“ELECTIVE TERMINATION OF PREGNANCY”

Background: "Should Abortion Be Legal?"

1. The debate over whether or not abortion should be a legal option continues to divide Americans long after the US Supreme Court’s 7-2 decision on Roe v. Wade[49] declared the procedure a “fundamental right” on Jan. 22, 1973.

Proponents, identifying themselves as pro-choice, contend that choosing abortion is a right that should not be limited by governmental or religious authority, and which outweighs any right claimed for an embryo or fetus. They say that pregnant women will resort to unsafe illegal abortions if there is no legal option.

Opponents, identifying themselves as pro-life, contend that personhood begins at conception, and therefore abortion is the immoral killing of an innocent human being. They say abortion inflicts suffering on the unborn child, and that it is unfair to allow abortion when couples who cannot biologically conceive are waiting to adopt.

Variations exist in arguments on both sides of the debate. Some pro-choice proponents believe abortion should only be used as a last resort, while others advocate unrestricted access to abortion services under any circumstance. Pro-life positions range from opposing abortion under any circumstance to accepting it for situations of rape, incest, or when a woman’s life is at risk.

2. Pro-Choice and Pro-Life Groups

Some prominent pro-choice organizations include Planned Parenthood, NARAL Pro-Choice America, the National Abortion Federation, the American Civil Liberties Union (ACLU), and the National Organization for Women. Although many pro-life positions derive from religious ideology, several mainstream faith groups support the pro-choice movement, such as the United Methodist Church, United Church of Christ, the Episcopal Church, Presbyterian Church, and the Unitarian Universalist Association. The 2012 Democratic Party Platform endorsed the pro-choice position, stating, "The Democratic Party strongly and unequivocally supports Roe v. Wade and a woman’s right to make decisions regarding her pregnancy, including a safe and legal abortion, regardless of ability to pay. We oppose any and all efforts to weaken or undermine that right." However, 31% of Democrats consider themselves pro-life.

Some prominent pro-life organizations include The National Right to Life Committee, Pro-Life Action League, Operation Rescue, the Catholic Church, the Eastern Orthodox Church, Americans United for Life, the National Association of Evangelicals, Family Research Council, Christian Coalition of America, and the Church of Jesus Christ of Latter-Day Saints (Mormon Church).[6] The 2012 Republican Party Platform opposed abortion, stating, "Faithful to the 'self-evident' truths enshrined in the Declaration of Independence, we assert the sanctity of human life and affirm that the unborn child has a fundamental individual right to life which cannot be infringed." However, 26% of Republicans are pro-choice.

3. Public Opinion

In May 2013, Gallup found that 48% of Americans consider themselves pro-life and 45% say they are pro-choice. However, 51% of Americans believe the public is mostly "pro-choice," while 35% say the public is mostly pro-life. Gallup also found that more Americans think abortion should be "legal under any circumstances" (26%) than those who think abortion should be "illegal in all circumstances" (20%). The majority of Americans (52%) say abortion should be "legal only under certain circumstances."[79] In Jan. 2013, Pew Research found that most Americans (63%) "say they would not like to see the court completely overturn the Roe v. Wade decision." 29% would like Roe v. Wade to be overturned. A 2013 Pew Research survey found that 70% of people who attend religious services at least once a week say abortion is morally wrong, compared with just 32% of people who rarely or never attend services.

4. Early History

Abortion techniques were developed as early as 1550 BC, when the Egyptian medical text Ebers Papyrus suggested that the
vaginal insertion of plant fiber covered with honey and crushed dates could induce an abortion. Abortion was an accepted practice in ancient Greece and Rome. Greek philosopher Aristotle (384–322 B.C) wrote that "...when couples have children in excess, let abortion be procured before sense and life have begun..." In the latter days of the Roman Empire, abortion was considered not as homicide but as a crime against a husband who would be deprived of a potential child.

Throughout much of Western history, abortion was not considered a criminal act as long as it was performed before "quickening" (the first detectable movement of the fetus, which can occur between 13-25 weeks of pregnancy). American states derived their initial abortion statutes from British common law, which followed this principle. Until at least the early-1800s, abortion procedures and methods were legal and openly advertised throughout the United States. Abortion was unregulated, however, and often unsafe.

In 1821, Connecticut became the first state to criminalize abortion. The state banned the selling of an abortion-inducing poison to women, but it did not punish the women who took the poison. Legal consequences for women began in 1845 when New York criminalized a woman's participation in her abortion, whether it took place before or after quickening. [41] In the mid-1800s, early pro-life advocate Dr. Horatio Robinson Storer (1830-1922) convinced the American Medical Association to join him in campaigning for the outlawing of abortion nationwide. By the early 1900s, most states had banned abortion. By 1965, all 50 states had outlawed abortion, with some exceptions varying by state.

