

Trinity College

Trinity College Digital Repository

Senior Theses and Projects

Student Scholarship

Spring 2023

How Activist Groups Use Human Rights Rhetoric in the Fight for Reproductive Rights and Abortion: The Cases of The United States, Germany, and The Netherlands

Esme Ostrowitz-Levine
esmevlevine@gmail.com

Follow this and additional works at: <https://digitalrepository.trincoll.edu/theses>



Part of the [Constitutional Law Commons](#), [Human Rights Law Commons](#), [Social Justice Commons](#), and the [Women's Studies Commons](#)

Recommended Citation

Ostrowitz-Levine, Esme, "How Activist Groups Use Human Rights Rhetoric in the Fight for Reproductive Rights and Abortion: The Cases of The United States, Germany, and The Netherlands". Senior Theses, Trinity College, Hartford, CT 2023.

Trinity College Digital Repository, <https://digitalrepository.trincoll.edu/theses/1026>

**How Activist Groups Use Human Rights Rhetoric in the Fight for
Reproductive Rights and Abortion:
The Cases of The United States, Germany, and The Netherlands**

An Honors Thesis
Presented to the Faculty of the Human Rights Studies Program
Trinity College

In Partial Fulfillment of the
Requirements for the
Bachelor of Arts Degree

By Esme Ostrowitz-Levine
May 2023
Advised by Professor Benjamin Carbonetti

Table of Contents

Acknowledgements

I.	Introduction	4
	a. Human Rights Instruments	
	b. Roadmap	
II.	Literature Review	10
	a. Key Theories	
	b. Human Rights Documents	
	c. Human Rights Critiques	
III.	Methods	25
IV.	Case Study	32
	a. Backgrounds	32
	i. The United States	
	ii. Germany	
	iii. The Netherlands	
	b. Advocacy Examples	40
	i. The United States	
	ii. Germany	
	iii. The Netherlands	
V.	Analysis	61
VI.	Conclusion	75
VII.	Works Cited	

Acknowledgements

I could not have completed this thesis without the encouragement, love, and support of many people. First and foremost, I would like to thank my advisor, Professor Benjamin Carbonetti, for guiding me through this process. When I faced obstacles, Professor Carbonetti encouraged me to continue fighting, and ultimately provided me with the utmost encouragement, support, and knowledge. Next, I would like to thank the professors in the Public Policy & Law Department for providing me with the knowledge base to understand and analyze the legislative component for this thesis.

Further, I owe an extraordinary amount of gratitude to my friends for giving me the space to discuss my thesis ad nauseum. Your love and support was unmatched and truly allowed me to persevere throughout this rigorous process. In the end, however, I owe the most thanks to my family, without whom I would not be getting this education nor afforded these opportunities. I would first like to thank my mother and brother for listening to my complaints, struggles, and successes throughout this process – having your support meant the world. I would also like to reserve a moment to thank my father who, unfortunately, passed away before this process and was unable to see the person I have become today. My father was, ultimately, one of my biggest fans; he always encouraged my learning and gave me room to both fail and succeed. Without you, I would not have the confidence to have written a senior honors thesis.

In recognition of the ways in which current trends are leading away from the use of a binary when speaking of gender, I note that, to maintain consistency, particularly in the interaction with historical references, I will be using the term “women,” to refer to potentially pregnant persons and their rights.

For the purposes of this paper, I will also be using the terms anti-abortion, anti-choice, and pro-life synonymously, particularly throughout my case study chapters.

1. Introduction

In June 2008, the Office of the United Nations High Commissioner for Human Rights, alongside the World Health Organization (WHO), published a Fact Sheet on the ‘right to health.’ The document states “regardless of our age, gender, socio-economic or ethnic background, [the UN High Commissioner and WHO] consider our health to be our most essential asset.”¹ Therefore, “the right to health is a fundamental part of our human rights and of our understanding of a life in dignity.”² The right to health was first articulated in the 1946 Constitution of the World Health Organization, reiterated in the 1947 Universal Declaration for Human Rights (UDHR), and again recognized in the 1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR). Crucially, the right to health, among others, contains entitlements, including “maternal, child, and reproductive health.”³ Included under this entitlement is the requirement that “all services, goods, and facilities must be available, accessible, acceptable, and of good quality.”⁴ In sum, reproductive rights and the right to health are essential for women to enjoy their human rights and these rights are centered on a woman’s ability to make the best choices for their lives in the safest way possible.

Each year, around 73 million induced abortions take place worldwide, such that six out of ten (61 percent) of all unintended pregnancies, and three out of ten (29 percent) of all

¹ Anne F. Bayefsky, “Factsheet No. 31: The Right to Health,” in *The UN Human Rights Treaty System in the 21 Century*, ed. Anne Bayefsky (Brill | Nijhoff, 2008), 1, https://doi.org/10.1163/9789004502758_044.

² Ibid., 1

³ Ibid., 4.

⁴ Ibid., 4.

pregnancies end in an induced abortion.⁵ Moreover, when people with unintended pregnancies face barriers to attaining safe, timely, affordable, geographically reachable, non-discriminatory abortions, they often resort to unsafe abortions. However, unsafe abortions are associated with physical health risks such as incomplete abortions, hemorrhage, infection, uterine perforation, and damage to the genital tract and internal organs. Further, each year, nearly 70,000 or 4.7-13.2 percent of maternal deaths can be attributed to unsafe abortions.⁶ Nevertheless, abortions are a safe and simple procedure so long as the woman has access to accurate information, quality medicines, and support from a trained healthcare worker. Accordingly, the World Health Organization has included comprehensive abortion care - or “the provision of information, abortion management, and post-abortion care,” encompassing care related to miscarriage, induced abortion, incomplete abortions, and fetal deaths in – in its list of essential health care services.⁷

There are two kinds of abortion: medication abortions and in-clinic abortions. Medication abortions consist of a two-pill regimen using mifepristone, which blocks progesterone, and misoprostol, which induces uterine contractions, to end a pregnancy.⁸ The United States Food and Drug Administration (FDA) has approved the pill regimen up to 10 weeks LMP. In fact, data shows that mifepristone is even safer than some common, low-risk prescription drugs like penicillin and Viagra. According to the FDA, “there were five deaths associated with mifepristone use for every 1 million people in the U.S. who have used the drug since its approval in 2000” – a death rate of 0.0005 percent.⁹ After the 10-week period, one of the two in-clinic abortion methods become the procedure of choice.¹⁰ The first, a dilation and curettage (D&C) procedure, consists of using a suction device to remove fetal cells from the uterus. This method

⁵ “Abortion,” World Health Organization, accessed January 6, 2023, <https://www.who.int/news-room/fact-sheets/detail/abortion>.

⁶ Ibid; Center for Reproductive Rights, “Safe and Legal Abortion Is a Woman’s Human Right,” October 2011, <https://reproductiverights.org/wp-content/uploads/2018/08/Safe-and-Legal-Abortion-is-a-Womans-Human-Right.pdf>.

⁷ Ibid.

⁸ Stephania Taladrid, “The Post-Roe Abortion Underground,” *The New Yorker*, October 10, 2022, <https://www.newyorker.com/magazine/2022/10/17/the-post-roe-abortion-underground>.

⁹ Annette Choi Mullery Will, “How Safe Is the Abortion Pill Compared with Other Common Drugs,” CNN, March 15, 2023, <https://www.cnn.com/2023/03/15/health/abortion-pill-safety-dg/index.html>.

¹⁰ Ibid.

is the most common type of in-clinic abortion, and it is usually used until about 14-16 weeks LMP. Vaginally, D&Cs can also be used for diagnostic testing and miscarriage treatment making it one of the most common gynecological procedures with an overall mortality rate of about 0.6 per 100,000 procedures.¹¹ After 16 weeks LMP, clinics typically use the Dilation and Evacuation technique (D&E), which, like D&Cs, involves using suction and medical tools like forceps to empty the uterus.¹² Although D&Es are utilized in later stages of pregnancy, they are also used for miscarriage treatment and similarly retain an extremely low mortality rate of 0.64 per 100,000.¹³

Critically, a study conducted by Dr. Bela Ganatra, MD et al., demonstrates that restricting abortion access does not reduce the number of abortions that occur. Instead, it reduces the number of safe abortions that occur, leaving women more vulnerable to the dangers of unsafe abortion procedures. In fact, the proportion of unsafe abortions are significantly higher in countries with highly restrictive abortion laws when compared to countries with less restrictive laws.¹⁴

Countries with limited restrictions on abortion typically begin to limit abortion at “viability,” the point in pregnancy that fetal survival is possible, should birth occur. Though there is no universal consensus, fetal viability is thought to be at approximately six months of pregnancy (23-24 weeks gestation).¹⁵ However, many countries who legislate abortion have instituted gestational bans, accompanied by various caveats limiting provider access. Most often, legislatures institute 6-week or 12-week gestational bans, which are typically measured in weeks after the last menstrual period (LMP). However, in these cases if a woman has a regular 28-day menstrual cycle, the expected missed period should happen only two weeks after conception,

¹¹ “D and C Procedure: What It Involves, Recovery & More,” March 22, 2022, <https://www.medicalnewstoday.com/articles/d-and-c-procedure>.

¹² “In-Clinic Abortion Procedure | Abortion Methods,” accessed April 5, 2023, <https://www.plannedparenthood.org/learn/abortion/in-clinic-abortion-procedures>.

¹³ “The Safety of Later Abortion | Later Abortion Initiative,” Later Abortion Initiative, accessed April 24, 2023, <https://laterabortion.org/safety-later-abortion>.

¹⁴ Bela Ganatra, MD et al., “Global, Regional, and Subregional Classification of Abortions by Safety, 2010–14: Estimates from a Bayesian Hierarchical Model - The Lancet,” accessed January 6, 2023, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(17\)31794-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)31794-4/fulltext).

¹⁵ Adam Lewkowitz and Nina Ayala, “How Fetal Viability Is Misunderstood,” Time Magazine, accessed February 3, 2023, <https://time.com/6196775/fetus-prioritized-before-pregnancy-viable/>.

giving individuals a two-week period to take a pregnancy test, seek out an abortion, and undergo the procedure. Note that nearly half of all pregnancies are unintended and irregular periods are not uncommon, particularly among individuals just starting their menstruation or individuals approaching menopause. Further, individuals with polycystic ovary syndrome (PCOS), individuals on certain medications, or individuals with other illnesses can have irregular cycles. Even being an extreme athlete can lead to irregular cycles as can drastic weight changes.¹⁶ In fact, one study found that only about 13 percent of women have a typical 28-day cycle.¹⁷

As many of the new, restrictive abortion laws suggest, abortion is allegedly a uniquely dangerous procedure for which layers of regulation must be concocted to protect women. Moreover, among those on physical health, pro-life individuals cite concerns for mental health. In doing so, anti-abortion advocates claim that, not only is abortion wrong, but it harms women psychologically, causing mental instability and possible suicidal ideations. However, the Turnaway Study, headed by a demographer named Diana Green Foster disproves this notion. To conduct her study, Foster and her team recruited 1,132 women from waiting rooms of thirty abortion clinics in twenty-one states. Some of the women would go on to have abortions, while others would be turned away. In the study, Foster and her colleagues compared the two women on a variety of measures over time, interviewing them up to twice a year for up to five years. Former Supreme Court of the United States (SCOTUS) Justice Anthony Kennedy wrote in a 2007 abortion-case ruling that “severe depression and loss of esteem can follow [an abortion procedure].” While this may be true, epidemiologists, psychologists, statisticians, and other researchers who evaluated the Turnaway Study found it unlikely. As Foster writes, “some events do cause lifetime damage” such as childhood abuse, “but abortion is not common among these.” In the short term, women who were denied abortions had worse mental health, such as higher anxiety levels and lower self-esteem, while in the long run, researchers found “no long-term

¹⁶ Jessica Ravitz, “Reasons a Woman May Not Know She’s Pregnant at Six Weeks,” CNN, May 9, 2019, <https://www.cnn.com/2019/05/09/health/pregnancy-at-six-weeks/index.html>.

¹⁷ Michelle Rodrigues, “The Absurd Pregnancy Math behind the Six-Week Abortion Ban,” Scientific American, accessed January 6, 2023, <https://www.scientificamerican.com/article/the-absurd-pregnancy-math-behind-the-‘six-week’-abortion-ban/>.

differences between women who received and women who were denied an abortion.”¹⁸ In sum, abortion does not harm most women, but rather helps them in measurable ways.

Human Rights Instruments

While the phrase “abortion” is not explicitly written in the numerous United Nations (UN) human rights documents, it is made clear within these instruments that the criminalization of, or lack of access to, safe abortions violate a woman’s fundamental rights. This sentiment is shared among other influential global organizations like the World Health Organization which states that unsafe abortions are a leading, but preventable, cause of maternal deaths, associated with physical and mental health complications along with a social and financial burden for both women, communities, and health systems.¹⁹ Altogether, inaccessibility to quality abortion care risks violating the right to life, the right to health, the right to decide freely and responsibly on the number, spacing, and timing of children, and the right to be free from torture, and cruel and unusual punishment.

Roadmap

The focus of this thesis seeks to investigate the human rights framing of abortion on behalf of governing bodies and advocacy groups in the United States, the Netherlands, and Germany. As we will see, governing bodies typically refrain from using human rights language in their legislation, particularly regarding abortion. However, advocacy groups in favor of the right to choose seek to push human rights to the forefront of the discussion, emphasizing the ways in which human rights need to be considered, and that, while legislation is understandably necessary, it cannot stand alone.

In the following chapter, the Literature Review, I will discuss four crucial theories and ideas that will guide my analysis of the cases presented in this thesis. Political opportunity structure, framing analysis, contentious politics theory, and rights claiming each play an instrumental role in guiding the ways in which human rights rhetoric is used in the abortion

¹⁸ Margaret Talbot, “The Study That Debunks Most Anti-Abortion Arguments,” *The New Yorker*, accessed February 3, 2023, <https://www.newyorker.com/books/under-review/the-study-that-debunks-most-anti-abortion-arguments>.

¹⁹ “Abortion,” World Health Organization, accessed January 6, 2023, <https://www.who.int/news-room/fact-sheets/detail/abortion>.

rights sphere. Next, the literature review will discuss the current ideological perspectives within the abortion discussion, the relevant human rights instruments, and relevant human rights critiques.

The third chapter, the Methods section, discusses why I have chosen to conduct a comparative case study to research and evaluate the use of human rights language in the discussion around abortion. I continue to address how I will evaluate this question, and explain why I have chosen the Netherlands, Germany, and the United States to study specifically. Finally, in this section, I introduce global reproductive rights organizations that work in these countries, while I provide more information about country-specific organizations in my case study chapters.

Chapter 4a is composed of detailed discussions of each country's abortion legislation history and the ongoing discussions surrounding abortion and reproductive rights. Next, in Chapter 4b, I provide a selection of detailed examples of the ways in which human rights rhetoric is employed by both activist groups/individuals and politicians/governing bodies.

The penultimate chapter is an analysis chapter in which I compare and contrast the human rights rhetoric used in each country. In doing so, I also seek to draw conclusions about how and why human rights rhetoric is or is not used in these domestic debates using the evidence provided in the case studies.

2. Literature Review

The modern human rights movement began at the end of World War II, yielding documents like the Universal Declaration of Human Rights (UDHR), the Geneva Conventions, and regional human rights instruments like the European Convention on Human Rights. However, it was not until the Cold War era that human rights grew as an institutional and international mechanism for social justice. Nevertheless, international human rights continue to conflict with domestic history. For example, history demonstrates that, the longer the issue has been a part of domestic political context, the less likely it is to be reframed in a human rights context. Conversely, when there is not a longstanding history of domestic context, it is more likely to be reframed using human rights rhetoric.

Methods of civil resistance by activists and advocacy organizations have been on the rise in the climate and environmental activism spheres. For example, in 2019, students worldwide staged a global walk-out to protest climate inaction. In total, there were 2,052 events in 123 countries, including the United States, Germany, and the Netherlands.²⁰ However, climate activism, and resulting government action looks different in each of these countries. Here, we can better understand the way activism differs across Europe and the United States in terms of abortion with an analogy to climate activism.

The United States' progress to address climate change was largely stalled by former President Donald Trump's executive decision to leave the Paris Climate Accord in 2017. Notably, in March 2017, Trump also scrapped the Obama-era Clean Power Plan that aimed to reduce U.S. emissions from power generation, weakened fuel efficiency requirements, and rolled back a number of regulations pertaining to methane. However, once President Joe Biden was elected in 2020, climate, energy, and environmental policy were pushed to the forefront of federal attention. In 2021, President Biden initiated the National Climate Task Force which oversees four key goals for the United States: reducing U.S. greenhouse gas emissions, reaching

²⁰ Isabelle Gerretsen, Sarah Lazarus, and Yoonjung Seo, "Global Climate Strike: Meet the Teenagers Skipping School to Fight for a Greener Planet," CNN, March 15, 2019, <https://www.cnn.com/2019/03/14/world/global-climate-strike-teenagers-school-walkout-greta-thunberg-intl/index.html>.

100% carbon pollution-free electricity, achieving a net-zero emissions economy, and delivering 40% of the benefits from federal investments in climate and clean energy to disadvantaged communities. There is no telling if this shift in policy can be attributed to a rise in climate activism during the Trump era, but the rising popularity of Greta Thunberg during this period is indisputable. In 2019, sixteen-year-old Thunberg visited the United States Congress to submit her testimony on record. Her remarks lasted barely a minute, but she called upon the United States to “take real action.”²¹ In doing so, Thunberg ignited a spark among climate activists worldwide to take action and seek a change in policy.

While the majority of Americans see an array of actors as doing too little to reduce the effects of climate change, younger Americans – such as Millennials and Generation Z – stand out with particularly high levels of engagement with environmental activism. As a group, this age group also tends to be more likely to identify with, or lean toward, the Democratic Party than the GOP. Crucially, the Pew Research Center notes that there are limited attitudinal differences among Democrats regarding climate issues, but younger democrats are more likely to participate in forms of civil resistance or online advocacy.²²

Unlike the United States, the European Union (to which Germany and the Netherlands are members) has published a long-term strategy to address climate change and environmental damage which focuses on lowering and ultimately elimination greenhouse gas emissions.²³ While there has not been a correlative study to determine whether activism played a role in this development, environmental activism has been on the rise in the past decade in both Germany and the Netherlands. As media source Al Jazeera writes, in late 2021, Germany’s new coalition announced a climate plan to phase out coal power across the country by 2030.²⁴ The decision

²¹ Somini Sengupta, “Greta Thunberg, on Tour in America, Offers an Unvarnished View,” *The New York Times*, September 18, 2019, sec. Climate, <https://www.nytimes.com/2019/09/18/climate/greta-thunberg.html>.

²² Alex Tyson, Brian Kennedy, and Cary Funk, “Gen Z, Millennials Stand Out for Climate Change Activism, Social Media Engagement With Issue,” *Pew Research Center Science & Society* (blog), May 26, 2021, <https://www.pewresearch.org/science/2021/05/26/gen-z-millennials-stand-out-for-climate-change-activism-social-media-engagement-with-issue/>.

²³ “2050 Long-Term Strategy,” accessed March 24, 2023, https://climate.ec.europa.eu/eu-action/climate-strategies-targets/2050-long-term-strategy_en.

²⁴ Clara S Thompson, “What Germany’s Climate Movement Got Right: Breaking Rules,” Al Jazeera, January 20, 2022, <https://www.aljazeera.com/opinions/2022/1/20/what-germanys-climate-movement-got-right-breaking-rules>.

came after multiple years of climate protests such as occupations, blockades, and demonstrations which served to draw attention to the long-standing coal industry in Germany. In the Netherlands, it was the Dutch Supreme Court's landmark case *Urgenda Foundation v. The Netherlands* (2019) that revolutionized Dutch climate policy. The case's foundation rested upon the Dutch government's failure to fulfill Article 2 (right to life) and Article 8 (right to family life) of the European Convention of Human Rights, arguing that there was a real and imminent threat that required the State to take action. The Court, affirming these claims, ruled that the government was acting unlawfully and mandated them to pursue a climate plan to reduce emissions. Like the United States, young voters tend to lean towards more liberal parties like the Dutch Democratic Party (D66), 94 percent of whom believe humans are responsible for climate change.²⁵ Further, similar to the United States and the Netherlands, the younger German voter demographic tends to lean further left, particularly regarding Germany's green party, which traditionally wins a large percentage of the young vote.²⁶ Uniquely, however, most of Germany's big political parties tend to agree on climate issues, coming to a consensus that not enough is currently being done, and reiterating their commitment to the array of existing climate plans. Nonetheless, perhaps this indicates that younger voters, who tend to lean further left or more liberal, encourage human rights framing. In other words, countries with larger quantities of younger, left-leaning voters will be seen utilizing human rights rhetoric to advocate for issues of social justice.

