an updated systematic review and meta-analysis based on prospective studies. *Cancer Causes & Control*, 26, 811-819.

Guttmacher Institute. (n.d.). *Medication abortion*. <https://www.guttmacher.org/state-policy/explore/medication-abortion>

Hall, K.S., Redd, S., Narasimhan, S., Mosley, E. A., Hartwig, S. A., Lemon, E., Berry, E., Lathrop, E., Haddad, L. B., Rochat, R., & Cwiak, C. (2020). Abortion trends in Georgia following enactment of the 22-week gestational age limit, 2007-2017. *American Journal of Public Health (1971)*, 110(7), 1034–1038. <https://doi.org/10.2105/AJPH.2020.305653>

Hankivsky, O., Reid, C., Cormier, R., Varcoe, C., Clark, N., Benoit, C., & Brotman, S. (2010). Exploring the promises of intersectionality for advancing women's health research. *International Journal for Equity in Health*, 9(1), 1-15.

Helmore, E. (2022, July 3). *10-year-old rape victim forced to travel from Ohio to Indiana for abortion*. The Guardian. <https://www.theguardian.com/us-news/2022/jul/03/ohio-indiana-abortion-rape-victim>

<https://doi.org/10.1007/s13178-022-00690-2>

hooks, b. (2004). Understanding patriarchy. In *The will to change: Men, masculinity, and love*. (pp. 17-34).

Hughes, E. C. (1945). Dilemmas and contradictions of status. *American Journal of Sociology*, 50(5), 353-359.

Jacobson, D., & Mustafa, N. (2019). Social identity map: A reflexivity tool for practicing explicit positionality in critical qualitative research. *International Journal of Qualitative Methods*, 18, 1-12. <https://doi.org/10.1177/1609406919870075>

Johnson, A., & Williams, K. M. (2015). “The most dangerous place for African Americans is in the womb”: Reproductive health disparities and anti-abortion rhetoric. *Journal of Contemporary Rhetoric*, 5(3/4), 145-159.

Johnson, K. M. (2014). Protecting women, saving the fetus: Symbolic politics and mandated abortion counseling. *Women's Studies International Forum*, 47, 36-45.

<https://doi.org/10.1016/j.wsif.2014.06.003>

Jones, J. M. (2006). From racial inequality to social justice: The legacy of *Brown v. Board* and lessons from South Africa. *Journal of Social Issues*, 62(4), 885-909.

Jones, R. K., & Jerman, J. (2022). Population group abortion rates and lifetime incidence of abortion: United States, 2008-2014. *American Journal of Public Health*, 107, 1094-1099. <https://doi.org/10.2105/AJPH.2017.304042>

Jones, R. K., Kirstein, M., & Philbin, J. (2022). Abortion incidence and service availability in the United States, 2020. *Perspectives on Sexual and Reproductive Health*, 54, 128-141.

Kapadia, F. (2022). Reproductive justice matters: A public health of consequence, 2022. *American Journal of Public Health*, 112(8), 1107-1109.

<https://doi.org/10.2105/AJPH.2022.306959>

Kelly, K. (2014). The spread of 'post abortion syndrome' as a social diagnosis. *Social Science & Medicine*, 102, 18-25. <https://doi.org/10.1016/j.socscimed.2013.11.030>

Kheyfets, A., Miller, B., & Amutah-Onukagha, N. (2022). Implications for racial inequities in maternal health if *Roe v Wade* is lost. *The Lancet*, 400(10345), 9-11.

[https://doi.org/10.1016/S0140-6736\(22\)01024-8](https://doi.org/10.1016/S0140-6736(22)01024-8)

Kimball, S. (2023, April 14). *Supreme Court lifts abortion pill restrictions for now*. CNBC. <https://www.cnbc.com/2023/04/14/supreme-court-temporarily-blocks-abortion-pill-restrictions.html>

Kozhimannil, K. B., Hassan, A., & Hardeman, R. R. (2022). Abortion access as a racial justice issue. *The New England Journal of Medicine*, 387(17), 1537-1539.

<https://doi.org/10.1056/nejmp2209737>

Kuckartz, U. (2014). *Qualitative text analysis: A guide to methods, practice, & using software*. SAGE publications.

Lanni, A. (2022). Community-based and restorative-justice interventions to reduce over-policing. *American Journal of Law and Equality*, 2, 69-84.

Lerer, L., & Glueck, K. (2023, January 20). *After Dobbs, republicans wrestle with what it means to be anti-abortion*. The New York Times.