The motivation behind these early abortion laws has been disputed. Some writers argue that the laws were not aimed at preserving the lives of unborn children, but rather were intended to protect women from unsafe abortion procedures, or to allow the medical profession to take over responsibility for women's health from untrained practitioners. Others say that pro-life concerns were in fact already prevalent and were a major influence behind the efforts to ban abortion.

5. Roe v. Wade

Federal action on abortion didn't occur until Roe v. Wade, which declared most state anti-abortion laws unconstitutional. The high court's 7-2 decision established rules based on a pregnancy trimester framework, banning legislative interference in the first trimester of pregnancy (0-12 weeks), allowing states to regulate abortion during the second trimester (weeks 13-28) "in ways that are reasonably related to maternal health," and allowing a state to "regulate, and even proscribe" abortion during the third trimester (weeks 29-40) "in promoting its interest in the potentiality of human life," unless an abortion is required to preserve the life or health of the mother. The decision also allowed states to prohibit abortions performed by anyone who is not a state-licensed physician.

The initial Roe v. Wade lawsuit was filed at the Dallas federal district courthouse on Mar. 3, 1970 by pregnant Texas resident Norma McCorvey, named in court documents as "Jane Roe." Henry Wade, Dallas County District Attorney from 1951 to 1987, was the named defendant. McCorvey was seeking to end her pregnancy, but abortion was illegal in Texas except to save the mother's life. McCorvey said the pregnancy was the result of rape, but she later retracted that claim, admitting she lied in the hope of increasing her chances of procuring an abortion. The baby was eventually delivered and given up for adoption. McCorvey later abandoned her support of abortion rights, becoming a pro-life activist and an evangelical Christian in 1995. She then converted to Catholicism and took part in silent prayer vigils outside abortion clinics.

6. Federal Regulation

Immediately following Roe v. Wade, pro-life proponents pushed for federal legislation that would restrict abortion. In 1976, Congress passed the appropriations bill for the Departments of Labor, Health, Education, and Welfare (now the Department of Health and Human Services) which included an amendment ending Medicaid funding for abortions. Known as the "Hyde Amendment," this provision banning federal funding for abortions has been renewed with various revisions every year since its inception.

At the Aug. 1984 United Nations International Conference on Population held in Mexico City, Mexico, President Ronald Reagan announced the Mexico City Policy, which restricted all non-governmental organizations funded by the US Agency for International Development (USAID) from performing or promoting abortion services. President Bill Clinton rescinded the policy
on Jan. 22, 1993, and on Jan. 22, 2001, President George W. Bush reenacted it. On Jan. 23, 2009, President Barack Obama issued a memorandum again rescinding the policy, stating that its conditions "undermined efforts to promote safe and effective voluntary family planning programs in foreign nations."

On June 29, 1992 the US Supreme Court case \textit{Planned Parenthood of Southeastern Pennsylvania v. Casey} \cite{57} (5-4) upheld the constitutional right to have an abortion, but it abandoned the "rigid trimester framework" outlined in \textit{Roe v. Wade} and adopted a less restrictive standard for state regulations. The decision allowed states to impose waiting periods before a woman can obtain an abortion, allowed some legislative interference in the first trimester in the interests' of a woman's health, and permitted parental consent requirements for minors seeking abortions. The Court ruled that none of these conditions imposed an "undue burden" upon women seeking abortions, but some pro-choice advocates warned that \textit{Roe v. Wade} had been significantly weakened and that states would limit abortion access.

On Nov. 5, 2003, after passing in the US House of Representatives (281-142) and the US Senate (64-34), the Partial-Birth Abortion Ban Act of 2003 was signed into law by President George W. Bush. This federal legislation banned physicians from providing intact dilation and extraction (aka "partial-birth" abortion), a late-term (after 21 weeks gestation) method which accounted for 0.17% of abortion procedures in 2000. The act defines a "partial-birth abortion" as "an abortion in which the provider deliberately and intentionally vaginally delivers a living fetus until... the entire fetal head is outside the body of the mother, or... any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus." Pro-choice advocates challenged the constitutionality of the Partial-Birth Abortion Ban Act of 2003; however, the Apr. 18, 2007 US Supreme Court case \textit{Gonzales v. Carhart/Gonzales v. Planned Parenthood} upheld the act, ruling 5-4 that it did not impose "an undue burden on a woman's right to abortion."