Overall, environmental activism is more robust in Europe as it is, being an international issue, often framed in international terms. While the struggle for women's rights is also an international issue, it is often handled domestically and become a localized issue, making it less likely for human rights rhetoric to play a large role. Historically, reproductive and abortion rights activists have found more traction locally, but theories of performative claiming and the

²⁵ Lauren Comiteau, "The Young and the Restless: First Time Voters in the Dutch Election - DutchNews.NL," Dutch News, March 16, 2021, <https://www.dutchnews.nl/features/2021/03/the-young-and-the-restless-first-time-voters-in-the-dutch-election/>; Erick Burgueño Salas, "Netherlands: Opinions on Role Humanity in Global Warming, by Political Party 2019," Statista, accessed March 24, 2023, <https://www.statista.com/statistics/882532/opinions-on-role-humanity-in-global-warming-in-the-netherlands-by-political-party/>.

²⁶ Ian Bateson, "German Election Demographics – DW – 09/10/2021," dw.com, September 10, 2021, <https://www.dw.com/en/german-election-demographics-facts-and-figures/a-59143207>.

normative power of human rights language suggests that perhaps international solidarity could work better.

Key Theories

To understand the factors which contribute to the success or failure of abortion movements, I will focus on political opportunity structure, contentious politics theory, framing theory, and rights claiming. First, political opportunity theory argues that the success or failure of social movements is affected primarily by political opportunities. For example, an increase in political pluralism, decline in repression, division among elites, or increased political enfranchisement can create a vulnerability in the current political system, creating an opportunity for others to issue a challenge and push through social change. Broadly, political opportunities can be defined as “consistent but not necessarily formal, permanent, or national signals to social or political actors which either encourage or discourage them to use their internal resources to form social movements.”²⁷ More specifically, political opportunities refer to those aspects of the political system that affect the possibilities that challenging groups have to mobilize effectively. In short, the success, or lack thereof, of protest activity depends on changes within the broader political system.

Historically, American scholars have focused on the more volatile aspects of political opportunities, looking at the opening of “windows of opportunities” that may encourage collective actors to form or join social movements and carry protest activities. On the other hand, European scholars have looked at more stable aspects of political opportunities, trying to account for cross-national differences in the forms, levels, and outcomes of social movements and protest activities.²⁸ An open policy window is an opportunity for advocates to push their pet solutions or to draw attention to their special problems. Sometimes windows open quite predictably; for example, legislation comes up on a schedule, while, at other times, windows open unpredictably

²⁷ Marco Guigni, “Political Opportunities: From Tilly to Tilly,” *Schwizerische Zeitschrift Für Politikwissenschaft* 15 (2009): 361–67.

²⁸ *Ibid.*

as a result of a current event. Nonetheless, open policy windows present opportunities for the complete linkage of problems, mobilizing advocates and policy makers.²⁹

Generally, lawmakers will not vote for a reform bill if they think it will endanger their electoral chances. Instead, coalition leaders must frame issues in a way that encourages legislators to promote the public good, while sheltering them from the political blame associated with loss. The crucial step is encouraging lawmakers to consider not just the preferences of their clientele, but also the potential preferences of voters in future elections.³⁰

Next, contentious politics involves interactions in which actors make claims bearing on other actors' interests, leading to coordinated efforts on behalf of shared interests, in which governments are involved as targets, initiators of claims, or third parties.³¹ Subsequently, contentious politics brings together three familiar features of social life: contention, collective action, and politics. Contention, as Tilly and Tarrow define it, involves making claims that bear on someone's interests – in its simplest version, one party making claims on another. Next, collective action refers to coordinating efforts on behalf of shared interests or programs. However, the presence of governments in contention makes a difference for three crucial reasons. First, people who control governments hold an inherent advantage over those who do not. Second, governments always make rules governing contention; and third, governments control substantial coercive means.

Tilly and Tarrow's *Contentious Politics* focuses on the “convergence of collective action, contention, and politics,” claiming that, when the three converge, something distinctive happens: power, shared interests, and government policy come into play.³² In other words, human rights claims become both collective and political. All forms of contention rest on performances, with the understanding that performances range from direct assaults on others to theatricals staged for nearby or distant audiences. For example, protesting has become a central form of action to demonstrate a claim before the public, garnering widespread attention. Most recently, however,

²⁹ John Kingdon, “Wrapping Things Up,” in *Agendas, Alternatives, and Public Policies* (Pearson, 1995).

³⁰ Eric Patashnik, “After the Public Interest Prevails: The Political Sustainability of Policy Reform,” *Governance* 16, no. 2 (2003), 206, <https://doi.org/10.1111/1468-0491.00214>.

³¹ Charles Tilly and Sidney Tarrow, *Contentious Politics*, 2nd ed. (Oxford University Press, 2015), 7.

³² Charles Tilly and Sidney Tarrow, 10.

reaching people through the internet has become a favored means of mobilization. In doing so, the internet serves to assemble people at one or more demonstration sites, or as a form of connective action itself.³³

Framing theory is a broad theoretical approach by which a communication source defines and constructs a political issue or public controversy. Consequently, collective action frames are constructed to negotiate a shared understanding of some problematic condition or situation defined as in need of change, urging others to act in concert to affect change. Since social movements seek to remedy or alter some problematic situation or issue, it follows that directed action is contingent upon identification of the source(s) of causality blame, and/or culpable agents. The recent proliferation of scholarship of framing processes in relation to social movements indicates that framing processes have come to be regarded as central to understanding the character and course of social movements. Instead of viewing social movements as vehicles for ideas and meanings, movement actors have come to be viewed as agents engaged “in the production and maintenance of meaning for constituents, antagonists, and observers.”³⁴

Robert Benford and David Snow explicate that there are three core framing tasks: diagnostic framing, prognostic framing, and motivational framing. First, diagnostic framing works to focus blame or responsibility. Next, prognostic framing involves the articulation of a proposed solution to the problem, or at least a plan of attack, and the strategies for carrying out the plan. Finally, motivational framing is the final core framing task, and entails providing a “call to arms” or rationale for engaging in collective action.

Building Human Rights Norms

As there is no world government, and therefore limited enforcement mechanisms, human rights’ main power is that it is, in itself, a framing mechanism. In doing so, human rights advocates tend to frame a right as a universal mandate or duty, calling upon countries to fulfill their obligations to the people. For example, a popular human rights concept called ‘naming and shaming,’ involves countries and organizations publicizing a state’s human rights violations in

³³ Ibid, 16.

³⁴ Robert D. Benford, and David A. Snow, “Framing Processes and Social Movements: An Overview and Assessment,” *Annual Review of Sociology* 26 (2000): 613, <http://www.jstor.org/stable/223459>.

order to goad them into fulfilling their obligations. While there is no other action in this process (i.e., legal action), this process tends to place enough stress on a country for them to change their ways, encouraging them to properly recognize and fulfill their duties. In this way, law itself can be utilized as a framing mechanism. International human rights are inextricably linked to the law such that a considerable component of the fight about abortion has happened in the domestic legal systems. It is for this reason that abortion is consistently framed as a right, constitutional or otherwise. Utilizing the legal system enables activists and non-governmental organizations (NGOs) to bring these issues forward and frame them as issues for public consumption.

Crucially, a state is not responsible for every act or omission which harms human rights, regardless of the perpetrator or the location. Instead, a state's responsibility under international human rights law is limited by its jurisdiction. As such, a state has duties under human rights treaties if they are party to them and, under customary international law, states are the principal duty-bearers of human right obligations.³⁵ Therefore, a state is responsible, under international human rights law, for the acts and omissions of its organs – that is, its executive, legislature, judiciary, and its bureaucracy – so long as it is within the country's jurisdiction.

Further, international human rights law is a rights-based, rather than duty-based regime. As such, human rights are grounds for duties such that rights are justified first, and duties follow while the focus on states' duties and obligations range. Initially, the UDHR, with respect to state obligations, included duties on individuals and other organs. While it establishes an array of human rights, the UDHR more broadly focuses on the pledge from states to promote and secure the enumerated rights. More recently, scholars and advocates have sought to specify a greater number of human rights responsibilities for individuals, businesses, and other groups and organs. Such a focus on individual responsibilities is said to capture the need for all actors to 'share their burden... [in] completing the circuit of rights fulfillment.'³⁶ Consequently, subsequent human rights treaties have afforded a more focused, state-centric series of human rights obligations. For example, both the International Covenant on Civil and Political Rights (ICCPR) and the

³⁵ Sarah Joseph and Barrie Sander, "Scope of Application," in *International Human Rights Law*, 4th ed. (Oxford University Press, 2022), 106–28.

³⁶ Katharine G. Young, "Rights and Obligations," in *International Human Rights Law*, 4th ed. (Oxford University Press, 2022), 131.

International Covenant on Economic, Social, and Cultural Rights (ICESCR) require state parties to respect the enumerated rights without distinction or discrimination, encouraging obligations to be discharged to a large degree utilizing legislation alongside other measures.

Under the international human rights system, state-obligations have long rested on the dual character of the state as ‘both the greatest potential threat to personal dignity and the primary instrument for its realization.’³⁷ In recognition of the duality of the role of the state, philosopher Henry Shue outlined a ‘tripartite typology of duties,’ dictating that state obligations rest on three crucial duties: the obligations to respect, protect, and fulfil.³⁸ In doing so, the obligation to respect requires states to refrain from interfering with the enjoyment of rights and the obligation to protect requires states to prevent violations of human rights, including those at the hands of third parties. As an obligation of active protection, it requires states to adopt legislative, or other measures to secure rights. Finally, the obligation to fulfil requires that states take ‘appropriate legislative, administrative, budgetary, judicial, and other measures toward full realization.’³⁹ Among these three, there are few non-derogable obligations on the states’ part. Otherwise, many human rights obligations are mediated by permissible derogations or limits, which allow for restrictions on rights enjoyment such that states are generally able to restrict or limit the enjoyment of guaranteed human rights if the limitation is set in law.⁴⁰

Further, the international human rights system is founded on the idea that all human beings may enjoy the same set of fundamental rights. Accordingly, almost all general human rights instruments guarantee the right to equality and non-discrimination, while others provide protection against particular forms of discrimination. Conventionally, the terms ‘equality’ and ‘non-discrimination’ are often used interchangeably. However, they are crucially different in that: the adage of equality requires that equals be treated equally while the prohibition of discrimination precludes differential treatment on unreasonable grounds. Such a shift in terminology underscores the way equality implies not only a negative obligation not to discriminate, but also a duty to recognize differences between people and take a positive action

³⁷ Young, 134.

³⁸ Ibid, 135.

³⁹ Ibid, 137.

⁴⁰ Young, 129–48.

to achieve real equality. Thus, whereas ‘non-discrimination’ corresponds to the more limited concept of *formal equality*, utilization of the term ‘equality’ stresses the need for a “more positive approach aimed at substantive equality.”⁴¹ This notion of formal equality requires that equals be treated equally, or more precisely, likes must be treated alike. In doing so, this conception of equality tends to focus on the process rather than the outcome; in other words, ensuring individuals are treated equally, regardless of the result. Conversely, proponents of substantive equality recognize that “a merely formal notion of equality as procedural fairness can in fact perpetuate existing patterns of disadvantage.”⁴²

There are two main variants of substantive equality: equality of opportunity and equality of results. The notion of equality of opportunity posits that true equality can only be achieved if people are not only treated equally but are also provided the same opportunities. Thus, equality of opportunity does not aim to achieve equality of outcome, but rather seeks to remove the barriers for the advancement of disadvantaged groups. Moreover, equality of results goes further and seeks to achieve an equal distribution of social goods such as education, employment, healthcare, and political representation. This philosophy recognizes that removing barriers does not guarantee that disadvantaged groups will be able to take advantage of available opportunities and instead aims to increase the representation of disadvantaged groups in positions of power.

As fundamental rights, the rights to equality and non-discrimination are embedded in multiple sources of international law. First and foremost, the UDHR proclaims in its very first article: “All human beings are born free and equal in dignity and rights.” This idea is reinforced in Article 1(3) of the UN Charter, Articles 1, 2(1), and 3 of the UDHR; Articles 2, 3, and 26 of the ICCPR; and Articles 2(2) and 3 of the ICESCR. At the heart of these articles is the recognition that various human rights instruments have formally prohibited direct discrimination, “when a person, on account of one or more of the prohibited grounds, is treated less favorably than someone else in comparable circumstances.”⁴³ However, human rights bodies and courts have also acknowledged that such a requirement of consistent treatment is not sufficient to

⁴¹ Daniel Moeckli, “Equality and Non-Discrimination,” in *International Human Rights Law*, 4th ed. (Oxford University Press, 2022), 152.

⁴² Moeckli, 153

⁴³ *Ibid*, 158.

achieve true equality. Therefore, the Court has acknowledged the presence and harms of indirect discrimination: “when a practice, rule, or requirement that is outwardly ‘*neutral*,’ that is not based on one of the prohibited grounds of distinction has a disproportionate impact on particular groups defined by reference to one of these grounds.”⁴⁴

Rights Claiming

Rights claims are made for a wide variety of reasons such as to criticize practices we find objectionable, to shed light on injustices, to limit the power of government, and to demand state accountability and intervention. It is through rights claiming’s association with valued principles like equality and human freedom that give the act a palpable moral and political appeal. In fact, rights claiming is often celebrated for instilling a sense of pride in our collective past and inspiring hope for change and the future. However, rights claiming has been and continues to be a suspect and risky practice of political engagement, particularly for those committed to advancing democracy. Among rights theorists, there is little agreement about whether rights claiming is a valuable democratic practice leading leaders in the field to pose the question: “Are rights claims an effective means of enacting, sustaining, or engendering democracy?” Scholar Joel Feinberg asserts that, “to claim,” that one has a right is to “assert in such a manner as to demand or insist that what is asserted be recognized.”⁴⁵ This is crucially different than begging or pleading for a right as the resultant actions can often be confused with the acknowledgement of rights. As Feinberg explains, there are two distinct kinds of moral transactions. The first are gifts, services, and favors motivated by love, pity, or mercy. The second are dutiful actions called for by the rights of other people, which can be demanded and claimed without embarrassment or shame.⁴⁶

In *Making Rights Claims: A Practice of Democratic Citizenship*, Karen Zivi seeks to understand what it is about rights that makes them both an increasingly popular global language of political reform and a continued target of philosophical and political critique. The answer,

⁴⁴ Ibid, 159.

⁴⁵ Joel Feinberg, “Duties, Rights, and Claims,” in *Rights, Justice, and the Bounds of Liberty: Essays in Social Philosophy* (Princeton University Press, 1981), 141.

⁴⁶ Joel Feinberg, 130–42.

according to Zivi, lies in understanding democratic character, using rights claiming as a method to shift or expand the way we study both the philosophy and practice of rights.

According to Zivi, rights claiming should be understood as a performative practice such that this performativity is what makes the practice an essential component of robust democratic politics. In fact, Zivi encourages us to shift the way we think about what we are doing when we make rights claims and embrace the idea that rights claiming is a performative practice rather than the means to a particular set of procedures or values we call democracy. In doing so, we can come to see the relationship between rights and democracy and understand the democratic character of rights claiming. Thus, through the practice of rights claiming, individuals learn to be and shape the meaning of democratic citizenship and community. Overall, rights claiming is a far more complicated speech act than is captured by those understandings that reduce rights claiming to statements of facts or the utterance of hopefully felicitous illocutions.

Next, as rights claims are not always able to put an end to human rights violations, critical legal scholars question the ability of rights to promote democratic change and call attention to rights' tendency to reinforce individualism, imperialism, capitalist exploitation, and patriarchal masculinity. Crucially, Karen Zivi argues that rights claiming can blind us to our complicity in practices of domination.

By utilizing the understanding of contentious politics theory, political opportunity theory, and framing techniques, advocates can use rights claims and human rights as a framing mechanism to create change among the abortion rights struggle in the Netherlands, Germany, and the United States. Thus, in this thesis, particularly in the analysis chapter, I will seek to identify and evaluate the success of these methods, or lack thereof, in the current abortion advocacy within these countries.

Human Rights Documents

A women's right to life is protected in multiple human rights instruments, both international and regional – such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), the American Convention on Human Rights, and the European Convention on Human Rights. For

example, forcing a woman to undergo an unsafe abortion when she lacks all other options, threatens her right to life. In fact, several United Nations human rights bodies have framed maternal deaths due to unsafe abortion as a violation of a woman's right to life. Notably, the phrase "right to life" has also been associated with the campaigns of abortion opposition groups, who seek to interpret the right from the perspective of the fetus. However, in 2004, the European Court of Human Rights issued a decision in the case of *Vo v. France* stating that "it is neither desirable, nor even possible as matters stand, to answer in the abstract the question whether the unborn child is a person for the purpose of Article 2 of the Convention."⁴⁷ Ultimately, the Court declined to recognize a fetus as a person under the European Convention.

International law and human rights instruments also guarantees women worldwide the right to "the highest attainable standard of physical and mental health."⁴⁸ In 2000, the Committee on Economic, Social, and Cultural Rights recognized that the right to health includes "the right to control one's health and body, including sexual and reproductive freedom, and the right to be free from interference."⁴⁹ Further, the right to health "requires the removal of all barriers interfering with access to health services, education and information, including in the area of sexual and reproductive health."⁵⁰ Such lack of access to safe, affordable, timely and respectful abortion care, and the stigma associated with abortion pose risks to both women's physical and mental well-being.

The right to gender equality is also a fundamental principle of human rights law such that freedom from discrimination is ensured in every major human rights instrument. According to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), "discrimination against women" includes laws that have either the "effect" or the "purpose" of preventing a woman from exercising any of her human rights or fundamental freedoms on a basis of equality with men. However, laws that ban abortion have just that effect and purpose.

⁴⁷ "Vo. v. France (European Court of Human Rights)," Center for Reproductive Rights, accessed February 3, 2023, <https://reproductiverights.org/case/vo-v-france-european-court-of-human-rights/>.

⁴⁸ United Nations High Commissioner for Refugees, "Refworld | International Covenant on Economic, Social and Cultural Rights," Refworld, accessed April 27, 2023, <https://www.refworld.org/docid/3ae6b36c0.html>.

⁴⁹ Committee on Economic, Social, and Cultural Rights, "General Comment No. 14: The Right to the Highest Attainable," 2000, <https://www.refworld.org/pdfid/4538838d0.pdf>.

⁵⁰ Ibid.

Restricting abortion has the effect of denying women access to a procedure that may be necessary for their enjoyment of their right to health. Only women must live with the physical and emotional consequences of an unwanted pregnancy; therefore, denying women access to medical services that enable them to regulate their fertility or terminate a dangerous pregnancy amounts to a refusal to provide healthcare that only women need. In sum, women are exposed to health risks not experienced by men. Similarly, laws that deny access to abortion, have the discriminatory purpose of undermining women’s capacity to make responsible decisions about their bodies and their lives.

Finally, a woman has the right to reproductive self-determination, or the right to make decisions regarding her own body. Support for this right is found in a number of human rights instruments, which ensure freedom in decision-making. Such provisions include protections of the right to physical integrity, the right to decide freely and responsibly the number and spacing one’s children, and the right to privacy.

Crucially, while the United States has signed the above human rights documents, like the ICCPR, ICESR, and CEDAW, it has failed to ratify them. In doing so, they cannot be held accountable by treaty governing bodies for violating the rights enumerated in such instruments. For example, in 2000, the International Covenant on Civil and Political Rights (ICCPR) called upon member States to inform it of “any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions.”⁵¹ As the United States has not ratified the ICCPR, it is under no obligation to report on these measures, or instate any measures in response to feedback or the global standard. In 1992, the United States ratified the International Covenant on Civil and Political Rights (ICCPR). However, while the United States signed the International Covenant on Economic, Social, and Cultural Rights (ICESR) on October 5, 1977, it never ratified the document.⁵² This of course suggests some symbolic support, but without ratification, it is not

⁵¹ United Nations High Commissioner for Refugees, “Refworld | CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women),” Refworld, accessed April 27, 2023, <https://www.refworld.org/docid/45139c9b4.html>.

⁵² “United Nations Treaty Collection: 3. International Covenant on Economic, Social, and Cultural Rights,” accessed February 3, 2023, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4.

legally binding. Similarly, on July 17, 1980, the United States signed, but did not ratify the Convention on Elimination of Discrimination Against Women (CEDAW).⁵³

Human Rights Critiques

While there are a host of human rights critiques applicable to the broader field, there are two that are central to the discussion of abortion rights. The first, the feminist critique, in its essence, argues that the patriarchy is fundamentally engrained in human rights. Feminism is a way of looking at the world, seeing it as organized along gendered lines which benefit men, and trying to change it so that women are empowered. At the core of the liberal feminist critique is the assumption that women are equal to men with the consequence that women must not be excluded from the rights enjoyed by men – and vice versa.⁵⁴ However, one line of feminist critique argues that, due to the inherent differences between men and women, we cannot assume that men and women should enjoy the same rights. In this view, individuals critique the notion that, while there is equality in having equal rights, this process lacks equity in outcome. Thus, human rights, specifically those pertaining to women’s rights, should be more accommodating of that fact.