<https://www.nytimes.com/2023/01/20/us/politics/abortion-republicans-roe-v-wade.html>

Luna, Z., & Luker, K. (2013). Reproductive justice. *The Annual Review of Law and Social Science*, 9(1), 327-352. <https://doi.org/10.1146/annurev-lawsocsci-102612-134037>

Major, B., Applebaum, M., Beckman, L., Dutton, M. A., Russo, N. F., & West, C. (2009). Abortion and mental health: Evaluating the evidence. *American Psychologist*, 64(9), 863-890. <https://doi.org/10.1037/a0017497>

Major, B., Cozzarelli, C., Cooper, M. L., Zubek, J., Richards, C., Wilhite, M., & Gramzow, R. H. (2000). Psychological responses of women after first-trimester abortion. *Archives of General Psychiatry*, 57(8), 777-784.

Matos, A. R. (2018). Centering women of color through intersectional policymaking: Let's start with abortion access. *Kennedy School Review*, 18, 118-124.

McKee, A. (2001). A beginner's guide to textual analysis. *Metro Magazine: Media & Education Magazine*, (127/128), 138-149.

Medhoff, M. H. (2014). Race, restrictive state abortion laws and abortion demand. *The Review of Black Political Economy*, 41, 225-240.

Michaels, P. J., Lopez, M., Rusch, N., & Corrigan, P. W. (2012). Constructs and concepts comprising the stigma of mental illness. *Psychology, Society, & Education*, 4(2), 183-194.

Miller, D. A. H. (2015). Continuity and the Declaration of Independence. *Southern California Law Review*, 89, 601-619.

Miller, S., Wherry, L. R., & Foster, D. G. (2023). The economic consequences of being denied an abortion. *American Economic Journal: Economic Policy*, 15(1), 394-437.

Morris, M., & Bunjun, B. (2007). *Using intersectional feminist frameworks in research*. Ottawa, ON: Canadian Research Institute for the Advancement of Women, 1-51.

of qualitative sociology. *Qualitative Sociology*, 25(1), 33-47.

Nawaz, A., & Conciatori, T. (2021, November 25). *Why cultural and political divides in the U.S. seem to be getting worse*. PBS News Hour. <https://www.pbs.org/newshour/show/why-cultural-and-political-divides-in-the-u-s-seem-to-be-getting-worse>

Palacio, H. (2022). Over the precipice into a post-Roe world-A look at abortion rights and access in the United States. *American Journal of Public Health*, 112(9), 1273-1275.

<https://doi.org/10.2105/AJPH.2022.307016>

Parker, D. (2018, May 17). *Brown v. Board made it to 64. But how much longer will it survive?* ACLU. <https://www.aclu.org/news/racial-justice/brown-v-board-made-it-64-how-much-longer-will-it>

Peacock, B. (2022). A black abortion providers' perspective on post-Roe America. *The New England Journal of Medicine*, 386(25), e70.

<https://www.nejm.org/doi/10.1056/NEJMpv2206922>

Perez, E. (2021). Spinning the record: Historical writing and righting. In *¡Chicana Power!: Contested Histories of Feminism in the Chicano Movement* (pp. 14-42). New York, USA: University of Texas Press.

Planned Parenthood of Metropolitan Washington, DC. (n.d.). Abortion pill / medication abortion.

<https://www.plannedparenthood.org/planned-parenthood-metropolitan-washington-dc/patient-resources/abortion-dc/medication-abortion>

Planned Parenthood of Southeastern Pennsylvania et al. v. Casey, Governor of Pennsylvania et al., 505 U.S. 833 (1992).

Queiros, A., Faria, D., & Almeida, F. (2017). Strengths and limitations of qualitative and quantitative research methods. *European Journal of Education Studies*, 3(9), 369-387. <https://doi.org/10.5281/zenodo.887089>

RAINN. (n.d.) *The criminal justice system: Statistics*. <https://www.rainn.org/statistics/criminal-justice-system>

Ralph, L. J., Schwarz, E. B., Grossman, D., & Foster, D. G. (2019). Self-reported physical health of women who did and did not terminate pregnancy after seeking abortion services: A cohort study. *Annals of Internal Medicine*, 171(4), 238-247. <https://doi.org/10.7326/M18-1666>

Randall, M. (2011). Sexual assault law, credibility, and ‘ideal victims’: Consent, resistance, and victim blaming. *Canadian Journal of Women and the Law*, 22(2), 397-433.

Redd, S. K., AbiSamra, R., Blake, S. C., Komro, K. A., Neal, R., Rice, W. S., & Hall, K. S. (2023). Medication abortion “reversal” laws: How unsound science paved the way for dangerous abortion policy. *American Journal of Public Health*, 113(2), 202-212.

Reilly, K. (2022, November 9). *These are the states that voted to protect abortion rights in the midterms*. Time. <https://time.com/6231690/abortion-election-results-2022/>

Renzetti, C. M. (2013). *Feminist criminology*. Routledge.