The topic of abortion was raised during the 2009-2010 US Congress health care debate. Some pro-life advocates said the Patient Protection and Affordable Care Act would allow federal funding for abortions, a claim denied by abortion rights supporters. To ensure passage of the bill, President Obama signed an executive order "to establish an adequate enforcement mechanism to ensure that Federal funds are not used for abortion services," re-affirming Hyde Amendment restrictions and extending them to cover the newly created health insurance exchanges.

7. State Restrictions

State restrictions on abortion access have increased sharply since 2010. The number of new restrictions rose from 23 in 2010 to 92 in 2011, and more restrictions (205) were enacted between 2011 and 2013 than were adopted during the whole previous decade (189 between 2001 and 2010). On Apr. 13, 2010, Nebraska's Republican Governor Dave Heineman signed a law banning abortions at or after 20 weeks gestation on the theory that a fetus can feel pain by that time. The law was the first in the United States to restrict abortions based on fetal pain. After Nebraska's law was passed, several other states enacted similar laws. On Mar. 6, 2013, Idaho's fetal pain law was the first to be struck down by a federal court. On Jan. 13, 2014, the US Supreme Court declined to review a similar ruling made against Arizona's fetal pain law.

On Apr. 27, 2010, the Oklahoma legislature signed a law requiring pregnant women seeking an abortion to undergo an ultrasound and listen to a detailed description of the fetus's heart, limbs, and organs. While other states had passed laws requiring women to undergo an ultrasound before having an abortion, Oklahoma's law was the first that required women to watch the monitor and listen to a detailed description of the fetus.

On Mar. 29, 2011, Arizona became the first state to criminalize abortions based on the sex or race of a fetus. The bill, signed into law by Republican Governor Jan Brewer, was opposed by Democrats, who said there was little evidence that sex- or race-selection abortions were taking place in the state. In Mar. 2013, North Dakota outlawed abortions as early as six weeks after a woman's last menstrual period, when a fetal heartbeat can first be detected. Like several other state abortion laws, the North Dakota law has been stayed by a federal judge, pending appeals.

As of Mar. 27, 2014, one third of Texas' abortion clinics were forced to close following the enactment of a controversial 2013
Texas law that requires doctors performing abortions to have hospital admitting privileges, among other restrictions. Six abortion providers were expected to remain open in Texas by the end of 2014, down from 36 before the law was passed. The Texas law gained extra media attention when state Senator Wendy Davis (D) tried unsuccessfully to block the bill with an 11-hour filibuster in June 2013.

8. Abortion Statistics

From *Roe v. Wade* through 2011, nearly 53 million legal abortions were performed in the United States – an average of about 1.4 million abortions per year. One out of five pregnancies end in abortion, and each year 1.7% of women aged 15-44 have an abortion. At 2008 abortion rates, one in ten US women will have an abortion before age 20, one in four by 30, and three in ten by 45. 18% of women having an abortion are teenagers, while most women having abortions are in their 20s: 33% aged 20-24 and 24% aged 25-29. The US abortion rate fell 29% between 1990 and 2005, from 27.4 to 19.4 abortions per 1,000 women of childbearing age, before leveling out from 2005-2008, according to a Mar. 2011 Guttmacher Institute study. Between 2008 and 2011, the abortion rate dropped again by 13% to its lowest point since 1973: 17 abortions for every 1,000 women. Pro-choice supporters credited an increased use of new birth control methods such as Mirena, an intra-uterine device that can last for several years. Pro-life groups credited an increase in anti-abortion laws at the state level amongst other factors, although abortion rates dropped faster than the national average in some states that had not enacted abortion restrictions, such as Illinois, where the rate dropped by 18%. There were 1,720 abortion providers and 839 abortion clinics (facilities where 50% or more patient visits are for abortion services) in the United States in 2011. However, 89% of US counties did not provide abortion services, with 38% of women living in those counties. From 2011 to 2013, at least 73 abortion clinics closed. About half of those clinics were forced to close as a result of new state laws restricting abortion, according to *Bloomberg Businessweek.* However, the number of abortion providers has been declining since 1984, after it reached a peak of 2,908 providers in 1982. Pro-choice advocates believe increased clinic violence has contributed to this downward trend. According to the National Abortion Federation, a professional association of abortion practitioners, at least 222 arson attacks/bombings were committed against abortion providers between 1977 and 2012, with at least another 99 attempted arson attacks/bombings. Additionally, at least eight abortion providers were murdered during that time and there were at least 17 attempted murders of clinic staff and physicians. Mainstream pro-life leaders and organizations have publicly denounced violence committed against abortion providers and clinics.