The second is the cultural relativist critique. In 1947, the year before the Universal Declaration of Human Rights was adopted, the American Anthropological Association (AAA) addressed a ‘Statement on Human Rights’ asking “How can the proposed Declaration be applicable to all human beings, and not a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America?”⁵⁵ Cultural relativism is rooted in the idea that moral systems are embedded in culture and that different cultures produce different moralities. In other words, *because* cultures differ from one another, there can be no universal moral values. Subsequently, universality of human rights is not a fact and universalists too often assume that they are on firm ground in making judgements about others, imposing their ways on others for no other reason than sheer dominance.

⁵³ “United Nations Treaty Collection: 8. Convention on the Elimination of All Forms of Discrimination against Women,” accessed February 3, 2023, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en.

⁵⁴ Marie-Bénédicte Dembour, “Critiques,” in *International Human Rights Law*, 4th ed. (Oxford University Press, 2022), 56.

⁵⁵ *Ibid*, 53.

Consequently, there are two primary struggles over time in abortion and human rights law: those related to morality and health. At the heart of abortion legislation, particularly in democratic countries, is the pro-life versus pro-choice argument. Generally, people who identify as pro-choice believe that everyone has the basic human right to decide when and whether to have children. Accordingly, individuals who identify as pro-choice tend to disagree with legislation that limits individuals' ability to access abortions before fetal viability. Individuals who identify as pro-life tend to concern themselves more with the embryo or fetus, arguing that, since embryos are living, abortion is equivalent to murder. At the heart of pro-life arguments are often religious freedoms and morality arguments such that, from the view of pro-life Christians, "life begins at conception," granting the embryo both personhood and rights.⁵⁶ Consequently, aborting a fetus is equivalent to killing an unborn baby. Religious arguments in support of abortion legislation are supported by the First Amendment, which states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

Given what we've seen above, we should expect to see that, the more internationally engaged the activist community/issue is, the more likely we are to see human rights rhetoric being used. Further, if human rights language is being utilized, I expect to see this in countries that are more historically committed to its citizens' well-being. However, it is most likely that human rights language will not be used by governing bodies or legislatures of countries, instead reserved for advocacy groups and individuals.

⁵⁶ Travis Mitchell, "America's Abortion Quandary," *Pew Research Center's Religion & Public Life Project* (blog), May 6, 2022, <https://www.pewresearch.org/religion/2022/05/06/americas-abortion-quandary/>.

3. Methods

Quantitative and qualitative research methods are implemented by researchers for largely different purposes. In general, quantitative research seeks to understand causal or correlational relationships while qualitative research seeks to understand a phenomenon within a real-world context. Qualitative research implies an emphasis on processes and meanings that are not rigorously examined or measured in terms of quantity, intensity, or frequency. Therefore, qualitative research is beneficial for the social sciences where researchers are interested in insight, discovery, and interpretation in addition to hypothesis testing.⁵⁷ One method of qualitative research, the case study is best defined as an “intensive study of a single unit with an aim to generalize across a larger set of units.”⁵⁸ Case studies become particularly useful where one needs to understand some particular problem or situation in great-depth, and where one can identify cases rich in information. To refer to a work as a case study might mean “(a) that its method is qualitative... (b) that the research is ethnographic, clinical, participant observation, or otherwise “in the field;” (c) that the research is characterized by process-tracing; (d) that the research investigates the properties of a single; or (e) that the research investigates a single phenomenon, instance, or example.”⁵⁹

Case studies characteristic strengths and weaknesses lie within the type of inference under consideration, the scope of the proposition, the degree of unit homogeneity, the strategy of research, and the kind of empirical evidence available. As such, case studies are a strong way to assert that the unit under study is like, or unlike, other similar units. Further, arguments that strive for great breadth and boundedness are in great need of cross-unit cases. While single-unit studies provide cases that are likely to be comparable to one another, cases drawn from different units often force the researcher to make assumptions about the comparability of concepts and causal relationships across the chosen cases.

⁵⁷ Khairul Baharein Noor, “Case Study: A Strategic Research Methodology,” *American Journal of Applied Sciences* 5 (November 1, 2008), <https://doi.org/10.3844/ajassp.2008.1602.1604>.

⁵⁸ John Gerring, “What Is a Case Study and What Is It Good For?,” *American Political Science Review* 98, no. 2 (May 2004): 341, <https://doi.org/10.1017/S0003055404001182>.

⁵⁹ *Ibid*, 342.

Case studies enjoy a natural advantage in research of an exploratory nature as the subjectivity of case study research allows for the generation of a great number of hypotheses. Further, case studies offer insights that might not be apparent to the cross-unit researcher who works with a thinner set of empirical data across a large number of units.⁶⁰

Case studies typically perform a double function in that they are studies (of the unit itself) as well as case studies (of a broader class of units). Overall, case studies are generally:

“more useful (1) when inferences are descriptive rather than causal, (2) when propositional depth is prized over breadth and boundedness, (3) when (internal case comparability is given precedence over (external) case representativeness, (4) when insight into causal mechanisms is more important than insight into causal effects, (5), when the causal proposition at issue is invariant rather than probabilistic, (6) when the strategy of research is exploratory, rather than confirmatory, and (7) when useful variance is available for only a single unit or a small number of units.”⁶¹

Next, there are five methods of experimental reasoning distinguished by John Stuart Mill called Mill’s methods.⁶² The Mills method of difference seeks to evaluate three similar case studies to find one similarity among them whereas the Mills method of direct agreement seeks to evaluate wildly different cases that have similar outcomes. However, here I combine the two by process tracing the histories of three similar countries to see similar examples of human rights verbiage being used in these countries. In other words, I am conducting a contextual analysis of similar episodic examples of how human rights gets framed in the United States, Germany, and the Netherlands.

Due to the nature of this research question, an in-depth qualitative analysis seemed most advantageous. Analysis of human rights framing can be both subjective and vague, therefore it does not lend itself to a quantitative study. Consequently, I have chosen to conduct this research using a comparative case study of three countries. The three chosen countries – The Netherlands,

⁶⁰ John Gerring, “What Is a Case Study and What Is It Good For?.”

⁶¹ Ibid, 352.

⁶² “Mill’s Methods | Logic | Britannica,” March 15, 2023, <https://www.britannica.com/topic/Mills-methods>.

Germany, and the United States – differ greatly in size, history, sex-based composition of governing bodies, and the ways in which they participate in international human rights. For example, the Netherlands has the highest percentage of women in its governing body. While 25 percent of the United States Senate are women, and 35 percent of the members of the German parliament are women, 41 percent of the Dutch parliament is made up of women.⁶³ However, each is democratic, each has at least two political parties, and each has legalized abortion in some manner. Crucially, for this study, which is focused on human rights activism, each country also has robust civil society actors who advocate for reproductive health and abortion rights. Yet the countries vary enough across this key dimension that I can try to assess if and why there are differences in how they use human rights language and how their civil society actors engage with state institutions and rally political support. Put plainly, the countries selected for study in this thesis lie in three places along the spectrum of abortion rights. In the Netherlands, abortion is, in short, completely legal, and accessible until viability. In Germany, abortion is, in simple terms, legal and available until the 12-week mark at which point abortion becomes criminalized for both physicians and pregnant women. Finally, in the United States, due to the unique composition of states and governing bodies, the availability and legality of medical abortions is highly diverse and ranges from state-to-state within the country.

While there is an existing body of research on the domestic political questions surrounding reproductive and abortion rights in these countries, this thesis focuses on comparing the human rights rhetoric across these cases. To reiterate, here, I am attempting to understand if and how various players in these circles utilize human rights language. If so, how are they doing it and if not, why? To answer these questions, I plan to examine statements, press releases and mission statements from activists, activist groups/organizations, and political leaders in each of these countries. Additionally, I plan to do a media survey of coverage of this issue and look at English language versions of both domestic and international news websites. Finally, I will use

⁶³ “U.S. Senate: Women in the Senate,” United States Senate, accessed February 27, 2023, <https://www.senate.gov/reference/Index/Women.htm>; “Female Parliamentary Representation: Germany Ranked 42th Globally,” Federal Statistical Office, accessed February 27, 2023, https://www.destatis.de/EN/Themes/Countries-Regions/International-Statistics/Data-Topic/GeneralRegionalStatistics/women_share_in_parliaments.html; “Gender Quotas Database: Netherlands,” International Idea Institute for Democracy and Electoral Assistance, accessed February 27, 2023, <https://www.idea.int/data-tools/data/gender-quotas/country-view/227/35>.

the research databases NexisUni, Access World News Research, and ProQuest's Diversity Collection to conduct advanced searches of other abortion debate coverage. In doing so, I am searching specifically for the terms abortion, advocacy, activism, pro-life, and pro-choice in the respective countries I am studying. While it is difficult to fully assess the extent to which internal debates use human rights, the best option, given the resources available, is to look at the websites of these organizations and news resources and search for key terms, like those listed above, to assess the linkages between country's rhetoric in an effort to understand how these groups are, or are not, using this language. Recall the discussion of human rights as performative claiming. Looking at news sources is critical because activists are going to seek to have their movements covered by these news sources in a specific manner, in part by using the same rhetoric repeatedly to consecrate their role in the abortion debate.

Finally, in the case study chapters I will build out the research by expanding upon history of legislature and providing a contextual understanding of the recent and current discussion surrounding abortion, particularly utilizing human rights rhetoric. In both the United States and Germany, abortion laws have changed over time with drastic changes occurring as recent as 2022. In the Backgrounds section of Chapter 4, I provide a detailed understanding of the ways these laws changed, culminating with an understanding of the current abortion laws in each of the three countries. Further, as abortion laws change, abortion advocacy for both pro-choice and pro-life sides has ebbed and flowed, most recently in response to the recent changes in legislation. Among these activist efforts, individuals and organizations have implemented a variety of rights and human rights-based arguments. Thus, in the analysis section, I seek to evaluate the ways in which these efforts have utilized human rights rhetoric and the effects (or lack thereof) of this application in current legislation or government action.

As discussed in the Introduction chapter, each of the three countries selected for analysis in this thesis interact with human rights instruments differently (enumerated below). In doing so, countries are held to drastically different standards – particularly the United States versus the two European countries. Here, we will also analyze if, how, and why these different interactions with human rights instruments affect abortion access in these countries.

Table 1. Table demonstrating The United States, The Netherlands, and Germany's engagement with various human rights treaties where an X indicates that the treaty has been signed but not ratified, and an XX indicates that the treaty has been both signed and ratified.⁶⁴

	The United States	The Netherlands	Germany
Universal Declaration of Human Rights (UDHR)	XX	XX	XX
International Convention on Civil and Political Rights (ICCPR)	XX	XX	XX
International Covenant on Economic, Social, and Cultural Rights (ICESCR)	X	XX	XX
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	X	XX	XX
Convention on the Rights of the Child (CRC)	X	XX	XX
Convention on the Rights of the Persons with Disabilities (CRPD)	X	XX	XX
American Convention on Human Rights ** Regional treaty	X		
European Convention on Human Rights ** Regional treaty		XX	XX

⁶⁴ “UN Treaty Body Database,” United Nations Human Rights Treaty Bodies, accessed February 19, 2023, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en; “American Convention on Human Rights: Signatories and Ratifications,” Organization of American States, accessed February 19, 2023, https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights_sign.htm.

There are a host of human rights organizations that work globally, many of which focus on reproductive rights and/or abortion rights. For example, the Center for Reproductive Rights, whose mission statement emphasizes its dedication to “us[ing] the power of law to advance reproductive rights as fundamental human rights around the world.”⁶⁵ Similarly, the International Campaign for Women’s Right to Safe Abortion is a network of over 1,600 international, regional, and national organizations who support universal access to safe abortion on both public health and human rights grounds.⁶⁶ IPAS Partners for Reproductive Justice also works on five continents working to “address all factors that impact a person’s ability to access abortion.”⁶⁷ Regarding anti-abortion movements, The March for Life and 40 Days for Life, active in the United States, Germany, and the Netherlands, are composed of individuals marching, and advocating for the right to life for all people from conception to natural death. Uniquely, 40 Days for Life is a coordinated 40-day campaign that aims to end abortion through prayer, fasting, and hosting vigils outside Planned Parenthoods and other reproductive health clinics. While 40 Days for Life is a religious organization that does not speak specifically about human rights, they instead advertise the work they do as a method of “saving individuals from abortions.”⁶⁸

Further, global resources have popped up like innovating-education.org, a project by the Bixby Center for Global Reproductive Health, which consists of a video series intended for “learners training in a state where in-clinic is difficult or impossible to access.”⁶⁹ The four videos in the series provide an overview of key abortion information giving deference to the way many clinicians and clinical learners do not have access to these crucial resources. Similarly, IPAS has developed abortion care training materials to meet the varied needs of health systems and the contexts in which they work. IpasUniversity, or IpasU, offers courses in English and Spanish, designed for clinicians and other professionals who work in reproductive health programming.

⁶⁵ “Our Work,” Center for Reproductive Rights, accessed February 28, 2023, <https://reproductiverights.org/our-work/>.

⁶⁶ “International Campaign for Women’s Right to Safe Abortion (SAWR),” International Campaign for Women’s Right to Safe Abortion (SAWR), accessed February 28, 2023, <https://www.safeabortionwomensright.org/>.

⁶⁷ “About Us,” Ipas, accessed February 28, 2023, <https://www.ipas.org/about-us/>.

⁶⁸ “About Overview,” accessed April 8, 2023, <https://www.40daysforlife.com/about-overview.aspx>.

⁶⁹ “When Abortion Is Not Available,” *Innovating Education in Reproductive Health* (blog), accessed April 13, 2023, <https://www.innovating-education.org/course/when-abortion-is-not-available/>.

In sum, I propose that it is unlikely we will see any use of human rights rhetoric from the governing bodies or legislatures of these countries. Instead, the use of human rights language will be reserved for activist groups promoting reproductive rights and the right to choose. However, if I find any evidence of the use of human rights language, it would be from the Netherlands due to their notorious commitment to citizens' welfare, internationalism, and the composition of the governing body regarding gender, the number of human rights organizations based in the Netherlands, and the number of human rights instruments the country has signed and ratified.

4. Case Studies

4a. Country Backgrounds

The United States

It is well-known that a woman's right to choose to terminate a pregnancy has become a highly contentious issue in the United States. Prior to the late 1800s, abortions, unlike today, were a private matter to be discussed within the home and were viewed from a drastically different perspective. Abortions at this time were seen as another method of contraception or controlling family size; in fact, many of the natural methods of restarting or encouraging fertility were also known to induce abortions.⁷⁰ In 1821, Connecticut became the first state to explicitly criminalize abortion.⁷¹ In doing so, the primary purpose of the statute was to clarify the already existent, but vague conditions under which the state could prosecute an abortionist for performing an abortion. Notably, the law did not apply to attempted abortions or successful abortions before quickening – what, in modern-day would be called viability, nor did the law make the woman an accessory to the crime. Throughout the next decade, waves of abortion-control laws spread to other states and the path to modern-day perspectives on abortion was born.

The idea of a constitutionally protected right to privacy, encompassing both the right to choose to use birth control and to terminate a pregnancy, was first seen in the 1965 case *Griswold v. Connecticut*. *Griswold* called into question the constitutionality of a Connecticut statute, passed in 1879, that banned the use of any drug, medical device, or other instrument in furthering contraception. More specifically, the question presented in *Griswold* was whether or not the Constitution protected the right of marital privacy against state restrictions on a couples' ability to be counseled on the use of contraceptives.⁷² The Court ruled, in an opinion authored by Justice William Douglas, that an inherent right to privacy can be inferred from several amendments in the Bill of Rights and therefore prevents states from making the use of contraception by married couples illegal. While the Constitution does not explicitly protect a general right to privacy, the Bill of Rights creates penumbras that do establish a right to privacy.

⁷⁰ N.E.H. Hull and Peter Charles Hoffer, *Roe v. Wade: The Abortion Rights Controversy in American History*, 3rd Updated (University Press of Kansas, 2021), 14.

⁷¹ *Ibid.*

⁷² *Griswold v. Connecticut*, 381 US 479 (1965).

The term penumbra, in a legal sense, is used to describe implied powers that arise from a specific rule thereby extending the meaning of the rule into its periphery.⁷³ Thus, the First, Third, Fourth, Fifth, and Ninth Amendments together create the right to privacy in marital relations. Even for concurring Justices, like Justices Warren, Goldberg, and Brennan, that did not accept the view that the Fourteenth Amendment incorporates all of the first eight Amendments, it was generally accepted that the concept of liberty protects personal rights that are fundamental.⁷⁴

Similarly, *Eisenstadt v. Baird* (1972) addresses a comparable question of privacy regarding unmarried individuals. Under Massachusetts State law, only married couples could obtain contraceptives. The Court struck down the Massachusetts statute, holding that the law's distinction between single and married individuals failed to satisfy the "rational basis test" of the Fourteenth Amendment's Equal Protection Clause.⁷⁵ As married couples were entitled to contraception under the *Griswold* decision, withholding that same right to single persons without a rational basis proved to be the fatal flaw. In fact, Justice William J. Brennan Jr. wrote in the majority opinion to which he authored, "If the right of privacy means anything, it is the right of the *individual*, married, or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child."⁷⁶

The 1973 case *Roe v. Wade* is likely the most well-known legal case regarding abortion. As such, *Roe* implicates vital questions of gender, law, medicine, politics, and religion. The question being brought to the Court in *Roe* is as follows: Does the constitution recognize a woman's right to terminate her pregnancy by abortion? Remarkably, oral arguments for *Roe* were heard twice as Justice Blackmun, who authored the opinion of the Court, took additional time to educate himself on abortion in order to make an informed conclusion. In a 7-2 decision, the Court again recognized that "a right of personal privacy, or a guarantee of certain areas or zones of privacy [do] exist under the Constitution."⁷⁷ Further, Justice Blackmun wrote that "a state criminal abortion statute of the current Texas type, that excepts from criminality only a

⁷³ "Penumbra Law and Legal Definition | USLegal, Inc.," accessed April 13, 2021, <https://definitions.uslegal.com/p/penumbra/>.

⁷⁴ *Griswold v. Connecticut*, 381 US 479 (1965).

⁷⁵ *Eisenstadt v. Baird*, 405 US 438 (1972).

⁷⁶ *Ibid.*

⁷⁷ *Roe v. Wade*, 410 US 113 (1973).

lifesaving procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved, is violative of the Due Process Clause of the Fourteenth Amendment.⁷⁸ Not only did *Roe* serve as a landmark decision because it established a woman's legal right to an abortion, but *Roe* also established guidelines based on the medically defined pregnancy trimesters. In using the trimester system, Blackmun indicates the importance of balancing the state's interest in protecting potential life and protecting the mother and continues to use the trimester demarcations to indicate at what point during pregnancy one outweighs the other.

The 1992 case *Planned Parenthood of Southeastern Pennsylvania v. Casey* served as a focal point for the shift in legal strategy from being grounded in the right to privacy, as per the Bill of Rights, to being a violation of the Fourteenth Amendment's Due Process Clause.⁷⁹ *Planned Parenthood v. Casey* brought into question three provisions of the Pennsylvania Abortion Control Act of 1982. The Act required that a woman seeking an abortion be provided with certain information at least 24 hours before the abortion is performed, that a minor obtain the informed consent of one of her parents, and that a married woman sign a statement indicating that her husband had been notified of her intended abortion.⁸⁰ With consideration of the questions resolved in *Roe* and the rule of *stare decisis*, the Court reaffirmed *Roe*, but upheld most of the Pennsylvania Act's provisions. In doing so, the Court imposed a new standard to determine the validity of laws restricting abortions. The new standard asks whether a state abortion regulation has the purpose or effect of imposing an "undue burden," defined as "a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability." Under this standard, the only provision of the Pennsylvania Abortion Control Act to fail the undue-burden test was the husband notification requirement. Additionally, as *Planned Parenthood* was argued before a much more conservative court, the Court's decision scrapped the trimester demarcations Blackmun had imposed in his opinion. In doing so, *Planned Parenthood* allowed states more power to intervene throughout a woman's pregnancy, ignoring the explicit trimester system instated with *Roe*. As per the undue-burden test, the state can impose rules and barriers as long as it does not create an undue burden on the woman. As such,

⁷⁸ *Roe v. Wade*, 410 US 113 (1973).

⁷⁹ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 US 833 (1992).

⁸⁰ *Ibid.*

the state is not prohibited from discouraging a woman from getting an abortion while, prior to *Planned Parenthood v. Casey*, the state could not intervene in the 1st trimester, and could intervene only minimally during the 2nd trimester.

In spite of the alleged progress cases like *Griswold*, *Eisenstadt*, *Roe*, and *Planned Parenthood* have presented, efforts to create obstacles for women to have legal abortions continue to be made. In 2013, Texas Legislature passed House Bill 2 (H.B.2), which contained several provisions regarding abortions. One provision required that any physician performing an abortion have admitting privileges at a hospital within 30 miles of where the abortion was performed, and another provision that all abortion clinics comply with standards for outpatient surgical centers. Thus, in 2016, in *Whole Women's Health v. Hellerstedt*, the Court was charged with deciding whether or not a court's "substantial burden" analysis should take into account the extent to which laws that restrict access to abortion services actually serve the government's stated interest in promoting health. In applying the substantial burden test, the Court held that the provisions of H.B.2 did not confer with medical benefits that were sufficient to justify the burdens they imposed on women seeking to exercise their constitutional right to abortion.⁸¹ Instead, H.B.2 placed a substantial burden in the path of a woman seeking an abortion by, among other factors, forcing about half of the state's abortion clinics to close. Therefore, the provisions unconstitutionally imposed an undue burden. Laws like H.B.2, while not outlawing or criminalizing abortion explicitly, intentionally target abortion providers and make it more difficult for abortion providers to comply with state law therefore creating unnecessary obstacles for women seeking to have legal abortions.