Riley, T., Zia, Y., Samari, G., & Sharif, M. Z. (2022). Abortion criminalization: A public health crisis rooted in white supremacy. *American Journal of Public Health*, 112(11), 1662-1667. <https://doi.org/10.2105/AJPH.2022.307014>

Roberts, D. E. (1993). Racism and patriarchy in the meaning of motherhood. *American University Journal of Gender and Law*, 1(1), 1-38.

Robinson, G. E., Brown, K. M., Grigoriadis, S., Nadelson, C. C., Feldman, N. S., Dhami, N., Benders-Hadi, N., Mittal, L. P., & Wald, M. (2022). The mental and physical health impacts of overturning *Roe v Wade*. *The Journal of Nervous and Mental Disease*, 210(12), 891-893. <https://doi.org/10.1097/NMD.0000000000001596>

Ross, L. J., & Solinger, R. (2017). *Reproductive justice: An introduction*. Oakland, CA: University of California Press.

Roubein, R. (2022, June 27). *What a post-Roe America looks like*. The Washington Post. <https://www.washingtonpost.com/politics/2022/06/27/what-post-roe-america-looks-like/>

Rovner, J. (2006, February 21). 'Partial-birth abortion': Separating fact from spin. NPR. <https://www.npr.org/2006/02/21/5168163/partial-birth-abortion-separating-fact-from-spin>

Schneider, A., & Sidney, M. (2009). What is next for policy design and social construction theory? *The Policy Studies Journal*, 37(1), 103-119.

Shaw, J., & Lee, H. (2019). Race and the criminal justice system response to sexual assault: A systematic review. *American Journal of Community Psychology*, 64, 256-278. <https://doi.org/10.1002/ajcp.12334>

Siegel, R. B. (2008). The right's reasons: Constitutional conflict and the spread of women-protective antiabortion argument. *Duke Law Journal*, 57, 1641-1692.

Singh, A., Villaseñor, M., & Berg, M. (2019). *Trump's secret political weapon: Packing courts with anti-abortion judges*. Planned Parenthood. <https://www.plannedparenthoodaction.org/blog/trumps-secret-political-weapon-packing-courts-with-anti-abortion-judges>

Smith, J. A. (2017). Textual analysis. *The International Encyclopedia of Communications Research Methods*, 1-7.

Smyth, R. (2020). Gender and justice in international human rights law: The need for an intersectional feminist approach to advance sexual and reproductive health and rights. In E. Wood (Ed.), *Gender justice and the law: Theoretical practices of intersectional identity* (pp. 115-142). Rowman & Littlefield.

Sofaer, S. (1999). Qualitative methods: What are they and why do we use them? *HSR: Health Services Research*, 34(5), 1101–1118.

Suffla, S., Seedat, M., & Bawa, U. (2015). Reflexivity as enactment of critical community psychologies: Dilemmas of voice and positionality in a multi-country photovoice study. *Journal of Community Psychology*, 43(1), 9-21.

Tepich, L. J. (2008). *Gonzales v. Carhart*: The partial termination of the right to choose. *University of Miami Law Review*, 63(1), 339-394.

Thakkilapati, S. D. (2019). Better mothers, good daughters, and blessed women: Multiple femininities and intersectionality in abortion narratives. *Frontiers: A Journal of Women Studies*, 40(1), 63-94.

The New York Times. (2023, January 6). *Tracking the states where abortion is now banned*. <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>

Thompson, J., & Blake, D. (2020). Women's experiences of medical miss-diagnosis: How does gender matter in healthcare settings? *Women's Studies Journal*, 34(1/2), 22-36.

Thorp Jr, J. M., Hartmann, K. E., & Shadigan, E. (2005). Long-term physical and psychological health consequences of induced abortion: A review of the evidence. *The Linacre Quarterly*, 72(1), 44-69. <https://doi.org/10.1080/20508549.2005.11877742>

Tracy, S. J. (2013). *Qualitative research methods: Collecting evidence, crafting analysis, communicating impact*. Wiley-Blackwell.

Tsesis, A. (2015). The Declaration of Independence and Constitutional Interpretation. *Southern California Law Review*, 89, 369-398.

UCLA Health. (n.d.). Medical vs. surgical abortion. <https://www.uclahealth.org/medical-services/obgyn/family-planning/patient-resources/medical-vs-surgical-abortion>

UCSF Health. (n.d.). *Surgical abortion (first trimester)*.

<https://www.ucsfhealth.org/treatments/surgical-abortion-first-trimester>

United States Census Bureau. (n.d.). *QuickFacts: United States*.

<https://www.census.gov/quickfacts/fact/table/US/PST045222>

Upadhyay, U. D., Desai, S., Zlidar, V., Weitz, T. A., Grossman, D., Anderson, P., & Taylor, D. (2015). Incidence of emergency department visits and complications after abortion. *Obstetrics & Gynecology*, 125(1), 175-183.