### Pro & Con Arguments: “Should Abortion Be Legal?”

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<th>PRO</th>
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<td><strong>Legal Abortion</strong></td>
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<tr>
<td>1. <em>A woman's right to choose abortion is a &quot;fundamental right&quot; recognized by the US Supreme Court.</em> The landmark abortion case <em>Roe v. Wade</em> was decided on Jan. 22, 1973, and remains the law of the land.</td>
<td>1. <em>Unborn babies are human beings from the moment of conception.</em> They have a fundamental right to life, which must be protected.</td>
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<td>2. <em>Personhood begins at birth, not at conception.</em> Abortion is the termination of a pregnancy, not a baby. Personhood at conception is not a proven biological fact.</td>
<td>2. <em>Abortion involves killing a human being, which defies a commandment from God.</em> The Sixth Commandment of the Bible's Old Testament (Exodus 20:13) is &quot;Thou shalt not kill.&quot;</td>
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<td>3. <em>Fetuses are incapable of feeling pain when an abortion is performed.</em> According to Stuart W. G. Derbyshire, PhD, Senior Lecturer at the University of Birmingham (England), &quot;not only has the biological development not yet occurred to support pain experience.&quot;</td>
<td>3. <em>Fetuses feel pain during the abortion procedure.</em> According to Kanwaljeet J. S. Anand, MBBS, DPhil, Professor of Pediatrics, Anesthesiology and Neurobiology at the University of Tennessee Health Science Center, &quot;If the fetus is beyond 20 weeks of gestation, I would assume that there will be pain caused to the fetus. And I believe...&quot;</td>
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4. **Access to legal, professionally-performed abortions reduces injury and death caused by unsafe, illegal abortions.** The World Health Organization estimated in 2006 that "back-alley" abortions cause 68,000 maternal deaths each year in countries where abortion is not legal.

5. **The anti-abortion position is usually based on religious beliefs and threatens the vital separation of church and state.** Religious ideology should not be a foundation for law in the United States.

6. **Modern abortion procedures are safe.** The risk of a woman’s death from abortion is less than one in 100,000, whereas the risk of a woman dying from giving birth is 13.3 deaths per 100,000 pregnancies. Furthermore, a 1993 fertility investigation of 10,767 women by the Joint Royal College of General Practitioners and Royal College of Obstetricians and Gynecologists found that women who had at least two abortions experienced the same future fertility as those who had at least two natural pregnancies.

7. **Access to abortion is necessary because contraceptives are not always readily available.** Women need a doctor’s prescription to obtain many birth control methods, such as the pill, the patch, the shot, and the diaphragm. About half of all large group insurance plans do not cover any form of prescription contraception, and only a third cover the birth control pill.

8. **The American Medical Association (AMA) recognizes abortion as a medical procedure if performed by a licensed physician in compliance with good medical practice standards.** There are about 1,800 licensed physicians who provide abortions in the United States. These doctors, not politicians, should have the authority to make medical decisions regarding abortion.

9. **Abortion gives couples the option to choose not to bring babies with severe it will be severe and excruciating pain.**
and life-threatening medical conditions to full term. Fragile X syndrome, the most common genetic form of mental retardation, affects about 1 in 4,000 males and 1 in 8,000 females. One in 800 babies has Down Syndrome, and one in 3,500 babies are born with Cystic Fibrosis. It is wrong to sentence a child to life with an acute handicap.

10. **Many women who choose abortion don’t have the financial resources to support a child.** A Sep. 2005 survey in the peer-reviewed journal *Perspectives on Sexual and Reproductive Health* asking women why they had an abortion found that 73% of respondents said they could not afford to have a baby, and 38% said giving birth would interfere with their education and career goals. Reproductive choice protects women from financial disadvantage.

11. **Motherhood must never be a punishment for having sexual intercourse.** President Barack Obama said during a Mar. 29, 2008 campaign speech in Johnston, Pennsylvania, “I have two daughters...I'm going to teach them first about values and morals, but if they make a mistake, I don't want them punished with a baby.”

12. **A baby should not come into the world unwanted.** 49% of all pregnancies among American women are unintended. Having a child is an important lifelong decision that requires consideration, preparation, and planning.

13. **Abortion is an effective tool for population control.** Malnutrition, starvation, poverty, lack of medical and educational services, pollution, underdevelopment, and conflict over resources are all consequences of overpopulation.