In June 2022, the United States Supreme Court ruled on *Dobbs v. Jackson Women's Health Organization* (2022), which overruled the notion that there is a constitutional right to abortion. In doing so, the Court granted individual states the full power to regulate any aspect of abortion not protected by federal law.⁸² Consequently, twelve states criminalized abortion while abortion is only protected or accessible in seventeen states and the District of Columbia.

⁸¹ *Whole Women's Health v. Hellerstedt*, 579 US_ (2016).

⁸² *Dobbs v. Jackson Women's Health Organization*, 597 US _ (2022).

Germany

Until recently, the laws surrounding abortion and access to contraceptives in Germany were deeply rooted in the Nazi-era. Post-World War I, the German Medical Association and the Reichstag worked to consolidate the Penal Code on abortion and reduce the severity of sentences for abortion. However, on March 12, 1930, Nazi Party delegates proposed a bill to extend paragraph 218 of the Penal Code, which read:

“Whoever undertakes to artificially block the natural fertility of the German *Volk* to the detriment of the German nation, or promotes such endeavors by word, publication, picture or any other means, or who by mixing with members of the Jewish blood-community or colored races contributes to the racial deterioration and decomposition of the German Volk, or threatens to contribute to such endeavors, will be punished with a penitentiary sentence for racial treason.”⁸³

Three years later, on July 14, 1933, the German Cabinet enacted a Law for the Prevention of Hereditary Diseases in Future Generations for the purpose of preventing the propagation of “lives unworthy of life.” Notably, the official commentary of the law suggested that its intent was not punitive, but rather eugenic, a sanitary measure required to cure the collective.⁸⁴ However, the most severe abortion prohibitions were incorporated into law on March 9, 1943, which stated that:

“a woman who kills her fetus or permits such a killing by another will be punished by a prison sentence and, in especially serious cases, by penitentiary. An attempt is punishable. Whoever else kills the fetus of a pregnant woman will be punished by a penitentiary sentence, in milder cases by prison. If the perpetrator through such deeds continuously impairs the vitality of the German Volk, the death penalty can be imposed.”⁸⁵

⁸³ Henry P. David, Jochen Fleischhacker, and Charlotte Hohn, “Abortion and Eugenics in Nazi Germany,” *Population and Development Review* 14 (March 1988): 85, <https://doi.org/10.2307/1972501>.

⁸⁴ *Ibid*, 91.

⁸⁵ *Ibid*, 97.

Further, paragraph 219 was revised to apply to contraceptives, stating that manufacturers, advertisers, and distributors of contraceptives will be sentenced to prison.⁸⁶

Leftover from the Nazi era, paragraph 219a of Germany's criminal code prohibited doctors from advertising abortion services or providing information about abortions on their websites. In doing so, while Germany permitted abortions within the first trimester, measures like the advertising ban discouraged women from obtaining them.⁸⁷ On June 24, 2022, Germany abolished this law, leaving section 218 intact.⁸⁸

Broadly, Section 218 of the Strafgesetzbuch (German Criminal Code) is dedicated to abortion, in which it states: "Whoever terminates a pregnancy incurs. Penalty of imprisonment for a term not exceeding three years or a fine. Acts whose effects occur before [sic] is completed are not deemed to be a termination of pregnancy within the meaning of this statute."⁸⁹ It then continues to enumerate the penalties for such abortions after the 12-week period. However, currently, Section 218a of the German criminal code is uniquely liberal until the 12-week mark. More specifically, Section 218a enumerates that:

"The elements of the offence under Section 218 are not deemed fulfilled if 1. The pregnant woman requests the termination of pregnancy and demonstrates to the physician by producing the certificate referred to in section 219 (2) that she obtained counselling at least three days prior to the procedure, 2. The termination is performed by a physician and (3) No more than 12 weeks have elapsed since conception."⁹⁰

⁸⁶ Henry P. David, Jochen Fleischhacker, and Charlotte Hohn, "Abortion and Eugenics in Nazi Germany," 97.

⁸⁷ Emily Schultheis, "Germany's Cabinet Approves Revision to Nazi-Era Abortion Law," *The Guardian*, February 6, 2019, sec. World news, <https://www.theguardian.com/world/2019/feb/06/germany-cabinet-approve-revision-nazi-era-abortion-law-paragraph-219a-doctor-advertising-ban>.

⁸⁸ "Germany Abolishes Nazi-Era Abortion Law | Reuters," accessed February 3, 2023, <https://www.reuters.com/world/europe/germany-abolishes-nazi-era-abortion-law-2022-06-24/>.

⁸⁹ "German Criminal Code (Strafgesetzbuch – StGB)," accessed February 3, 2023, https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html.

⁹⁰ Ibid.

The Netherlands

Until 1966, induced abortion in the Netherlands was considered illegal in practically all cases, except when performed on “medical grounds,” generally in reference to a woman’s life being in danger. To begin, in 1911, an abortion law passed in 1886 was amended to consider abortion a crime not only against life, but also against public morality. However, by the end of the 1960s, the growing openness in sexual matters made abortion an important public issue. Further, when England liberalized their abortion laws in 1968, Dutch women were granted access to safe and legal abortions by crossing over the border.⁹¹

Overall, the Dutch incidence of abortion is extremely low, attributed to three primary reasons. First, family planning services are readily available and free, thereby removing financial and psychological barriers. Second, Dutch society maintains open attitudes towards sexuality, mitigating or removing the stigma surrounding unplanned pregnancies. Third, and finally, since the mid-1960s, there has been a strong tendency among both healthcare workers and the general public to regard induced abortion as a last resort and not as a means of family planning. Consequently, it’s a procedure that is viewed as “to be prevented” rather than “forbidden.”⁹²

In November 1984, with the passing of the *Wet Afbreking Zwangerschap (Pregnancy Termination Act)*, abortion was officially legalized. Abortion is still mentioned in the Dutch Criminal Code; however, “if the termination of the pregnancy takes place in a hospital or abortion clinic, and all the requirements mentioned in the Abortion Law are met, then it is not penalizable according to the criminal code.”⁹³ Most recently, in June 2022, the Netherlands scrapped the compulsory five-day reflection period. The mandatory period of consideration is

⁹¹ Evert Ketting and Paul Schanbel, “Induced Abortion in the Netherlands: A Decade of Experience, 1970-80,” *Studies in Family Planning* 11 (December 1980): 385–94, <https://doi.org/10.2307/1965845>.

⁹² Ibid.

⁹³ “Why Is Abortion Penalized in the Dutch Criminal Code? | Erasmus University Rotterdam,” accessed February 3, 2023, <https://www.eur.nl/en/news/why-abortion-penalized-dutch-criminal-code>.

now converted into a flexible period of consideration as the conclusion was drawn that mandatory consideration periods create unnecessary barriers to accessing abortion.⁹⁴

Critically, the legislative body in The Netherlands is careful to toe the line of the right of the child versus the right of the mother. In an interview questioning why abortion is included in the Criminal Code, Dutch professor, Martin Buijsen explains that the requirements of the Abortion Law are designed to protect both the woman and the unborn children against unsafe and illegal abortions. In doing so, the Netherlands have instated a progressive protection status up until 24 weeks of pregnancy (viability) after which they are criminalized, unless there is a dire situation. However, if the Netherlands were to completely remove abortion from the Criminal Code, there would be no legal division between early and late pregnancy terminations.⁹⁵

⁹⁴ “End of Five-Day Legal Reflection Period for Abortion in the Netherlands,” *Rutgers* (blog), June 21, 2022, <https://rutgers.international/news/end-of-five-day-legal-reflection-period-for-abortion-in-the-netherlands/>.

⁹⁵ *Ibid.*

4b. Case Studies & Advocacy

The United States

In December 1970, Nancy Stearns, a lawyer working for the Center for Constitutional Rights, received a letter, postmarked from Florida, from a woman named Shirley Wheeler who'd had an illegal abortion and was now being threatened with persecution. Wheeler was being charged with manslaughter and had been put in jail for four days even though it was typically the people who performed abortions who faced criminal charges rather than the women who received them. To obtain an illegal abortion, Shirley paid a current day equivalent of \$3,000 to "wait on a street corner to be picked up and then be blindfolded."⁹⁶ After which the operation was performed in the kitchen of a motel, using some kitchen equipment while Wheeler and her husband were extorted for additional money because of the risks the doctor was taking to perform the procedure. However, during a separate, second abortion attempt of her second unwanted pregnancy, Shirley began bleeding, a common cause of death for women who have had illegal abortions. Shirley went to the hospital where doctors were successful in stopping the bleeding, but when she got home, police officers showed up at her door. It was only when Shirley failed to reveal who performed her abortion that the cops responded by putting her in jail. In essence, she was told that they would not prosecute her if she told them who performed the procedure. Shirley Wheeler was the first woman in America to be held criminally responsible for *having* an abortion.

By the early 1970s, in response to stories like Wheelers, women's right groups were bubbling up everywhere across the United States, several of which were focused on abortion. To begin, on July 10, 1971, more than two hundred women came to Washington D.C. for the first ever meeting of the National Women's Political Caucus. It was there that they discussed "... a society in which there will be no roles other than those chose or those earned."⁹⁷ Notably, "[t]his [was] no simple reform. It really [was] a revolution."⁹⁸ Moreover, organizations like WONAAC (The Women's National Abortion Action Coalition) organized big rallies from San Francisco, California to Washington D.C. that were touted as the first national protests for abortion rights.

⁹⁶ "Get Married or Go Home," *Slowburn* (Slate, June 1, 2022), <https://slate.com/podcasts/slowburn/s7/roe-v-wade/e1/shirley-wheeler-illegal-abortion-roe-v-wade>.

⁹⁷ Ibid.

⁹⁸ Ibid.

Protestors at these rallies would shout about how they “demand[ed] freedom” and were “fed up...with laws that treated them like second class citizens.”⁹⁹ They understood that “abortion laws [had] nothing to do with murder. These abortion laws [had] to do with keeping women in chains.”¹⁰⁰ It was Shirley Wheeler’s story that helped fuel the fight for abortion rights in America.

Before abortion was legal, there were few ways for women to find people willing to perform the procedure. There were advertisements in weekly and college newspapers and interfaith religious networks that would help connect women with providers, but the most common way to find out how to get an abortion was to reach out to a woman you trusted. This was, in part, how the New Haven Women’s Liberation came to be. The New Haven’s Women Liberation included all kinds of women, and their meetings contained a sense of trust allowing individuals like Ann Hill, a lawyer who had undergone an illegal abortion, to use her legal education in her activism. Alongside the New Haven Women’s Liberation, two other women started what they called the Underground Railroad in New Haven to get women access to safe abortions. The two women, Betsy and Anne, found a clinic in Montreal that they felt comfortable sending women to and made sure that the American women they sent north of the border had the smoothest trips possible.¹⁰¹ In fact, if the women did not have anyone to accompany them, the organization would send one of its members as a peer-support mechanism.

Finally, Hill decided she needed to do something to get rid of the anti-abortion laws in Connecticut; *Women v. Connecticut* was filed on March 2, 1971. To begin, the plaintiffs referred to the argument used in *Griswold* (1965) stating that reproductive rights are protected by the Fourteenth Amendment’s right to privacy. Further, they argued that anti-abortion laws violate women’s’ rights to life, liberty and property, equal protection, freedom of religion, and women’s rights, and that the current Connecticut abortion law imposed a cruel and unusual punishment on

⁹⁹ “Get Married or Go Home,” *Slowburn*.

¹⁰⁰ *Ibid*.

¹⁰¹ “Women vs. Connecticut,” *Slowburn* (Slate, June 15, 2022), <https://slate.com/podcasts/slow-burn/s7/roe-v-wade/e3/women-vs-connecticut-abortion-lawsuit-roe-v-wade-abele-v-markle>.

women by forcing them to bear children. However, just five weeks after the district court ruled in the women's favor, abortion was outlawed in Connecticut again with even harsher penalties.¹⁰²

Similar to New Haven Women's Liberation, the Jane Collective was an underground organization that provided illegal abortion services in Chicago, Illinois from 1969 until 1973 when the decision in *Roe* came down. Formally called the Abortion Counseling Service of Women's Liberation, the Jane Collective was a member organization of the Chicago Women's Liberation Union that worked to challenge Illinois state abortion legislation. The organization, commonly referred to as Jane, was founded to reduce the number of unsafe and expensive abortions being performed by unqualified providers. The Jane Collective began as a referral service for students seeking abortions at the University of Chicago. However, over time, the movement grew as members of the Collective were trained, by gynecologists, on abortion techniques. The Collective ultimately became a citywide coalition that offered a variety of services, advertising healthcare and abortion services through both underground publications and word of mouth. Throughout its four years of operation, the Jane Collective provided health care, counseling, and abortion services to nearly twelve thousand women in Chicago. Additionally, the members of the Jane Collective created a charity fund to help low-income women afford abortions. Overall, The Jane Collective provided the means for women to become empowered and take control of their own bodies, communicating with their patients as equals and encouraging them to learn more about their own bodies and reproductive anatomy.¹⁰³

Almost fifty years later, on May 2, 2022, the Supreme Court's draft majority opinion for *Dobbs v. Jackson Health Organization* was leaked, which showed the Court's intention to overturn *Roe v. Wade*.¹⁰⁴ In response, organizations like Planned Parenthood Federation of America, along with Planned Parenthood Action Fund, Women's March, MoveOn, UltraViolet, the Liberate Abortion Coalition, and other allies planned a series of "Bans Off Our Bodies" rallies nationwide. The goal of such rallies was to send a message loud and clear that, as the Center for Reproductive Rights states, "All people deserve access to the abortion care they need,

¹⁰² "Women vs. Connecticut," *Slowburn*.

¹⁰³ Rainey Horwitz, "The Jane Collective (1969–1973) | The Embryo Project Encyclopedia," The Embryo Project Encyclopedia, August 7, 2017, <https://embryo.asu.edu/pages/jane-collective-1969-1973>.

¹⁰⁴ Chloe Reichel, "The Leaked Dobbs Opinion, Explained," Bill of Health, May 24, 2022, <https://blog.petrieflom.law.harvard.edu/2022/05/24/the-leaked-dobbs-opinion-explained/>.

when they need it, in the community the live in and trust.”¹⁰⁵ Similarly, as the climate changed with the official decision in *Dobbs*, waves of protests emerged in the United States. Thousands of abortion rights supporters gathered in downtown Washington to assail the court’s ruling, while other marches unfolded in cities like New York, Chicago, Nashville, San Francisco, and Los Angeles. For example, the Washington D.C. protest started with about 1,000 people chanting and holding signs denouncing the decision, joined by 1,000 additional protesters about half a mile from the Supreme Court.¹⁰⁶

Similarly, when the Supreme Court overturned *Roe v. Wade*, Planned Parenthood made a vow: “It is a dark day for our country, but this is far from over. We will not compromise on our bodies, our dignity, or our freedom.”¹⁰⁷ Consequently, in response to the way anti-abortion protesters were fueled by the *Dobbs* decision, Planned Parenthood has set in place a plan to mitigate the effects of pro-life protesters outside Planned Parenthood’s facilities. In doing so, the organization deploys volunteer clinic escorts to “help get patients to the door of [the clinic] with as little harassment from protesters and picketers as possible.”¹⁰⁸ Individuals who protest outside of abortion clinics vary in the ways they engage with patients. Some may be yelling into megaphones, accosting every person who walks by the clinic while others hold gruesome signs, film patients for the internet, or swarm patients’ cars. Others will force their signs into patients faces and shout things like “Don’t murder your baby! Or “You’re going to hell.”¹⁰⁹ Crucially, they aim to make it as difficult and traumatic as possible to access an abortion. Clinic escorts play a vital role in facilitating abortion access, bridging the gap in abortion access, and standing up for providers and patients when no one else would. They put their bodies on the line for other

¹⁰⁵ Megan Diamondstein, “Bans Off Our Bodies: Rally for Abortion Rights on May 14,” Center for Reproductive Rights, May 11, 2022, <https://reproductiverights.org/bans-off-our-bodies-rally-abortion-rights/>.

¹⁰⁶ Ellie Silverman et al., “Abortion Protests in DC, LA, NYC, Chicago Erupt as *Roe v. Wade* Falls,” Washington Post, June 24, 2022, <https://www.washingtonpost.com/dc-md-va/2022/06/24/supreme-court-abortion-protests-roe/>.

¹⁰⁷ Paul LeBlanc, “Meet the Group Protecting Patients from Protesters Outside Abortion Clinics | CNN Politics,” CNN, January 11, 2023, <https://www.cnn.com/2023/01/11/politics/planned-parenthood-volunteer-escorts-abortion-what-matters/index.html>.

¹⁰⁸ Ibid.

¹⁰⁹ Lauren Rankin, “What It’s Like to Be an Abortion Clinic Escort,” Time, April 5, 2022, <https://time.com/6163613/abortion-clinic-escorts/>.

people, for other people's choices, their bodies, and their lives. At its core, volunteering as a clinic escort is "about responding, as a human being, to another human being's needs."¹¹⁰

Unfortunately, after the decision in *Dobbs* overturned *Roe*'s constitutionally protected right to abortion, the Abortion Underground has made a resurgence. Since late June, when the Supreme Court overturned *Roe v. Wade* (1973), Texas and thirteen other states have effectively banned abortion, with more to follow. For example, providing the tools for an abortion in Texas has become a felony that could lead to years in prison, and a fellow citizen could sue and collect upwards of ten thousand dollars for reporting every abortion an individual was found to abet. Fortunately, some individuals are not deterred by laws like these. For example, Las Libres' website states that they "are a Mexican feminist organization that promotes and defends women's human rights and universal access to abortion. Abortion is healthcare and nobody should be denied their right to bodily autonomy."¹¹¹ Accordingly, Las Libres runs an underground medication abortion network, working to provide misoprostol and mifepristone to American women living in states with restrictive abortion laws. In Mexico, misoprostol is sold over the counter; Mifepristone still requires a prescription, but Veronica Cruz, who runs the nonprofit Las Libres, has found suppliers. And, when she ran short, she relied solely on misoprostol, which can induce an abortion on its own. Immediately after *Dobbs*, Cruz said her crew of volunteers had slipped enough medications across the border to help two thousand American women have abortions. Cruz's work has long been funded by American nonprofits, and *Dobbs* just increased her notoriety among informal networks of U.S. activists.¹¹²

Las Libres is one of many organizations operating outside the U.S. legal healthcare system to provide abortion medication to women in the United States. Another example is Aid Access, an initiative of Doctor Rebecca Gomperts, which consists of a team of doctors, activists, and advocates for abortion rights. The organization provides Advanced Provision of abortion

¹¹⁰ Lauren Rankin, "What It's Like to Be an Abortion Clinic Escort."

¹¹¹ "Home," accessed April 9, 2023, <https://laslibres.org/>.

¹¹² Stephania Taladrid, "The Post-Roe Abortion Underground."

medication, telehealth abortion consultations, and delivery of abortion medication to all fifty U.S. states – even those that have banned medication abortion.¹¹³

However, beyond an underground abortion medication network, activists within the United States have crafted their own methods to continue to provide access to safe abortions. In the 1960s, activists had worked to make abortions safer and more comfortable, which led to the invention of the Del-Em. The Del-Em is a suction device used to enhance a woman’s comfort during the procedure. However, in its most basic form, the Del-Em is composed of a mason jar, aquarium tubing, a syringe to create a vacuum, and a cannula. Prior to *Roe*, the inventors of the Del-Em took it on tour, giving demonstrations and teaching people how to use it. Then the decision in *Roe* was passed and the Del-Em was retired – until now.¹¹⁴ Now, a new generation of advocates are touring the United States, showing individuals how to use the Del-Em to self-manage their abortions, which is, while not ideal, some women’s only option. Moreover, in addition to the revival of the Del-Em is Abortion Delivered, which is essentially an abortion on wheels system. The organization Just the Pill has innovated new service models like mobile/pop-up clinics, where vehicles are fully staffed by experienced, trained clinicians providing 100 percent legal care. Just the Pill converts ordinary commercial vans into a fleet of specially equipped mobile clinics that can roam where and when they’re needed in order to perform first-trimester abortions.¹¹⁵

In the United States, abortion is notoriously controversial topic, encouraging both pro-life and pro-choice individuals and organizations to engage in abortion advocacy. It was Jack and Barbara Willke’s *Handbook on Abortion*, and the photographs they distributed along with it that would help kickstart the right-to-life movement. The Willkes book ‘The Wonder of Sex,’ and its counterpart ‘The Handbook on Abortion,’ got regional attention and brought the Willke’s invitations to speak nationwide. Notably, the influence the Willkes had is still present. For example, in 2012, Congressman Ted Akin made national news for saying that rape is irrelevant to

¹¹³ “Aid Access: Abortion Pills by Mail,” AidAccess, accessed April 15, 2023, <https://aidaccess.org/en/>.