<https://doi.org/10.1097/AOG.0000000000000603>

Valdez, D., & Goodson, P. (2019). Neutral or framed? A sentiment analysis of 2019 abortion laws. *Sexuality Research and Social Policy*, 19, 936-945.

Valentino, N. A., & Neuner, F. G. (2017). When the sky didn't fall: Mobilizing anger in reaction to voter ID laws. *Political Psychology*, 38(2), 331-350.

Waggoner, M. R. (2017). *The zero trimester: Pre-pregnancy care and the politics of reproductive risk*. University of California Press.

Wald, P. M. (2007). Genocide and crimes against humanity. *Washington University Global Studies Law Review*, 6, 621-633.

Warde, B. (2022). *Inequality in U.S. social policy: An historical analysis* (2nd ed.). Taylor & Francis.

Wilson, J. C. (2016). *The new states of abortion politics*. Stanford University Press.

Yousif, N., & Levinson-King, R. (2023, April 19). *Mifepristone: US Supreme Court delays abortion pill access decision*. BBC. <https://www.bbc.com/news/world-us-canada-65320035>

Zernike, K. (2022, October 18). *What does 'abortion' mean? Even the word itself is up for debate*. The New York Times. <https://www.nytimes.com/2022/10/18/us/abortion-roe-debate.html>

Appendix A: Summary of Findings

State	Theme							
	Selective humanization			Exceptions to abortion restrictions		Moral appeals		
	Women as victims	Women as mothers	Personification and humanization of the fetus	Exceptions for physical vs. mental health	Exceptions for rape and incest	References to the Declaration of Independence	References to genocide / crimes against humanity	References to past Supreme Court Cases
Alabama	X	X	X	X		X	X	
Arizona	X	X	X	X				
Arkansas	X		X	X			X	X
Florida			X	X				
Georgia			X	X	X	X		
Idaho	X		X	X	X			
Indiana	X	X	X	X	X			
Iowa	X		X	X	X			
Kentucky	X		X	X				
Mississippi	X	X	X	X				
Missouri	X	X	X	X		X		X
Ohio	X		X	X				
Oklahoma	X	X	X	X	X			
Tennessee	X		X	X				
Texas	X		X	X				
Utah			X	X	X			
West Virginia	X		X	X	X			
Wyoming		X	X	X	X			

Appendix B: Description of Laws Analyzed

State	Year Signed	Year in Effect	Type of Legislation
Alabama	2019	2022 – court injunction lifted	Full ban except in cases to save life of pregnant person or prevent a serious threat to their health
Arizona	March 2022	September 2022	Gestational limit - 15 weeks except when needed to save the life of the mother
Arkansas	2021	2022 – trigger ban	Full ban except to save mother's life in emergency medical situation
Florida	April 2022	July 2022	Gestational limit - 15 weeks except in cases of a medical emergency or a fatal fetal abnormality before viability
Georgia	2019	2022 – court injunction lifted	Gestational limit - 6 weeks except in cases of rape or incest that have been reported to law enforcement, when necessary to save the life of the mother, or if the fetus is deemed to be unviable due to a serious medical condition
Idaho	2020, amended in 2022	2022 – trigger ban	Gestational limit - fetal heartbeat - except to save life of the pregnant person and in cases of rape and incest
Indiana	August 2022	September 2022	Full ban except in cases of rape, incest, fatal fetal abnormality, and threat to the life of the mother
Iowa	2018	Pending litigation	Gestational limit – 6 weeks, except in cases of rape, incest, fetal abnormality, or to save the mother's life
Kentucky	2019	2022 – trigger ban	Full ban except for when necessary to save life of the mother
Mississippi	2018	2022 – bill that went to the Supreme Court	Gestational limit - 15 weeks except in cases of medical emergency or severe fetal abnormality
Missouri	2019	2022 – trigger ban	Full ban except in case of medical emergency
Ohio	2019	2022 – trigger ban	Gestational limit - 6 weeks unless risk to life or health of the mother
Oklahoma	May 2022	May 2022	Full ban except to save the life of the mother or in cases of rape or incest that have been reported to law enforcement

Tennessee	2019	2022 – trigger ban	Full ban except to prevent death or serious injury of the pregnant person
Texas	2021	2022 – trigger ban	Full ban except to save the life of the pregnant person
Utah	2020	2022 – trigger ban	Full ban except for cases of rape, incest, if the mother's life is at risk, or if the fetus has a diagnosed lethal deformity
West Virginia	September 2022	September 2022	Full ban except in a medical emergency. In cases of rape or incest, an abortion can be obtained up to 8 weeks if they notify law enforcement
Wyoming	March 2022	2022 – trigger ban	Full ban except in cases of rape, incest, or potential for death/severe physical injury of the mother