14. **An association between abortion and breast cancer is unsubstantiated.** The National Cancer Institute (NCI), the American Cancer Society (ACS), and the American College of Obstetricians and Gynecologists (ACOG) have all refuted the reliability of studies claiming abortion can lead to a higher probability of developing breast cancer.

15. **Abortion reduces crime.** Teenage girls, unmarried women, and poor women are more likely

9. **Selective abortion based on genetic abnormalities (eugenic termination) is overt discrimination.** Physical limitations don't make those with disabilities less than human. The Americans with Disabilities Act of 1990 provides civil rights protection to people born with disabilities so they can lead fulfilling lives.

10. **Abortion disproportionately harms African Americans.** Black women are 4.5 times as likely as white women to have an abortion, and 1,876 black babies are aborted every day.

11. **Abortion providers are in business to make money rather than to assist their clients.** The abortion industry generates an estimated $831 million annually. An abortion can cost anywhere from around $350 to more than $1,000.

12. **Abortion eliminates the potential societal contributions of a future human being.** The United States would be an entirely different country if the mothers of our nation’s heroes, great presidents, scientists, athletes, and others had chosen abortion.

13. **Abortion increases the likelihood of future miscarriages.** A June 2003 study published by the peer-reviewed *International Journal of Epidemiology* estimated that about 15% of first-trimester miscarriages are attributed to a prior history of induced abortion.

14. **Abortion increases the likelihood that women will develop breast cancer.** In early pregnancy, levels of estrogen increase, leading to breast growth in preparation for breastfeeding. When a pregnancy is interrupted by abortion, immature cells are left in the woman’s breasts, increasing the potential risk of breast cancer. Since 2006, eight medical organizations, including the Breast Cancer Prevention Institute, the Catholic Medical Association, and the National Physicians Center for Family Resources, have recognized the connection between abortion and breast cancer.
You, as lawmakers, are charged with writing abortion laws for your community. Check off the situations below in which someone in your community could have a legal abortion.

- **Life** to save the life of the mother
- **Health** to preserve the physical health of the mother
- **Mental** to preserve the mental health of the mother
- **Rape** in cases of rape and incest
- **Defect** when the unborn child has medical problems or birth defects
- **Social** for social and/or economic reasons, e.g. if the mother cannot afford to support a child
- **Demand** available on demand, no reason need be given

**Do you, as a citizen, think the following women should be allowed to have an abortion?**

**Under your laws, could she?**

1. A 14 year-old teenager who was sexually abused by a friend of the family. That abuse resulted in her pregnancy.
   - Abortion should be granted: Y  N  
   - Under your laws: Y  N

2. A 39 year-old single mother of five children who is dependent on governmental programs to help provide for her family. She is only able to work outside of the home part-time.
   - Abortion should be granted: Y  N  
   - Under your laws: Y  N

3. A 36 year-old woman who was recently diagnosed with breast cancer and requires immediate chemotherapy in order to have a good chance of surviving the cancer.
   - Abortion should be granted: Y  N  
   - Under your laws: Y  N

4. A 23 year-old woman who was brutally raped by her ex-boyfriend. She had a restraining order issued against him.
   - Abortion should be granted: Y  N  
   - Under your laws: Y  N

5. A 30 year-old woman whose pre-natal tests show gross fetal anomalies, meaning severe birth defects.
   - Abortion should be granted: Y  N  
   - Under your laws: Y  N

6. A 34 year-old mother of three, whose marriage is on the brink of divorce due to her husband’s severe depression, became pregnant as a result of sex she and her husband had on one of his very infrequent “good days”. Her husband has told her that having another child would almost certainly result in divorce given his mental health status.
   - Abortion should be granted: Y  N  
   - Under your laws: Y  N
7. A 22 year-old woman who was recently diagnosed with HIV. There is a chance that the baby will be born HIV+ unless she can get AZT (the medicine that will help prevent the spread of HIV to her baby).

   *Abortion should be granted: Y  N  Under your laws: Y  N*

8. An 18 year-old who is planning to go to college on full academic scholarship. The condom broke that she and her boyfriend were using. She will lose her scholarship if she misses a semester at school.

   *Abortion should be granted: Y  N  Under your laws: Y  N*

9. A 46 year-old woman who thought she was going through menopause when she did not get her period. Her children are all grown and she is about to become a grandmother.

   *Abortion should be granted: Y  N  Under your laws: Y  N*

10. A 25 year-old woman with moderate developmental disabilities who lives in a group home. Her long-term boyfriend lives there as well although the group home cannot provide housing for infants.

    *Abortion should be granted: Y  N  Under your laws: Y  N*

    • If there were only one last abortion to be granted, which of the above would get it?