¹¹⁴ Jessica Bruder, “The Future of Abortion in a Post-Roe America,” *The Atlantic*, April 4, 2022, <https://www.theatlantic.com/magazine/archive/2022/05/roe-v-wade-overturn-abortion-rights/629366/>.

¹¹⁵ Garnet Henderson, “Abortion Vans Are Now Meeting Patients Near Ban States,” *Cosmopolitan*, October 26, 2022, <https://www.cosmopolitan.com/lifestyle/a41429848/abortion-delivered-vans/>.

any argument about reproductive rights because it very rarely leads to pregnancy. While this has been disproven, the comment can be traced directly back to the Willkes.¹¹⁶

In the late 1960s, the New York State Assembly began a debate on a bill to liberalize abortions. The bill was ultimately passed, but, at the time, saline abortions were a conventional option for women who were having late-stage abortions after being unable to gather resources earlier in the pregnancy. Saline abortions were brutal and long such that nurses and doctors would take photos of what they saw and shared them with pro-life advocates like Jack and Barbara Willke. In the early 1970s, the Willkes discovered that such images of aborted fetuses would likely be just as powerful, if not more, than the photos they had previously distributed of fetuses in the womb. Thus, they manipulated the photos and included them in the updated *Handbook on Abortion*, sharing what they believed as the larger truth.

The Willke's story culminates with a Michigan bill pushing liberalization of abortion laws. At the time, previously scattered pro-life groups in Michigan were forming a coalition called the Voice of the Unborn, a strategic move they knew they needed to win the referendum fight. Even more so, the pro-life side had a secret weapon: the Willke's brochure. Further, the night before the Michigan referendum vote, Jack Willke went on local TV to deliver his final words on the matter, resulting in 61 percent of constituents voting against the referendum despite the preliminary polling results swaying the other way.¹¹⁷

In similar efforts, James Bopp of Terre Haute, Indiana, a pro-life conservative lawyer, has sought to overturn *Roe* since the decision came down. To do so, Bopp focused his attention on learning more about the Supreme Court and the previous precedents that had been overturned. He found a model in the Civil Rights Movement utilizing *Brown v. Board of Education* (1954) as a model for the way it overturned *Plessy v. Ferguson's* (1896) separate but equal doctrine. From *Brown v. Board of Ed*, Bopp learned that overturning precedent happens invariably through a series of cases that calls into question and undermines the original ruling. Thus, as general counsel for Right to Life, Bopp helped draft model state laws for distribution across the country, each of which would create instability of the precedent created in *Roe*. However, there's a second

¹¹⁶ "Life or Death," *Slowburn* (Slate, June 8, 2022), <https://slate.com/podcasts/slow-burn/s7/roe-v-wade/e2/jack-barbara-willke-anti-abortion-activism-pro-life-movement>.

¹¹⁷ *Ibid.*

component to having success in overturning precedent: having the right people on the Court. Thus, the Susan B. Anthony Pro-Life America organization has been working since the early 1990s to limit and end abortion primarily by electing politicians and appointing judges who will do just that. It was through the election of Donald Trump, and the subsequent three Supreme Court confirmations of anti-abortion justices during his term, that the overturning of *Roe* via *Dobbs* was ultimately successful.¹¹⁸

After decades of advocacy for the pro-life movement, it seems that the decision in *Dobbs* would have been their ultimate victory. However, the anti-abortion movement isn't finished. In January 2023, anti-abortion protestors gathered on the National Mall in Washington D.C. to participate in the March for Life, the most prominent anti-abortion event since *Dobbs* in June 2022. In the United States, the March for Life has been committed to an outcome like *Dobbs*. However, some activists are demanding more. Republican politicians and the pro-life movement plan to continue to push federal anti-abortion measures, such as a national ban after 15 weeks of pregnancy, while state legislatures continue to try and enact gestational bans or other restrictive laws. There's also a fear that alternatives to surgical abortion such as medication abortion and even contraception could be the anti-abortion movement's next target.¹¹⁹

Anti-abortion activists also hope to shape public opinion on abortion, regardless of whether the procedure is illegal. While maintaining access to abortion is still popular in the U.S. overall, with 62 percent of Americans saying it should be legal in all or most cases, changing hearts and minds is crucial for the pro-life movement. In partnership with 40 Days for Life, churches organize activists to stand outside abortion clinics for 40 days and hold signs opposing abortion. To do so, activists like those with 40 Days for Life seek to transform the public space into a religious one. Reframing clinic pickets as prayer vigils not only helps them appeal to less radical Christians but allows them to remain in a legal grey area where they can argue their rights to freedom of religion and expression. However, both clinic workers and patients say prayer

¹¹⁸ Cat Wise, Frank Carlson, and Mary Fecteau, "How Anti-Abortion Activists Laid the Groundwork for Rollback of *Roe v. Wade*," PBS NewsHour, June 16, 2022, <https://www.pbs.org/newshour/show/how-anti-abortion-activists-laid-the-groundwork-for-rollback-of-roe-v-wade>.

¹¹⁹ Ellen Loanes, "Dobbs Didn't End the Anti-Abortion Movement," Vox, January 21, 2023, <https://www.vox.com/policy-and-politics/2023/1/21/23564710/dobbs-anti-abortion-movement-roe-wade>.

itself is a type of harassment: “[It’s] really playing with the emotions of people who are struggling.”¹²⁰

A report by NARAL Pro-Choice America states that there are five primary ways in which the anti-choice movement has influence. First, “the anti-choice movement has created a pipeline for conservative legal minds from law school to the courthouse” by strategically curating and nurturing judges for federal courts, like the Susan B. Anthony pro-life organization. Second, the pro-life movement’s political influence creates the illusion that the anti-choice agenda is more popular than it is. Third, anti-choice organizations maintain on-the-ground efforts by creating and advertising fake health clinics that lure women in with misinformation. Fourth, the anti-choice organizations crafted model anti-choice legislation with the goal of challenging the constitutional foundation to *Roe*. And finally, the anti-choice agenda is deeply embedded in the broader conservative movement’s funding machine, but flies under the radar.¹²¹

Nonetheless, some Americans see the recent upheaval in women’s rights as a way forward. In other words: abortion is going to save democracy. The way anti-abortion candidates continue to “double down and pursue a deeply radical, extreme[ly] unpopular agenda around continuing to constrain access to [abortion]...” has showed the “rising electorate” what their choices truly are.¹²² For example, in Kansas, when abortion rights were on the ballot, Kansas had a voter turnout approximately 17-20 percent higher than expected. United States President Joe Biden assessed this vote as a declaration that “the majority of Americans agree that women should have access to abortion and should have the right to make their own health care

¹²⁰ Jessica Bateman et al., “U.S. Anti-Abortion Activists Are Spreading Clinic Protests Around the World,” *The New Republic*, January 9, 2023, <https://newrepublic.com/article/169587/us-anti-abortion-activists-spreading-clinic-protests-around-world>.

¹²¹ “The Insidious Power of the Anti-Choice Movement,” NARAL Pro-Choice America, accessed April 15, 2023, <https://www.prochoiceamerica.org/report/insidious-power-anti-choice-movement/>.

¹²² Lindsay Kornick, “‘Abortion Is Actually Going to Save Democracy’ by Mobilizing Voters, Planned Parenthood President Tells MSNBC,” Fox News, August 23, 2022, <https://www.foxnews.com/media/abortion-actually-going-save-democracy-mobilizing-voters-planned-parenthood-president-tells-msnbc>; Steven Ross Johnson, “Planned Parenthood CEO: ‘Abortion May Have Saved Democracy,’” U.S. News and World Report, November 16, 2022, <https://www.usnews.com/news/elections/articles/2022-11-16/planned-parenthood-ceo-abortion-may-have-saved-democracy>.

decisions.”¹²³ Overall, while this is a loss for the pro-choice movement now, it may yield a path to an optimistic future.

Germany

Dating back to the 1920s, the debate about abortion in Germany embodied the wider political stakes of this era, with arguments around social justice on one side, and ethnonationalism on the other. As such, the fight for abortion rights was framed as a fight for liberation from an exploitative system of reproductive labor, and for emancipation from a legal system that oppressed the working class. Consequently, the demand to legalize abortion was framed within a broader call for social welfare programs, as well as a fight against a rigged justice system. In fact, on International Women’s Day in 1931, over 1,500 protests erupted organized by a broad range of political and social organizations and birth control advocacy groups.¹²⁴ Even today, there’s an inextricable link between social justice and the right to abortion as the fight for abortion is still seen as a fight for a woman’s freedom to choose.

Almost 100 years later, Doctors for Choice writes on their “Our Mission” page, that the current abortion law in Germany is a violation of international human rights obligations. Thus, part of their work is devoted to calling upon Germany to finally ensure sexual and reproductive health and rights; “Consequently, Germany must recognize the international human right to legal and safe abortion and fulfill its obligations as a member of the EU and CEDAW.”¹²⁵ Further, “abortion should be classified as a component of human rights in the context of sexual and reproductive health.”¹²⁶

Since the 1970s, the number of doctors willing to perform abortions has declined. Moreover, the remaining doctors in Germany who are willing and able to perform the procedure are in their 60s and 70s and due to retire soon. And, as Germany’s abortion laws remain restrictive, the procedure is not taught in medical school perpetuating the shortage of doctors

¹²³ Lindsay Kornick “‘Abortion Is Actually Going to Save Democracy’ by Mobilizing Voters, Planned Parenthood President Tells MSNBC.”

¹²⁴ Minou Arjomand, “In Weimar Germany, Women Fought for Abortion Justice,” Jacobin, January 14, 2022, <https://jacobin.com/2022/01/abortion-choice-welfare-socialism-rights-1920s>.

¹²⁵ “Our Mission,” Doctors for Choice Germany, accessed April 11, 2023, <https://doctorsforchoice.de/en/about/mission/>.

¹²⁶ Ibid.

available. The shortage is so severe that, in 2018 in Lower Bavaria, a retired gynecologist, Michael Spandau, came out of retirement to perform abortions because two other colleagues had stopped carrying them out. To do so, Spandau rented an operating room in Passau, an 80 percent Catholic area to perform abortions, risking both legal ramifications and societal criticisms. But as the voices of anti-abortion activists are getting louder, nothing will change without the political will to do so.¹²⁷

This shortage of doctors is, in part, being addressed by a Berlin chapter of Medical Students for Choice, which works to create the next generation of abortion providers who believe that “all people have the right to make their own decisions regarding sexuality, health, and whether and when to have children.”¹²⁸ To do so, the group of students have found creative ways to get the relevant training on how to perform abortions. For example, the organization hosts “Papaya Workshops,” where students use the fruit as a model for the female reproductive system during simulated abortion procedures. While attending these workshops does not permit doctors to become certified to perform surgical abortions, it closes the gap in German medical education.¹²⁹

And, even when doctors are still performing abortions, they remain at risk for persecution. In November 2017, a local court gave gynecologist Kristina Hänel a €6,000 fine for “promoting” abortions on her website. Hänel appealed the decision and refused to pay the fine, but the case triggered a nationwide debate in a country that is generally seen as liberal-minded. Similarly, in 2017, *having* an abortion came with a significant number of obstacles. For example, to be reimbursed for the €400 procedure, individuals needed a German social security worker to sign a certificate from her gynecologist. However, one woman was forced to go to eight different branches before a staff member finally agreed to sign her paper.

Abortion is German society’s “biggest taboo.” The media spotlight on Hänel’s legal case reopened the debate on the country’s antiquated abortion laws. For pro-choice Germans, it was a

¹²⁷ *Germany Reignites Abortion Debate – DW*, accessed April 10, 2023, <https://www.dw.com/en/germany-reignites-abortion-debate/video-46143652>.

¹²⁸ “Our Mission and Values,” Medical Students for Choice, accessed April 10, 2023, <https://msfc.org/about-us/mission-and-values/>.

¹²⁹ Elizabeth Schumacher, “Germany Moves to Reform Abortion Law,” *dw.com*, June 24, 2022, <https://www.dw.com/en/germany-moves-to-reform-abortion-law/a-62014740>.

wake-up call, raising awareness of just how mobilized their opponents are. However, encouraged by the support she received from her colleagues and patients, Hänel took her fight to the federal level to push for the repeal of paragraph 219a of the Criminal Code, under which doctors who public advertise abortions face a fine and a two-year jail term. To raise awareness, Hänel began a petition. In just a few months, it garnered 150,000 signatures and won the support of the center-left Social Democrats, the greens, and the far left.¹³⁰

Three years later, in 2021, Germany introduced a pilot program to help women enact their right to reproductive self-determination. The program offered abortions via telemedicine at home, allowing participants to consult with a gynecologist via video chat, and receive the medication for an abortion at home by mail. Some 100,000 abortions are carried out in Germany each year; thus, the COVID-19 pandemic triggered an urgent need for virtual abortion consultations. Even with the virtual consultations, patients must still consult with a nurse, attend a counseling session, and upload a number of documents, but the mere implementation of a COVID-safe abortion mechanism demonstrates the need for access to safe abortions. Further, the pilot program sparked the German Social Democrats, Greens, and Free Democrats to pledge to abolish paragraph 219a of the German Criminal Code.

It wasn't until 2022 that section 219a of the German Criminal Code was repealed. One of the reasons given for the drafted reform law was the ongoing legal uncertainty for medical professionals who provide the service. Ease of access to abortion procedures varied across the country such that the Justice Minister stated, "the situation for the affected women is difficult enough – we shouldn't make it more difficult."¹³¹ Thus, while abortion is still illegal in Germany, it is no longer a punishable offense. Instead, individuals can obtain an abortion within the first trimester, if they attend a counseling center and doctors are no longer punished for providing information about abortion procedures.

¹³⁰ Ségolène Allemandou, "Women's Rights under Threat: Europe's Battle over Abortion," FRANCE 24, August 21, 2018, <https://webdoc.france24.com/abortion-women-croatia-malta-germany/>.

¹³¹ "Germany Proposes Scrapping Nazi-Era Abortion Law – DW – 01/17/2022," dw.com, accessed April 10, 2023, <https://www.dw.com/en/germany-proposes-scrapping-nazi-era-abortion-law/a-60451517>.

Notably, European leaders have also been vocal in their criticism of the decision by the US Supreme Court to overturn *Roe v. Wade*. In fact, despite their own arguably restrictive abortion laws, German chancellor Olaf Scholz took to Twitter stating: “There is still a long way to go for gender justice. In Germany – and in many other parts of the world – women’s rights are threatened. We must defend them resolutely.”¹³²

Like the United States, the pro-life/anti-abortion movement in Germany remains active. Recently, pro-life Germans have taken to protesting outside abortion clinics and family centers. In March 2023, protestors from EuroProLife began to appear outside the Pro Familia family planning advice and counseling center in Frankfurt’s Westend chanting the Hail Mary prayer, referring to them as vigils with some holding placards with slogans like “Unborn Lives Matter.”¹³³ Notably, Pro Familia Germany “advocates for the rights to individual self-determination in sexuality and family planning and is committed nationally and internationally to sexual and reproductive health and rights” and has thus become a popular target for pro-life activists.¹³⁴ Protests outside abortion clinics and family planning centers are common in the U.S., such that the anti-abortion movement in the United States has served as a role model for activists in Germany and Europe since at least the 1990s. Apart from copying U.S.-style tactics, German pro-life advocates have also taken advantage of the global network, like having prominent American pro-life advocates speak at German events. Likewise, right-wing conservative think tanks in the United States are also pouring money and expertise into expanding their own ideologically aligned organizations in Europe and around the world.

In August 2022, a German court ruled that silent prayer gatherings – like those hosted by EuroProLife – in the vicinity of an abortion counseling facility are lawful and cannot be prohibited. The decision follows a previous ruling in which a lower court upheld prohibitions on

¹³² Sofia Barbarani, “US abortion decision forces Europe to examine its laws,” *The Independent - Daily Edition*, July 3, 2022, <https://advance-lexis-com.ezproxy.trincoll.edu/api/document?collection=news&id=urn:contentItem:65V5-1DH1-F072-410Y-00000-00&context=1516831>.

¹³³ Helen Whittle, “German Abortion Clinics Targeted by US-Style Protests – DW – 03/04/2023,” *dw.com*, March 4, 2023, <https://www.dw.com/en/german-abortion-clinics-targeted-by-us-style-protests/a-64877764>.

¹³⁴ “Pro Familia - Germany | IPPF,” International Planned Parenthood Federation, accessed April 11, 2023, <https://www.ippf.org/about-us/member-associations/germany>.

prayer vigils on the public street near a Pro Familia abortion counseling facility. However, Pavica Voinović, the leader of the 40 Days for Life group in Pforzheim, Germany, challenged the ban on the grounds of the group’s right to freedom of religion, assembly, and speech.¹³⁵

Conversely, Katja Mast, parliamentary director of the Social Democratic Party (SPD) parliamentary group, criticized the vigils, saying that they were only concerned with “mental pressure on women.”¹³⁶ Consequently, she asked Federal Family Minister Lisa Paus of the Green Party to present a ban by the end of 2023. The right to assemble and publicly express an opinion or belief is protected in Basic German Law. However, the individuals claiming this right are simultaneously infringing on others’ personal rights. While attendees of vigils are prohibited from physically interfering with a woman pursuing her abortion, women can feel denounced and stigmatized by such vigils. For example, women are met with reproaches such as “You are doing something wrong, something reprehensible, you make yourself guilty. We’re on the good side of the road; You’re on the bad side.”¹³⁷

In the meantime, the 2023 40 Days for Life’s protests across Europe were modeled on the United States’ anti-abortion movement hosting vigils, praying, and fasting with the aim to close abortion centers. In response, the center-left German coalition government is moving forward with its plans to decriminalize abortion. In fact, Lisa Paus announced a law to give pregnant women who want to have abortions unrestricted access to relevant counselling centers and medical practices.¹³⁸ Like 40 Days for Life, each year since 2008, the March for Life takes place in Berlin, Germany. Recently, it’s been expanded to two other cities, Cologne and Munich. The pro-life movement in Germany wants to “go public” with the topics more intensively.¹³⁹ Historically, the German March for Life events are peaceful with individuals taking part to stand

¹³⁵ “Challenging a Prayer Ban in Pforzheim, Germany,” *ADF International* (blog), accessed April 11, 2023, <https://adfinternational.org/pavica/>.

¹³⁶ Jonathan Stenert, “Are Vigils against Abortions the Right Means to Save Lives?,” *cne.news*, February 28, 2023, <https://cne.news/article/2654-are-vigils-against-abortions-the-right-means-to-save-lives>.

¹³⁷ *Ibid.*

¹³⁸ “Germany’s Coalition Intends to Liberalise Abortion Legislation,” *cne.news*, February 27, 2023, <https://cne.news/article/2637-germanys-coalition-intends-to-liberalise-abortion-legislation>.

¹³⁹ “March for Life Takes Place in Three German Cities,” *cne.news*, accessed April 11, 2023, <https://cne.news/article/2822-march-for-life-takes-place-in-three-german-cities>.

up for the “rights of the unborn.”¹⁴⁰ Participants in the March for Life take part in the belief that “the right to life [is] a constitutional right and a good that is worth defending by everyone, not only Catholics.”¹⁴¹ Further, the movement is under the impression that “most women under pressure and considering an abortion would like to have their child in a self-determined way but are put under massive strain.”¹⁴² In other words, the debate about abortion is not about a woman’s right to self-determination, but an issue of the “strain” placed on pregnant women.

Most recently, leaders from the SPD and the Green party have announced that they will form a commission to discuss the deletion of paragraph 218 of the German Criminal Code, which criminalizes abortion. According to Lisa Paus, “the minister rightly states that the penal code is not the right place to regulate abortion. An abortion is not a crime, which is why paragraph 218 of the Criminal Code violates the human right of women to physical self-determination. A deletion of the paragraph within the meaning of the right of self-determination for pregnant women is therefore long overdue.”¹⁴³ However, if the commission does agree to delete paragraph 218 from the penal code, the state of Bavaria says that it will file a lawsuit and, if necessary, appeal to the Constitutional Court. Bavarian Social and Family Minister, Ulrike Scharf, says that “such a deletion is ‘incompatible’ and ‘unconstitutional’ in protecting the unborn.”¹⁴⁴

The Netherlands

In 2012, the Netherlands committed EUR370 million for sexual and reproductive health and rights (SRHR). Five years later, the Netherlands spent around EUR140 million on family planning programs and pledged EUR315 million to go towards family planning and She Decides, a global movement to promote, protect, and provide fundamental rights to women.¹⁴⁵ Unlike the United States and Germany, independent pro-choice demonstrations are less active in the Netherlands. This is, for the most part, because abortion is generally considered to be a human

¹⁴⁰ “Thousands Join March for Life in Berlin,” Catholic News Agency, September 20, 2022, <https://www.catholicnewsagency.com/news/252337/thousands-join-march-for-life-in-berlin>.

¹⁴¹ Ibid.

¹⁴² Ibid.

¹⁴³ “Germany’s Paragraph 218 on Abortion Risks Permanent Deletion,” cne.news, February 14, 2023, <https://cne.news/article/2564-germanys-paragraph-218-on-abortion-risks-permanent-deletion>.

¹⁴⁴ Ibid.

¹⁴⁵ “The Netherlands,” FP2030, May 18, 2022, <https://fp2030.org/netherlands>.

right in the Netherlands, such that political parties like the Democrats 66 (D66) published an initiative note titled “Access to abortion is a human right.”¹⁴⁶ The note advocates the international establishment that abortion is a human right. Generally, Dutch policy assumes that the right to life is a fundamental human right, just like the right to health, women’s rights and sexual and reproductive rights.

Largely, Dutch pro-choice advocacy can be categorized into two efforts: domestic and international. Pro-choice activism in the Netherlands is largely in response to anti-abortion advocacy. For example, on November 16, 2019, the annual Pro-Life march took place in the Netherlands with about 11,000 participants. While abortion was legalized almost 40 years ago with the introduction of the Termination of Pregnancy Act, the pro-life movement continues to oppose abortion and take a stand for the rights of the unborn child. In turn, the pro-choice movement appeared to counter-protest the Pro-Life March, donning costumes from the HBO series ‘The Handmaids Tale,’ as a symbol of the oppression and abuse of women that is synonymous with abortion restrictions. In doing so, the pro-choice movement continuously takes a stand to protect and promote the rights of women, including women’s right to abortion because “even though the law is on [the pro-choice side] in the Netherlands, it is important to show why this law is so important, despite the pro-life noise.”¹⁴⁷ One participating activist organization states, “we believe that if a woman is unintentionally pregnant, her right to make a free choice must be guaranteed. Governments must protect that freedom by providing access to a legal and safe abortion. To our mind, the autonomy and freedom of choice are intrinsically linked to the dignity of the human being.”¹⁴⁸

In 2019, the implementation of “buffer zones,” suggested by the Minister of Public Health, Hugo de Jonge, was supported by a majority of the lower house of Dutch parliament. The buffer zones would allegedly allow women to enter abortion clinics un-harassed, but a year later the protests continued unabated. The protesters do not comply with agreements made in their demonstration permits, and the buffer zones do not keep them away from the women attempting

¹⁴⁶ Coen Hermetet, “Dutch Cabinet Treats Abortion as a Human Right,” *cne.news*, September 2, 2023, <https://cne.news/article/2535-dutch-cabinet-treats-abortion-as-a-human-right>.

¹⁴⁷ Annemarie Middelburg, “Pro-Choice Demonstration in Utrecht,” *Right to Rise*, November 17, 2019, <https://www.right-to-rise.com/post/pro-choice-demonstration-in-utrecht>.

¹⁴⁸ *Ibid.*

to enter the clinics. Instead, women have their way barred, “are handed flyers with horrific images, or have a plastic fetus stuffed into their hands.”¹⁴⁹ Consequently, like the United States, Dutch pro-life advocates have instituted a buddy system to help women past protesters at women’s health clinics. The idea behind the buddy-project is twofold, namely “supporting women with unwanted pregnancies in exercising their rights and also making the pro-choice movement more visible.”¹⁵⁰

Similarly, parliamentarians from both opposition and coalition parties expressed concerns about increasingly intimidating anti-abortion anti-choice demonstrations at abortion clinics in the Netherlands. Dutch foreign minister Wopke Hoekstra stated “[The Netherlands] stands firmly for the health and rights of all women and girls around the world to be able to decide about their own bodies and lives.”¹⁵¹ Foreign trade minister Liesje Schreinemacher similarly stated “The Netherlands believes safe abortion is a right and is key to prevent maternal mortality.”¹⁵² Pia Dijkstra, D66 parliamentarian, said “I would never have thought that in 2019 I still had to defend a women’s right to abortion.”¹⁵³ Politicians must stand firmly behind women’s right to choose what happens to their bodies. Other government parties also expressed concern over women being harassed at abortion clinics. In fact, Hugo de Jonge previously said that he finds it unfortunate that women are being intimidated at a time when they are already vulnerable. However, de Jonge is careful not to “mess with the right to demonstrate.”¹⁵⁴

Since Dutch policy on abortion is largely set in stone and has since become depoliticized, Dutch activists work primarily on international issues, attempting to guide the abortion debate, access, and legislation in other countries. First, organizations like Women on Waves work on the

¹⁴⁹ “‘Abortion Buddies’ to Help Pregnant Women as Protesters Get More Intimidating | NL Times,” NL Times, March 2, 2020, <https://nltimes.nl/2020/03/02/abortion-buddies-help-pregnant-women-protesters-get-intimidating>.

¹⁵⁰ Mina Solanki, “‘Abortion Buddies’ to Help Women Past Protestors,” IamExpat, March 4, 2020, <https://www.iamexpat.nl/expat-info/dutch-expat-news/abortion-buddies-help-women-past-protestors>.

¹⁵¹ “Dutch Ministers Condemn Roe v Wade Decision, Say Safe Abortion Is a Right,” *DutchNews.Nl* (blog), June 25, 2022, <https://www.dutchnews.nl/news/2022/06/dutch-ministers-condemn-roe-v-wade-decision-say-safe-abortion-is-a-right/>.

¹⁵² Ibid.

¹⁵³ “Politicians Line up to Fight Anti-Abortion, Anti-Choice Campaigners,” NL Times, June 12, 2019, <https://nltimes.nl/2019/06/12/politicians-line-fight-anti-abortion-anti-choice-campaigners>.

¹⁵⁴ Ibid.

ground providing women access to abortion. Women on Waves is a Dutch non-governmental organization (NGO) founded in 1999 by Doctor Rebecca Gomperts. Women on Waves operates in multiple countries, supporting the efforts of local organizations to change the laws in their countries. However, they are most well-known for their sea voyages which transport women to Dutch waters to administer legal abortions according to Danish law. Further, the organization helps engage in legal actions, provide sexual education and medical knowledge workshops, and help women with the course of their abortions via the internet. The Women on Waves mission statement cites the relationship between abortion rights and human rights, in stating “Women on Waves aims to prevent unsafe abortions and empower women to exercise their human rights to physical and mental autonomy.”¹⁵⁵ Within Europe, there is also an advocacy network called Abortion Without Borders working to provide information, support, and funding to people in Poland who need abortions. It is an initiative of six organizations in multiple countries – The Netherlands included - working to help people access abortions at home via pills or abroad in clinics.¹⁵⁶

The Dutch group Abortion Network Amsterdam (ANA) similarly helps women from European countries where abortion is a punishable offence, or when it is only legally allowed until 12 weeks, to come to the Netherlands for an abortion. Crucially, the volunteers at ANA do their best to make women feel that abortion is a normal and safe abortion, despite the stigma that is often associated with the procedure in their home countries. ANA raises money on their own to finance abortions using proceeds from party events and donations from party attendees. In fact, the organizers state “We don’t do it to earn money or become famous. We do it because it’s necessary. Abortion should simply be safe and available to anyone.”¹⁵⁷

Further, the Green Left (GroenLinks) Party in the Netherlands wants to make Dutch abortion pills available to Polish women. If Dutch doctors can prescribe the pills after a digital consultation, Polish women no longer need to travel abroad for an abortion. Parliamentary

¹⁵⁵ “Who Are We?,” Women on Waves, accessed February 3, 2023, <https://www.womenonwaves.org/en/page/650/who-are-we>.

¹⁵⁶ “Abortion Without Borders,” Abortion Without Borders, accessed April 13, 2023, <https://abortion.eu/>.

¹⁵⁷ “ANA Helps Women from Abroad to Have an Abortion in the Netherlands – MamaCash,” Ma Ma Cash, accessed April 15, 2023, <https://www.mamacash.org/en/ana-helps-women-from-abroad-to-have-an-abortion-in-the-netherlands>.

member Corinne Ellemeet states, “It is important to show international solidarity to help women in other places,” such that “The Netherlands plays a crucial role.”¹⁵⁸ And, regarding legality, Ellemeet pointed out that it is not difficult to allow Dutch doctors to provide abortion pills to Polish women; only a small change in the law would be needed for this, requiring a virtual consultation instead of a physical one.

The D66 party also pushed for the Netherlands to promote abortion as a right on an international scale. According to D66 parliament members (MPs), Sjoer Sjoerdsma and Wieke Paulusma, women across Europe should have the right to safe and accessible abortion. This will be possible if access to abortion is declared a human right in the European Union (EU)’s Charter of Fundamental Rights. In July 2022, the European Parliament called to include the right to abortion in the Charter of Fundamental Rights, saying that member states must guarantee access of safe, legal, and free abortion services.¹⁵⁹

Likewise, when former President Donald Trump banned U.S. federal funding for foreign groups providing abortions or abortion support for family planning abroad, the Netherlands launched a global fund to help women access abortion services in compensation for the \$600 million funding gap.¹⁶⁰ Lily Ploumen, the international development minister in 2017, announced that she “is pro-choice and pro-women’s rights” and that “The Netherlands has a long standing tradition of standing up for sexual and reproductive rights.”¹⁶¹

When the United States Supreme Court’s decision in *Dobbs* came down in 2022, members of the European Parliament (MEPs) also strongly condemned the backsliding of women’s rights and sexual and reproductive health and rights in the United States and in some EU member states. In doing so, MEPs expressed their solidarity with and support for women and

¹⁵⁸ “Dutch Politician Wants to Send Abortion Pills to Polish Women,” *cne.news*, March 9, 2023, <https://cne.news/article/2703-dutch-politician-wants-to-send-abortion-pills-to-polish-women>.

¹⁵⁹ Sofia Stuart Leeson, “Dutch Party Wants Abortion to Be a Human Right across Europe,” EURACTIV, November 14, 2022, <https://www.euractiv.com/section/politics/news/dutch-party-wants-abortion-to-be-a-human-right-across-europe/>.

¹⁶⁰ “Dutch to Set up Global Abortion Support Fund to Counter Trump’s Cuts – EURACTIV.Com,” EURACTIV, January 25, 2017, <https://www.euractiv.com/section/health-consumers/news/dutch-to-set-up-global-abortion-support-fund-to-counter-trumps-cuts/>.

¹⁶¹ Gordon Darroch, “Dutch Respond to Trump’s ‘gag Rule’ with International Safe Abortion Fund,” *The Guardian*, January 25, 2017, sec. Global development, <https://www.theguardian.com/global-development/2017/jan/25/netherlands-trump-gag-rule-international-safe-abortion-fund>.

girls in the United States. Further MEPs expressed the desire for EU countries to guarantee access to safe, legal, and free abortion services pre-natal and maternal healthcare services, voluntary family planning, etc. without discrimination.¹⁶² Similarly, in response to the decision, hundreds of Dutch people gathered at Dam Square in Amsterdam to protest in solidarity for the right to abortion in the United States.¹⁶³ Aside from several hundred protestors there were also larger organizations present such as Amnesty International and Women Inc. The protestors were motivated by the fear that the overturning of abortion rights in the U.S. could have a ripple effect in the Netherlands such that the organizer of the abortion reported “the right to abortion is a human right, but this is not at all self-evident.”¹⁶⁴

However, even in the Netherlands, which affords women the most reproductive health freedom of the three countries, pro-life advocacy is still active. In 2017, the annual March for Life in The Hague had a record turnout of 14,000 participants. At the march, leading politicians of the two small Christian political parties gave speeches that highlighted their commitment to the “protection of human life from cradle to grave.”¹⁶⁵ Additionally, Peter Smith, former UN Representative for the United Kingdom’s Society for the Protection of Unborn Children and the International Right to Life Federation spoke, claiming how the United Nations has included abortion as one of the human rights, even though it “denies man’s most basic right: the right to life.”¹⁶⁶ Smith declared “...this right to abortion is a fake right. In other words, you cannot possibly turn a wrong, which is abortion, into a right.”¹⁶⁷ Four years later, in 2021, the 29th edition of the Dutch March for Life in The Hague marked the end of the annual Week for life. During this March for Life, organizations continued to advocate for the right to life of unborn children. In connection with the Week for Life, which traditionally precedes the march, pro-life commercials were shown and heard on Dutch radio and television stations. The broadcasts were

¹⁶² “Include the Right to Abortion in EU Charter of Fundamental Rights, Demand MEPs,” European Parliament, July 7, 2022, <https://www.europarl.europa.eu/news/en/press-room/20220701IPR34349/include-the-right-to-abortion-in-eu-charter-of-fundamental-rights-demand-meeps>.

¹⁶³ Cara Råker, “Dutch Protests for Abortion Rights: What’s It All about? | DutchReview,” Dutch Review, May 9, 2022, <https://dutchreview.com/news/protests-for-abortion-rights-whats-it-all-about/>.

¹⁶⁴ Ibid.

¹⁶⁵ TFP.org, “The Growing March for Life in the Netherlands: A Symbol of Hope,” The American TFP, December 29, 2017, <https://www.tfp.org/growing-march-life-netherlands-symbol-hope/>.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

met with an uproar of dissent, culminating with Dutch program maker Tim Hofman stating that “Those people from the Week of Life don’t care about unborn life-or women’s rights but want to push their interpretation of the Bible for reasons of power.”¹⁶⁸

Finally, the Right to Life Holland area is a sect of a global organization “committed to articulating and protecting the right to life of all human beings, born and unborn. This commitment is derived from a belief that each human being, from the time of fertilization to natural death, has an immeasurable dignity and right to life.”¹⁶⁹ Like the annual March for Life, the organization has a list of activities including “Value Human Life Week,” providing schools and public libraries with pro-life reading material, and taking an active part in pro-life legislation.

¹⁶⁸ “Week of Life Caused Quite a Stir in the Netherlands,” cne.news, November 15, 2021, <https://cne.news/article/274-week-of-life-caused-quiete-a-stir-in-the-netherlands>.

¹⁶⁹ “About | Right to Life of Holland,” Right to Life of Holland Area, accessed April 11, 2023, <https://rtlloholland.org/about/>.

4. Analysis

Historically, in the United States, legal cases and Supreme Court opinions have focused on constitutional rights rather than guaranteed human rights. *Griswold* (1965) and *Eisenstadt* (1972) were predicated on the constitutional right to privacy, while *Roe* (1973) and *Planned Parenthood v. Casey* (1992) were argued using the Fourteenth Amendment's Due Process Clause. Further, the opinion in *Dobbs* (2022) states that the constitutional arguments used in these cases were inherently flawed, that the constitution says nothing about abortion, and therefore there is no such thing as a constitutional right to abortion. Conversely, domestic organizations in the United States like Planned Parenthood and NARAL Pro-Choice America, and international organizations like Women on Waves and Las Libres focus on the human rights-based argument, ignoring the United States constitution altogether. This pattern demonstrates a severe disconnect in the arguments of abortion advocates on both sides and the governing bodies in the United States. In doing so, the pattern also sets a precedent for it to be unlikely for human rights rhetoric to yield any legislative change. Instead, it is the responsibility of human and women's rights organizations to uphold these rights and continue to act accordingly, focusing on providing access and education above legislative action.

In Germany, it was largely history, precedent, and a lack of political will that upheld the Nazi-era abortion laws for so long. Unlike the United States, Germany has demonstrated little legislative discourse on the subject, keeping the law relatively stable for over fifty years. The dialogue here lies primarily between pro-life/pro-choice activists and the government, as they advocate for change. However, advocacy methodologies vary across abortion opinion. The pro-choice side has, in addition to ensuring safe abortions are available to women in Germany and other countries, also brought cases before the legislature to demand change. Conversely, the pro-life side in Germany tends to focus their efforts on protesting, through hosting vigils, participating in the March for Life, etc.

Dissimilarly to both the United States and Germany, the Netherlands' abortion policy – since 1984 - has remained relatively stagnant. While, in the United States, abortion has become highly politicized, a vast majority of Dutch political parties have made it clear that the current abortion laws are here to stay. If anything, a portion of the Dutch governing body seeks to

liberalize abortion laws further. In the Netherlands, while the legislature does not explicitly use human rights rhetoric, the Dutch governing body most closely resembles this ideology. Through the establishment of programs like the abortion fund when former President Donald Trump banned funding, the country recognized and affirmed the necessity of abortion as a human right. Similarly, the way in which MEPs publicly criticized the United States for backsliding on reproductive rights, calls attention to the Netherlands' willingness to step into the public sphere within the abortion debate, confidently taking a stance. However, like Germany, the pro-life and pro-choice sides largely approach activism in different ways. The pro-life side works both domestically and internationally to focus their efforts on ensuring access to women globally while simultaneously working towards liberalizing abortion policy further. On the other hand, the Dutch pro-life side primarily uses protesting, 'vigils,' and joining events like the March for Life to express their opinion on abortion.

In each of these countries, the criminalization of abortion stigmatizes the procedure, as the law has a chilling effect on physicians, while the new generation of doctors are not always trained to perform it. More fundamentally, the pro-life framework favors the protection of the "unborn life" instead of patients' rights over their bodies. In Germany, this framework is crucially shared across its legal sector with the two major decisions from the German Federal Constitutional Court (between 1976 and 1993) both emphasizing the right to life and human dignity of the fetus, making the rights of the pregnant persons' rights a marginal concern. The emphasis on the right to life for the unborn is a strategic move for pro-life advocates being that it is difficult to contradict the statement without presenting as if the lives of the unborn are unimportant. Instead, pro-choice advocates must be careful to toe the line, emphasizing the way the rights of the women should supersede the rights of the unborn, until the point at which the unborn can reasonably survive, should birth occur. Even in the Netherlands, where abortion is largely accessible for individuals seeking abortions from licensed practitioners, the penal code criminalizes the act. In doing so, abortion remains stigmatized regardless of the accessibility.

However, Dutch professor, Martin Buijsen, has presented a compelling argument explaining why abortion is still included in the penal code. Crucially, "if the termination of the pregnancy takes place in a hospital or abortion clinic, and all the requirements mentioned in the Abortion law are met, then it is not penalizable according to the Criminal Code." In other words,

the Netherlands keeps the abortion law in its penal code as a mechanism for protecting both the mother and the unborn child. If an abortion is no longer penalizable, it is also “no longer penalizable to kill an unborn child.”¹⁷⁰ By mentioning abortion in the Criminal Code, the country is acknowledging the way unborn children are worthy of protection. However, by allowing women the grace to undergo safe abortions within the first 24 weeks, the legislature recognizes the need to provide women the freedom to self-determination.¹⁷¹

Note that news coverage of the abortion debate in the Netherlands is the most limited of the three countries. Consequently, it is difficult to fully assess the way in which human rights rhetoric is or is not used by key players within the country. Further, this dynamic begs the question of whether this is a result of the climate surrounding reproductive rights, or if the debates are simply not covered by the news. And, if the latter, we must ask why. Perhaps abortion is not as politicized a topic as it is in the United States and Germany, which makes it a less newsworthy topic. Or perhaps the domestic climate discourages news coverage of issues like abortion and reproductive rights. Accordingly, the majority of this analysis will surround the use – or lack thereof – of human rights rhetoric in the United States and Germany, allowing for further discussion of the Netherlands in the Conclusion chapter.

United States’ Influence on the Netherlands and Germany

In Europe, larger governing bodies like the European Court of Human rights often utilize the human rights framework to provide a limited understanding of the right to an abortion, while still tending to give priority to a state’s substantive choices. Conversely, in the United States, the Supreme Court’s decision in *Dobbs*, focused solely on the United States constitution, ignoring any semblance of human rights rhetoric. However, crucially and similar to Europe, the decision in *Dobbs* did not criminalize abortion in all fifty states, but rather gave individual state legislatures the license to legislate abortion on their own.

Despite clarity among international human rights and public health bodies asserting that abortion is a human right crucial to realizing sexual and reproductive health, the *Dobbs* decision could create a chilling effect in international political spaces relating to sexual and reproductive

¹⁷⁰ “Why Is Abortion Penalized in the Dutch Criminal Code? | Erasmus University Rotterdam.”

¹⁷¹ Ibid.

health and rights (SRHR). The decision could have reverberations in two ways. First, anti-equality governments and anti-equality NGOs working to undermine and dismantle human rights protections and support for SRHR might use *Dobbs* as an opportunity to represent a lack of consensus and subvert legitimacy. Second, this decision might undermine the U.S. government's ability to play a leadership role in the global abortion space, and SRHR more broadly. However, while the decision may embolden opposition efforts, it also has the potential to invigorate popular movements for further abortion liberalization.

The development of *Dobbs* in the United States served as a “reminder that the right to abortion remains fragile in the EU, and that marginalized communities are the first ones to suffer from the lack of abortion access.”¹⁷² Contrary to popular belief, there are many reasons to be concerned about the access to abortion in the EU: restrictive laws are still being adopted, abortion is still stigmatized, and other obstacles threaten the right to abortion access.¹⁷³ Otherwise, Kaufman et al. propose that the *Dobbs* decision will neither reverse nor stall the developing trajectory in Europe towards liberalization of abortion laws and removal of barriers. Instead, Kaufman et al. posit that the decision is most likely to galvanize efforts to upgrade European laws on abortion and move them closer to compliance with WHO guidance.

This notion of the United States' influence or impact on the rest of the world is similarly demonstrated through the global response to the June decision. UN Secretary General spokesperson Stephane Dujarric on Friday reiterated the organization's position on abortion: “That sexual and reproductive health and rights are the foundation of a life of choice, empowerment and equality for the world's women and girls.”¹⁷⁴ UN High Commissioner echoed this sentiment calling the ruling a “major setback” as “access to safe, legal and effective abortion is firmly rooted in international human rights law and is at the core of women and girls' autonomy and ability to make their own choices about their bodies and lives...”¹⁷⁵ Countries like the United Kingdom, Scotland, Spain, and Norway expressed shared concerns that women's

¹⁷² Ivana Isailović, “Dobbs in the EU: Not Just an American Story,” *Verfassungsblog*, August 19, 2022, <https://doi.org/10.17176/20220819-181647-0>.

¹⁷³ *Ibid.*

¹⁷⁴ Zoe Christen Jones, “World Leaders React to the U.S. Supreme Court's Decision to Overturn *Roe v. Wade*,” CBS News, June 24, 2022, <https://www.cbsnews.com/news/supreme-court-roe-v-wade-abortion-rights-international-response/>.

¹⁷⁵ *Ibid.*

rights in the United States are moving backwards, emphasizing the notion that a woman's right to choose is fundamental to women's freedom. Further, Canadian Prime Minister Justin Trudeau, in addition to echoing the same sentiments as other countries, said: "I want women in Canada to know that we will always stand up for your right to choose."¹⁷⁶

The Gender Gap in the Abortion Debate

The right to terminate a pregnancy has never been only about the right to health or the right to privacy. Most fundamentally, it is about a substantive vision of equality that a society should foster and protect. Abortion laws, along with other repressive laws targeting women, have been used to enforce an unequal reproductive and sexual order, control sexuality and reproduction, and distribute power, material benefits and opportunities. In other words, laws restricting the right to terminate a pregnancy are central to the gendered violence in our society.¹⁷⁷

Even in the United States, in response to Dobbs, politicians expressed their dismay towards the Court. However, crucially, many prominent figures carefully strayed away from any mention of human rights, focusing instead on the institutional and constitutional implications of the decision. For example, President Joe Biden said during a press conference: "Today the Supreme Court of the United States expressly took away a constitutional right from the American people that it had already recognized... It's a sad day for the court and for the country."¹⁷⁸ Similarly, Pennsylvania Senator Bob Casey wrote that "this decision upends almost a half century of legal precedent and rips away a constitutional right that generations of women have known their entire lives. This dangerous ruling won't end abortions in this country, but it will put women's lives at risk."¹⁷⁹

Those who did mention human or women's rights, were primarily women. For example, House Speaker Nancy Pelosi said, at a press conference, "This morning the radical Supreme Court is eviscerating Americans' rights and endangering their health and safety." Similarly,

¹⁷⁶ Ibid.

¹⁷⁷ Ivana Isailović, "Dobbs in the EU: Not Just an American Story."

¹⁷⁸ "Politicians, Key Figures React to Supreme Court Overturning Roe v. Wade," KCRA, June 24, 2022, <https://www.kcra.com/article/supreme-court-overturning-roe-v-wade-reactions/40406582#>.

¹⁷⁹ Ibid.

Florida Senator Lauren Book stated: “Women’s rights were set back half a century today with the Supreme Court’s devastating decision to overturn *Roe v. Wade*. With this destructive and consequential ruling, women in 13 states across the country are immediately stripped of their right to bodily autonomy and self-determination – their rights gone in an instant.”¹⁸⁰ Further, Hillary Clinton wrote: “Today’s Supreme Court opinion will live in infamy as a step backward for women’s rights and human rights.”¹⁸¹

On the other hand, it was primarily men who mentioned the right to life. Louisiana Senator Bill Cassidy stated: “Today’s decision recognizes that an unborn child has a right to life.” Moreover, Florida Senator Rick Scott asserted:

“For nearly 50 years, our country endured flawed legal reasoning that invented an implied constitutional right to abortion while stripping authority from lawmakers according to the will of the people. Today, the Court correctly interpreted the Constitution, defended human dignity and the foundational principle of federalism, and rightly declared that there is not constitutional right to end the life of an unborn child.”¹⁸²

Two exceptions to the observed patterns mentioned above are Senate Majority Leader Chuck Schumer and New Mexico Senator Ben Ray Lujan. Schumer described the ruling as “one of the darkest days our country has ever seen” as “American women are having their rights taken by 5 unelected Justices on the extremist MAGA court. These justices – appointed by Republicans and presiding without accountability – have stolen the fundamental right to abortion.”¹⁸³ All while Lujan wrote that the decision “undermin[ed] nearly 50 years of legal precedent and put[s] the most vulnerable at risk by rolling back women’s reproductive rights.”

Overall, the gender gap in the abortion debate is apparent, and has the potential to drastically affect election results in the future. To begin, while the *Dobbs* decision outraged many women, and even galvanized them heading into the midterm elections, men – even those who

¹⁸⁰ Ibid.

¹⁸¹ Ibid.

¹⁸² Ibid.

¹⁸³ “Politicians, Key Figures React to Supreme Court Overturning *Roe v. Wade*,” KCRA.

support some right to abortion – remained passive in comparison. Critically, while men and women are approximately equally as likely to think abortion should be generally legal, men’s responses suggest that abortion remains for them a relatively remote issue. When an AP-NORC poll in June asked an open-ended question about which problems the government should work on, 21 percent of women offered ‘abortion,’ compared to just 9 percent of men. Similarly, in a Pew Research Center poll in mid-October 2022, 63 percent of women said abortion was “very important” to their vote in the midterms, compared with 49 percent of men. Where men react more strongly is in an anti-abortion sentiment, being more likely than women to say they were somewhat ‘excited’ or ‘proud’ about the Supreme Court’s decision in *Dobbs*. In interviews, many men talked about abortion as an abstraction, finding it difficult to personalize the issue and wavering on the specifics of their own positions. In fact, some men say they struggle to define the right time limits for legal abortion, and worry that women use abortion as birth control, consequently stifling their engagement on the issue. Others, who support abortion rights, said they do not speak up about it often because they see it as a matter of women’s rights, and “do not want to appear to be speaking for women.” Still others see the abortion decision as a front-man for broader issues in society, irrelevant to women’s health.¹⁸⁴ The gender gap plays a critical role in the original hypothesis for this thesis. There, I proposed that, if we were to find any evidence of the use of human rights language, it would be in the Netherlands – largely because of the male-female makeup of the Dutch parliament and the human rights instruments the country is party to. Further, as the United States is the only country in this study that has not ratified CEDAW, the recognition of *Dobbs* as a violation of women’s rights was similarly surprising. Note, however, that the composition of the individual states to form a country makes broad-strokes conclusions about the abortion debate difficult, a fact that will be discussed further in the Conclusion chapter.

Framing Analyses of Germany and the United States’ Abortion Legislation

One study, conducted by Myra Marx Feree, analyzed cultural resonance and movement success of legal abortion in Germany and the United States. In Germany, between 1970-1974, speakers emphasized women’s victimization and natural connection to the fetus become accepted

¹⁸⁴ Kate Zernike, “The Gender Gap in the Abortion Debate,” *The New York Times*, November 7, 2022, sec. U.S., <https://www.nytimes.com/2022/11/07/us/abortion-midterms-voters-men.html>.

as representing a realistic feminist position, thus mainstream, while those who would destigmatize abortion became marginalized. In the United States, the reverse is the case. Qualitative analysis of activist arguments then shows how this adaptation to opportunity by mainstream feminist speakers affects those who continue to voice “radical” concerns.¹⁸⁵

Both Germany and the United States offer two very different discursive opportunity structures for dealing with women’s autonomy in making abortion decisions. Both countries’ constitutional courts made critical decisions about abortion in the mid-1970s, but the two decisions could not have been framed more differently. In the United States, *Roe v. Wade* drew upon ideas of individualism and privacy to conclude that the state had no right to intervene in the first trimester. In Germany, the 1974 effort by the legislature to legalize abortion in the first trimester was overturned by the West German constitutional court in 1975 by finding there was a “consensus” that the fetus was a human life that the state had an obligation to protect. In the late 1980s and early 1990s, both the courts in the United States and Germany revisited the abortion issue and modified it but did not reject the principles of their original decisions. While the United States prided itself on its liberal individualism, German law emphasized public health and humanitarian justifications. Liberal individualism is a principle of social policy in the United States, applied to abortion and social policy by the Supreme Court, placing emphasis on the freedom of the individual woman to decide for herself whether abortion is appropriate. However, it also specifically exempts the state from any obligation to pay for abortions except in exceptional circumstances. In doing so, liberal individualism theoretically positions women as citizens who, like men, are in control of their own persons and assumes that women should have the opportunity to make their own way in the labor market. Germany is a sharply contrasting case, being a strongly protectionist policy regime. When applied to the abortion question, the protectionist policy approach emphasizes the positive moral obligation of the state, simultaneously affirming the fetus as a human life deserving state protection and acknowledging the state’s responsibility to offer women the support needed to be able to bear and rear children. In sum, the discursive opportunities institutionally anchored in these contrasting court decisions

¹⁸⁵ Myra Marx Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany,” *American Journal of Sociology* 109, no. 2 (September 2003): 304–44, <https://doi.org/10.1086/378343>.

reflect long-standing legal principles of liberal individualism in the United States and social protection in Germany.

Autonomy is a core value for feminists such that feminist thinking about how to use abortion to achieve greater autonomy for women in the United States and Germany offer two types of ideologically justified claims related to feminist arguments. The first framing situates abortion as a matter of choice, which women, like men, should be eligible to exercise freely as a rights-bearing citizens. The second framing of autonomy assumes the need for women to be protected from social coercion in order to be free. In other words, abortion is understood not merely as a consumer choice, but as an aspect of control over the conditions in which women's life chances are structured.

There is a broad repertoire for feminist thinking, all of which are available to frame abortion rights. Studies done in both Germany and the United States point to complexity in the frames used within each country. Central to the American abortion debate are contrasting notions of gender relations that focus on reconciling work and motherhood in women's lives. In fact, American print media from 1960-1985 created support for legal abortion through "strategic appeals to choice and individual freedom, connecting abortion to women's ability to be good mothers who would limit their families in order to invest more care in fewer children." The most featured gender relations are liberal individualist ideas of opportunity and the freedom to enter into labor markets. Dissimilarly, German feminists stress the dangers to women in the domain of sexuality. Yet, in the late 1960s and early 1970s, feminist groups typically protested the criminalization of abortions with assertions like "my belly belongs to me."

Feree argues that strategically chosen American and German feminist discourses have successfully entered the mainstream of media discourse in each country. But by tailoring their demands to be resonant within the discursive opportunity structure, mainstream feminist speakers also limited their conceptualization of autonomy to a more one-sided claim than the overall repertoire of feminist beliefs defines as what women need.

The U.S. feminist mainstream criticize the overall "pro-choice" media strategy of stressing abstract "choice" and view the choice approach as leaving out certain groups of women. In doing so, choice language alludes to privacy language, which is problematic because

“vulnerable women” were left out of the debate. The right of access is, however, a narrow conception of what protection the state might offer women in need. Within the movement, feminists have long been critical of the state’s limited role in financing abortion and child rearing in the United States. In sum, The U.S. feminist movement emphasized the destigmatization of abortion and resisting limits on access.

Dissimilarly, the mainstream German feminist discourse places a woman’s self-determination, and the right to self-determination as a women’s right, above all. There are three basic arguments offered by the feminist side of the 1990s German abortion debate. First is the claim that women will have abortions in any case, so that it is only possible to protect the fetus with the woman and not against her. Therefore, any government action to protect the fetus can only be done by helping women to want to have children. Next there is the claim that pregnant women are essentially mothers and are inseparably joined to the fetus emotionally. In making this claim, women are not undergoing abortion procedures on a whim, but rather in a well-considered, emotionally harrowing way that is commonly misunderstood by anti-abortion activists and legislators. Finally, the third strategy is to argue that “only the woman can know” the actual circumstances in which her motherhood would occur. Unlike the typical U.S. “choice” argument for noninterference, this argument does not frame the decision as inherently individual or private, but rather as a social and complex one. There is a sharp contrast between the two discourses presented by Ferree. The dominant American one emphasizes an abstract “choice,” the destigmatization of abortion, and focusing on abortion access whereas the German feminist discourse strategically casts abortion as deeply undesirable for women who are nonetheless uniquely entitled to make this decision as they are the ones most deeply affected.¹⁸⁶

The most significant differences between the American and German debates on abortion is that A) Germans talk about rights more than Americans do and B) the role of government is different. In the United States, even religious leaders do not agree about whether the fetus is a life that the government should protect. Conversely, the Protestant leaders in Germany argue that the controversy is not about when life begins, but rather how to best protect unborn lives. In Germany, the prevailing view is that the government should be an active force for good in social

¹⁸⁶ Myra Marx Ferree, “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany.”

life by taking responsibility for the well-being of citizens first and foremost. Abortion controversy is a framing contest. The Catholic Church is a major player in both Germany and the United States, but in Germany, Catholic spokes persons are much more likely to use a “fetal life” frame than their counterparts in the United States. In the United States, religious pluralism and the separation of church and state produced a political strategy by anti-abortion advocates to de-Catholicize the issue.

In setting the pro-abortion rights frame, supporters of abortion rights have adapted their strategies. In Germany, abortion rights are more specifically about women’s rights while, in the United States, abortion tends to be viewed more as an individual right or a right to privacy. As such, defending legal access to abortion in the language of privacy, or the right to privacy under the Fourteenth Amendment of the United States Constitution has been a strategic legal choice used in historic reproductive rights cases. The real difference in the debates, rather than an emphasis on rights, lies in the framing of the issue itself. The frames around both fetal rights and women’s rights in Germany allow for a common ground in the state’s moral obligation to serve the welfare of both. And thus, making rights talk more reconcilable in the United States would, therefore, require an activist government that desires to protect abortion rights.¹⁸⁷

Reproductive rights attitudes are becoming more restrictive in some societies influenced by nationalism. While long standing analysis depicts abortion attitudes as a clash of feminist pro-choice vs. pro-life frames, feminist theories suggest that nationalist beliefs also influence reproductive rights attitudes. Competing frames of women’s rights, religious rights and modern medical perspectives vary. The women’s rights frame associated with pro-choice discourse emphasizes that “a woman’s ability to exercise her rights to control her body, to self-determination, and to health.”¹⁸⁸ However, the religious pro-life frame is characterized by the belief that the “natural right to life of the fetus is absolute, fundamental, and non-negotiable.”¹⁸⁹

¹⁸⁷ Myra Marx Ferree et al., “Abortion Talk in Germany and the United States: Why Rights Explanations Are Wrong,” *Berkeley: American Sociological Association* 1, no. 2 (Summer 2002): 27–33, <https://doi.org/10.1525/ctx.2002.1.2.27>.

¹⁸⁸ Alison Brysk and Rujun Yang, “Abortion Rights Attitudes in Europe: Pro-Choice, Pro-Life, or Pro-Nation?,” *Social Politics: International Studies in Gender, State & Society*, February 2, 2023, <https://academic.oup.com/sp/advance-article/doi/10.1093/sp/jxac047/7024648?searchresult=1>.

¹⁸⁹ Ibid.

The influence of religious identities does not fully account for cross-national differences in abortion attitudes nor can it fully account for individual-level variation. In an article written by Alison Brysk and Rujun Yang, they seek to identify the influence of nationalism (shared ancestry, language, religion, territory, or cultural experience) on abortion views. Ethnic nationalism can be linked to patriarchal population policies and associated social attitudes toward women's reproductive rights and roles. Liberal values toward gender roles and sexuality covary with support for abortion state that sexism plays a significant role in mediating the influence between political conservatism and opposition to abortion. Further, liberal values account for a high proportion of left-right differences in abortion attitudes. Other individual demographic characteristics like gender, age, and education are also consistently associated with individuals' attitude on abortion.

Supporters of nationalist regimes and ethnonationalist political parties oppose abortion rights beyond the typical level of their religious affiliation. Similarly, collective identities modify the impact of religious norms such that, in the United States, the influence of religiosity on abortion attitudes operates differently for immigrants according to immigrant generation.

Further, individuals' abortion attitudes are influenced by country contexts. Liberal modernization within countries is a predominant influence, motivating the authors to analyze how economic and social modernization may condition abortion attitudes and the pro-choice frame. Socioeconomic development is generally associated with improvements in women's rights and access to healthcare as well as increasing labor force participation, which often creates more incentive and social support for liberalization of reproductive rights. Finally, the social context of religious institutions and affiliations may be associated with variation in reproductive attitudes.

The analysis of data finds that ethnonationalism matters for opinion such that *ethnonationalist sentiments* and *distrust of foreigners* are robustly associated with abortion disapproval. Similarly, high interaction between ethnonationalist attitudes and the importance of religion as well as ethnonationalism and gender liberalism. In sum, the study shows that

ethnonationalist attitudes in European developed democracies are associated with lower support for abortion rights.¹⁹⁰

Role of Human Right Instruments

In the Methods section of this thesis, I posited that, if we were to see any use of human rights language, it would be from the Netherlands. This hypothesis was predicated on a number of factors, one of them being the number of human rights treaties the country is party to. Unlike the United States, the Netherlands is party to many more human rights instruments pertaining to the rights inherent to the right to the abortion. However, even in the Netherlands, although the abortion laws are most liberal in this country, the legislature failed to implement human rights rhetoric. Nevertheless, many more members of Dutch Parliament emphasize the notion that Dutch policy assumes that the right to life is a fundamental human right, just like the right to health, women's rights and sexual and reproductive rights.

Despite Germany being party to the same variety of human rights instruments that allude to the right to choose, Germany's abortion law fails to guarantee these protections. In many ways, the current German abortion laws function in a similar fashion to some of the more restrictive state laws in the United States, which was to be expected because the United States is not party to many of these instruments.

Due to the unique composition of the United States and the drastically different perspectives on abortion from state to state, the role the U.S. plays in this research is complex. Notably, while some prominent politicians did use human rights-based language, a vast majority of them stuck close to the rights enumerated in the United States Constitution. Further, the most prominent government figures and bodies expressly stuck to constitutional language, placing emphasis on the notion that abortion is not explicitly mentioned in the Constitution. Regardless, the use of rights language was largely reserved for activist organizations working externally or throughout the United States to ensure abortion access is still available for American women.

In sum, even where human rights specific language is not used, rights talk is. In other words, even when legislative bodies in the United States, Germany, and the Netherlands fail to

¹⁹⁰ Alison Brysk and Rujun Yang, "Abortion Rights Attitudes in Europe: Pro-Choice, Pro-Life, or Pro-Nation?."

recognize the way reproductive rights and access to abortion are fundamental to human rights, they emphasize fundamental rights, such as those enumerated in the United States Constitution. Instead, human rights language was primarily utilized by the pro-life/pro-choice advocate sides. Further, the factors that went into choosing the three countries for study such as size, history, interaction with human rights instruments, and gender-makeup of the legislative bodies, ultimately did not affect the utilization of human rights rhetoric. It is possible that these factors played a role in the current abortion laws, but there is currently not enough data to make a causal claim.

5. Conclusion

Over the past 25 years, the international human rights community has made it clear that abortion is a fundamental human right, critical to ensuring health, justice, and equality. In fact, jurisprudence from international human rights bodies establishes that access to abortion “is necessary to protect the rights to life, health, non-discrimination, information, privacy, and freedom from ill-treatment, harmful practices and gender-based violence.”¹⁹¹

In this study I set out to try and understand the relationship between human rights rhetoric and the activist struggle for abortion rights in three wealthy democracies. To reiterate, each year, around 73 million induced abortions take place worldwide, while nearly 70,000 maternal deaths can be attributed to unsafe abortions.¹⁹² Crucially, restricting abortion access does not reduce the number of abortions that occur, but instead reduces the number of unsafe abortions that occur. Consequently, the proportion of unsafe abortions are significantly higher in countries with highly restrictive abortion laws when compared to countries with less restrictive laws.¹⁹³ Globally, the framing of the abortion debate varies, primarily in the focus on human rights versus fundamental or constitutional rights. However, there is little data demonstrating the relationship between the framing mechanism and the abortion laws in those countries. Therefore, I chose to analyze the framing mechanisms on the parts of the legislature and advocacy groups in three countries which vary in abortion laws: the United States, Germany, and the Netherlands.

Each of these countries differ greatly in size, history, and the ways in which they interact with various human rights instruments. However, each is democratic, has at least two political parties, and has legalized abortion in some manner. Thus, I proposed that, while it is unlikely we will see any use of human rights rhetoric from the governing bodies or legislatures of these countries, activist groups will rely primarily on the use of human rights language to promote

¹⁹¹ Risa Kaufman et al., “Global Impacts of *Dobbs v. Jackson Women’s Health Organization* and Abortion Regression in the United States,” *Sexual and Reproductive Health Matters* 30, no. 1 (n.d.): 2135574, <https://doi.org/10.1080/26410397.2022.2135574>.

¹⁹² “Abortion,” World Health Organization; Center for Reproductive Rights, “Safe and Legal Abortion Is a Woman’s Human Right.”

¹⁹³ Bela Ganatra, MD et al., “Global, Regional, and Subregional Classification of Abortions by Safety.”

reproductive and abortion rights. However, if I were to find any evidence of the use of human rights language, it would be from the Netherlands, due to its relatively liberal abortion policy and the number of human rights instruments it is party to.

Findings

Broadly, through conducting a comparative case study of the United States, Germany, and the Netherlands, I found that governments and legislative bodies tend to stray away from utilizing human rights rhetoric in its legislation. Even in cases where government leaders or members of parliament speak out about the right to an abortion, the legal text fails to reflect these sentiments. However, legislatures do not stray away from rights talk in general as they place emphasis on the rights enumerated in their own domestic constitutions or documents. Conversely, activist organizations that reflect both pro-life and pro-choice sentiments tend to emphasize rights language, largely ignoring the laws and rights enumerated in domestic instruments.

In each of the three countries, one of the primary abortion debates involves engaging in a compromise between the rights of the mother and the rights of the unborn. In the Netherlands, while the abortion law allows for women to have an abortion until 24 weeks, the legislature continues to criminalize abortion by including it in the Dutch penal code. However, as Martin Buijsen explains it, this is the Dutch mechanism for accounting for both the rights of the mother and the rights of the child. In doing so, the law permits the mother the rights to bodily autonomy and self-determination, among other rights, until 24 weeks, at which point the rights of the unborn takes precedent. In Germany and the United States, however, this compromise becomes much more complex. In both Germany and the United States, the legislatures tend to avoid discussing the compromise between the rights of the unborn and the rights of the mother. In the United States, this is largely explained by the way the federal government has given states the right to legislate abortion individually, excluding Federal legislature or criminal codes from the abortion debate altogether. In other words, because the federal government fails to discuss abortion in whole, discussion of the rights of the mother or the unborn are non-existent. Further, in Germany, as discussed in the Analysis chapter, the country's legislature has largely focused on the protectionist ideology of focusing on the right to the unborn, instead of the rights of the mother. Instead, this debate largely takes place in the advocacy realm where pro-life activists

advocate for the rights of the unborn and pro-choice activists advocate for the rights of the woman. In doing so, pro-life advocates in Germany tend to focus their attention on protesting while those in the United States, play a larger role in the political sphere, and those in the Netherlands participate most in the international abortion effort. Moreover, among pro-choice advocates, in the United States, Germany, and the Netherlands, the goal is to continue to ensure access to reproductive healthcare and abortion services through programs like telehealth visits, the Papaya Workshops, the Underground Abortion Network, etc.

Further, the framing mechanisms used in Germany versus the U.S. are drastically different. Historically, in the United States, abortion has most commonly been framed within the United States' fundamental goal of liberal individualism, which places an emphasis on the freedom of the woman to decide for herself whether abortion is appropriate. Conversely, in Germany, abortion has historically been framed under the country's protectionist ideology, emphasizing the moral obligation of the state to affirm both the unborn's right to life and the woman's right to self-determination. Note that, with the recent decision in *Dobbs*, the United States has shifted their ideology to more closely match the German's protectionist one. While both countries value autonomy as a core value for feminists, the United States situates abortion as a matter of choice, such that women should be eligible to exercise freely as rights-bearing citizens. The German framing of autonomy assumes the need for women to be protected in order to be free; in other words, abortion is understood as an aspect of control over the conditions in which women's life chances are structured. Overall, Germans talk more about rights than Americans do. In Germany, abortion rights are more specifically about women's rights while, in the United States, abortion tends to be viewed more as an individual right or a right to privacy. The crux of the issue is not an emphasis on rights, but rather the framing of the issue itself. The frames around both fetal and women's rights in Germany allow for a common ground in the state's moral obligation to serve the welfare of both. Therefore, making rights talk more amenable in the United States would require an activist government that desires to protect abortion rights. Overall, reproductive rights attitudes can be influenced by a multitude of factors such as nationalist beliefs, religious identities and ethnonationalism, liberal values toward gender, and country contexts.

The evidence for using human rights as a primary framing mechanism is low, largely because it is a contextual and service specific issue. More specifically, abortion is both a symbolic and practical issue. For most activists, the argument about whether it is a right is so settled there's no point in opening up to argument. Consequently, organizations like Planned Parenthood, the Center for Reproductive Rights, Las Libres, Women on Waves, etc., in recognition that the most important thing they can do is keep service available instead of engaging primarily in philosophical arguments about whether or not it is a right, engage in the practical side of abortion rights. In other words, they are dealing with the more immediate issue. However, through placing themselves in the public sphere as advocates for the importance of access to abortion, they simultaneously recognize the symbolic issue of abortion as a human right. Further, it is likely that activist organizations tend to emphasize human rights language because there is a broader understanding of the way laws and the legislature in each country critically fail to recognize and uphold human rights. Instead, the governing bodies focus on the overarching legal documents like the United States Constitution, the German Grundgesetz, and the Constitution of the Netherlands, which enumerate fundamental rights, but fail to recognize a host of other crucial rights. Nonetheless, as discussed earlier, the governing body within the Netherlands most closely uses human rights rhetoric within the abortion debate, being unafraid to take bold and public stances on abortion as a fundamental women's right and by implementing programs to support this opinion. Overall, the presence, or lack thereof, of this rhetoric in any sort of public space, like the news, is very compelling about how activists and legislators think about this issue, in terms of framing.

At a time when human rights violations remain widespread, the discourse of human rights continues to flourish. While both the United States and the European Union are quick to condemn human rights violations in places like Syria, Russia, and China, they often fail to take accountability for their own rights violations. Thus, the central problem with international human rights law is that it is ambiguous, allowing governments to rationalize almost all of their actions. Further, recognizing a single human right opens the floodgates to recognizing a multitude of other human rights, hindering governments' abilities to pick and choose which rights they may circumvent. This notion would be particularly difficult for the United States as it has not ratified a number of core human rights instruments like the ICESCR or CEDAW. In doing so, the United States fails to recognize any obligation to uphold the rights enumerated in these documents, and

therefore would not position themselves in a way that would require them to acknowledge or fulfill these rights. This suggests one explanation as to why countries, more specifically the United States, fail to use human rights language in their participation in the abortion debate. However, in Germany, which is already party to these documents, the current abortion laws, and lack of human rights usage, is likely better explained by a disinterest in sparking political or religious controversy. In Germany, over half (52.7 percent) of the population is Christian, 26 percent of whom are Catholic.¹⁹⁴ Thus, the religious arguments supporting the pro-life side, such as life beginning at conception, likely have more political sway than in countries where religious compositions are more evenly distributed.

Returning to the comparison between abortion activism and climate activism, the case studies above demonstrated the way reproductive and abortion rights are largely viewed as a localized, domestic issue, which makes it more difficult for human rights rhetoric to be successfully utilized. While climate issues and global warming are recognized as a global issue, to which all countries must be responsible and take action, abortion rights are largely dealt with internally. Because human rights are largely utilized in the international sphere, calling upon international documents like the ICCPR, ICESCR, CEDAW, etc., making headway using human rights rhetoric domestically is often unsuccessful. However, there is one exception: when the domestic legislature and/or governing body already recognizes the issue as a matter of human rights. Exemplified in the Netherlands, where abortion is largely accepted as a matter of women's rights, advocacy organizations have focused their efforts on international aid to countries where abortion rights are not similarly recognized. Further, as pro-life activists advocate for the fetus' right to life, the Dutch penal code recognizes this as well by criminalizing abortion after the point of viability (24 weeks); in other words, once the fetus has a probable chance of surviving should birth occur.

Finally, when there is not a longstanding history of domestic context, it is more likely to be reframed using human rights rhetoric. While the abortion debate has existed for similar lengths of time in each of the countries, the Netherlands solidified its stance on abortion much earlier than Germany and the United States allowing the issue to be more easily reframed using

¹⁹⁴ "Religion in Germany," in *Wikipedia*, April 27, 2023, https://en.wikipedia.org/w/index.php?title=Religion_in_Germany&oldid=1151981655.

human rights rhetoric. Dissimilarly, because abortion is such a contentious issue in the other two countries, it has been more difficult for human rights advocates working on both the pro-life and pro-choice sides to gain a foothold in legislative progress using human rights rhetoric.

Next Steps

Evidently, it is difficult to fully assess the extent to which internal debates use human rights, given the resources available. However, more studies that perform interviews with activists within the United States and in Germany and the Netherlands would better assess the extent to which there were internal debates on abortion, particularly using human rights rhetoric. This is particularly important in understanding the abortion debate in the Netherlands. As I discussed in the Analysis chapter, there are limited sources which cover or discuss the abortion debate within the Netherlands. Consequently, it is uniquely difficult to understand the true climate around the debate regarding the use of human rights rhetoric or alternative arguments. Therefore, conducting field research in the Netherlands would hopefully aid my understanding not only of the utilization of human rights rhetoric, but also *why* there is limited news coverage of the abortion debate.

Additionally, instead of looking solely at the United States as a whole, studies that focus on differences between states that fall on the opposite sides of the abortion debate spectrum. Due to the composition of the United States, it is a unique case, and it is difficult to fully gauge how the country as a whole utilizes human rights rhetoric. Instead, one could investigate state legislatures in states where abortion is highly regulated versus states that have codified the right to an abortion or access to abortion in both quantitative and qualitative ways.

Finally, it is important to expand the countries of study to include non-Western countries, perhaps in the Global South, that differ in their view on reproductive rights and their interactions with human rights instruments or the global human rights sphere. I believe this could allow us to draw further conclusions about what factors might influence A) the use of human rights rhetoric and B) how human rights rhetoric effects the laws and legislature within these countries. Across a wider variety of political and cultural contexts. In the end this project is an attempt to understand the complex ways human rights rhetoric is deployed by activists and government officials across a variety of contexts through the lens of the struggle over women's reproductive

rights. Since the power of human rights is largely in their normative impact, further study on this subject is important to understanding how human rights actually affect political discourse on many issues around the world.

Works Cited

- “2050 Long-Term Strategy.” Accessed March 24, 2023. https://climate.ec.europa.eu/eu-action/climate-strategies-targets/2050-long-term-strategy_en.
- Abortion Without Borders. “Abortion Without Borders.” Accessed April 13, 2023. <https://abortion.eu/>.
- “About Overview.” Accessed April 8, 2023. <https://www.40daysforlife.com/about-overview.aspx>.
- ADF International. “Challenging a Prayer Ban in Pforzheim, Germany.” Accessed April 11, 2023. <https://adfinternational.org/pavica/>.
- AidAccess. “Aid Access: Abortion Pills by Mail.” Accessed April 15, 2023. <https://aidaccess.org/en/>.
- Allemandou, Ségolène. “Women’s Rights under Threat: Europe’s Battle over Abortion.” FRANCE 24, August 21, 2018. <https://webdoc.france24.com/abortion-women-croatia-malta-germany/>.
- Arjomand, Minou. “In Weimar Germany, Women Fought for Abortion Justice.” Jacobin, January 14, 2022. <https://jacobin.com/2022/01/abortion-choice-welfare-socialism-rights-1920s>.
- Barbarani, Sofia. “US Abortion Decision Forces Europe to Examine Its Laws.” Accessed March 31, 2023. <https://advance-lexis-com.ezproxy.trincoll.edu/document/?pdmfid=1516831&crid=9e0815b8-db98-4197-898b-0c2c07bfed77&pddocfullpath=%2Fshared%2Fdocument%2Fnews%2Furn%3AcontentItem%3A65V5-1DH1-F072-410Y-00000-00&pdcontentcomponentid=382507&pdteaserkey=sr39&pditab=allpods&ecomp=zznyk&earg=sr39&prid=50074df2-ba7c-4ca9-af4c-c4a326f27a2a>.
- Bateman, Jessica, Becca Andrews, Tori Otten, Jacob Silverman, María Inés Taracena, Ian Beacock, and Daniel Strauss. “U.S. Anti-Abortion Activists Are Spreading Clinic Protests Around the World.” *The New Republic*, January 9, 2023. <https://newrepublic.com/article/169587/us-anti-abortion-activists-spreading-clinic-protests-around-world>.
- Bateson, Ian. “German Election Demographics – DW – 09/10/2021.” dw.com, September 10, 2021. <https://www.dw.com/en/german-election-demographics-facts-and-figures/a-59143207>.
- Bayefsky, Anne F. “Factsheet No. 31: The Right to Health.” In *The UN Human Rights Treaty System in the 21 Century*, edited by Anne Bayefsky, 451–58. Brill | Nijhoff, 2008. https://doi.org/10.1163/9789004502758_044.
- Benford, Robert D., and David A. Snow. “Framing Processes and Social Movements: An Overview and Assessment.” *Annual Review of Sociology* 26 (2000): 611–39.
- Bruder, Jessica. “The Future of Abortion in a Post-Roe America.” *The Atlantic*, April 4, 2022. <https://www.theatlantic.com/magazine/archive/2022/05/roe-v-wade-overturn-abortion-rights/629366/>.
- Brysk, Alison, and Rujun Yang. “Abortion Rights Attitudes in Europe: Pro-Choice, Pro-Life, or Pro-Nation?” *Social Politics: International Studies in Gender, State & Society*, February 2, 2023. <https://academic.oup.com/sp/advance-article/doi/10.1093/sp/jxac047/7024648?searchresult=1>.

- Catholic News Agency. “Thousands Join March for Life in Berlin,” September 20, 2022. <https://www.catholicnewsagency.com/news/252337/thousands-join-march-for-life-in-berlin>.
- Center for Reproductive Rights. “Our Work.” Accessed February 28, 2023. <https://reproductiverights.org/our-work/>.
- Center for Reproductive Rights. “Safe and Legal Abortion Is a Woman’s Human Right,” October 2011. <https://reproductiverights.org/wp-content/uploads/2018/08/Safe-and-Legal-Abortion-is-a-Womans-Human-Right.pdf>.
- Center for Reproductive Rights. “Vo. v. France (European Court of Human Rights).” Accessed February 3, 2023. <https://reproductiverights.org/case/vo-v-france-european-court-of-human-rights/>.
- Christen Jones, Zoe. “World Leaders React to the U.S. Supreme Court’s Decision to Overturn Roe v. Wade.” CBS News, June 24, 2022. <https://www.cbsnews.com/news/supreme-court-roe-v-wade-abortion-rights-international-response/>.
- cne.news. “Dutch Politician Wants to Send Abortion Pills to Polish Women,” March 9, 2023. <https://cne.news/article/2703-dutch-politician-wants-to-send-abortion-pills-to-polish-women>.
- cne.news. “Germany’s Coalition Intends to Liberalise Abortion Legislation,” February 27, 2023. <https://cne.news/article/2637-germanys-coalition-intends-to-liberalise-abortion-legislation>.
- cne.news. “Germany’s Paragraph 218 on Abortion Risks Permanent Deletion,” February 14, 2023. <https://cne.news/article/2564-germanys-paragraph-218-on-abortion-risks-permanent-deletion>.
- cne.news. “March for Life Takes Place in Three German Cities.” Accessed April 11, 2023. <https://cne.news/article/2822-march-for-life-takes-place-in-three-german-cities>.
- cne.news. “Week of Life Caused Quite a Stir in the Netherlands,” November 15, 2021. <https://cne.news/article/274-week-of-life-caused-quite-a-stir-in-the-netherlands>.
- Comiteau, Lauren. “The Young and the Restless: First Time Voters in the Dutch Election - DutchNews.Nl.” Dutch News, March 16, 2021. <https://www.dutchnews.nl/features/2021/03/the-young-and-the-restless-first-time-voters-in-the-dutch-election/>.
- Committee on Economic, Social, and Cultural Rights. “General Comment No. 14: The Right to the Highest Attainable,” 2000. <https://www.refworld.org/pdfid/4538838d0.pdf>.
- “D and C Procedure: What It Involves, Recovery & More,” March 22, 2022. <https://www.medicalnewstoday.com/articles/d-and-c-procedure>.
- Darroch, Gordon. “Dutch Respond to Trump’s ‘gag Rule’ with International Safe Abortion Fund.” *The Guardian*, January 25, 2017, sec. Global development. <https://www.theguardian.com/global-development/2017/jan/25/netherlands-trump-gag-rule-international-safe-abortion-fund>.
- David, Henry P., Jochen Fleischhacker, and Charlotte Hohn. “Abortion and Eugenics in Nazi Germany.” *Population and Development Review* 14 (March 1988): 81–112. <https://doi.org/10.2307/1972501>.
- Dembour, Marie-Bénédict. “Critiques.” In *International Human Rights Law*, 4th ed., 43–62. Oxford University Press, 2022.

- Diamondstein, Megan. “Bans Off Our Bodies: Rally for Abortion Rights on May 14.” Center for Reproductive Rights, May 11, 2022. <https://reproductiverights.org/bans-off-our-bodies-rally-abortion-rights/>.
- Dobbs v. Jackson Women’s Health Organization, 597 US __ (2022).
- Doctors for Choice Germany. “Our Mission.” Accessed April 11, 2023. <https://doctorsforchoice.de/en/about/mission/>.
- DutchNews.nl. “Dutch Ministers Condemn Roe v Wade Decision, Say Safe Abortion Is a Right,” June 25, 2022. <https://www.dutchnews.nl/news/2022/06/dutch-ministers-condemn-roe-v-wade-decision-say-safe-abortion-is-a-right/>.
- dw.com. “Germany Proposes Scrapping Nazi-Era Abortion Law – DW – 01/17/2022.” Accessed April 10, 2023. <https://www.dw.com/en/germany-proposes-scrapping-nazi-era-abortion-law/a-60451517>.
- Eisenstadt v. Baird, 405 US 438 (1972).
- EURACTIV. “Dutch to Set up Global Abortion Support Fund to Counter Trump’s Cuts – EURACTIV.Com,” January 25, 2017. <https://www.euractiv.com/section/health-consumers/news/dutch-to-set-up-global-abortion-support-fund-to-counter-trumps-cuts/>.
- European Parliament. “Include the Right to Abortion in EU Charter of Fundamental Rights, Demand MEPs,” July 7, 2022. <https://www.europarl.europa.eu/news/en/press-room/20220701IPR34349/include-the-right-to-abortion-in-eu-charter-of-fundamental-rights-demand-meps>.
- Federal Statistical Office. “Female Parliamentary Representation: Germany Ranked 42th Globally.” Accessed February 27, 2023. https://www.destatis.de/EN/Themes/Countries-Regions/International-Statistics/Data-Topic/GeneralRegionalStatistics/women_share_in_parliaments.html.
- Feinberg, Joel. “Duties, Rights, and Claims.” In *Rights, Justice, and the Bounds of Liberty: Essays in Social Philosophy*, 130–42. Princeton University Press, 1981.
- Ferree, Myr Marx. “Resonance and Radicalism: Feminist Framing in the Abortion Debates of the United States and Germany.” *American Journal of Sociology* 109 (September 2003): 304–44. <https://doi.org/10.1086/378343>.
- Ferree, Myra Marx, William A. Gamson, Jü Gerhards, and Dieter Rucht. “Abortion Talk in Germany and the United States: Why Rights Explanations Are Wrong.” *Berkeley: American Sociological Association* 1, no. 2 (Summer 2002): 27–33. <https://doi.org/10.1525/ctx.2002.1.2.27>.
- FP2030. “The Netherlands,” May 18, 2022. <https://fp2030.org/netherlands>.
- Ganatra, MD, Bela, Caitlin Gerdts, PhD, Clémentine Rossier, PhD, Brooke Ronald Johnson Jr, PhD, Özge Tunçalp, MD, Anisa Assifi, MPH, Gilda Sedgh, ScD, et al. “Global, Regional, and Subregional Classification of Abortions by Safety, 2010–14: Estimates from a Bayesian Hierarchical Model - The Lancet.” Accessed January 6, 2023. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(17\)31794-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(17)31794-4/fulltext).
- “German Criminal Code (Strafgesetzbuch – StGB).” Accessed February 3, 2023. https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html.
- “Germany Abolishes Nazi-Era Abortion Law | Reuters.” Accessed February 3, 2023. <https://www.reuters.com/world/europe/germany-abolishes-nazi-era-abortion-law-2022-06-24/>.
- Germany Reignites Abortion Debate – DW*. Accessed April 10, 2023. <https://www.dw.com/en/germany-reignites-abortion-debate/video-46143652>.

- Gerretsen, Isabelle, Sarah Lazarus, and Yoonjung Seo. “Global Climate Strike: Meet the Teenagers Skipping School to Fight for a Greener Planet.” CNN, March 15, 2019. <https://www.cnn.com/2019/03/14/world/global-climate-strike-teenagers-school-walkout-greta-thunberg-intl/index.html>.
- Gerring, John. “What Is a Case Study and What Is It Good For?” *American Political Science Review* 98, no. 2 (May 2004): 341–54. <https://doi.org/10.1017/S0003055404001182>.
- “Get Married or Go Home.” *Slowburn*. Slate, June 1, 2022. <https://slate.com/podcasts/slowburn/s7/roe-v-wade/e1/shirley-wheeler-illegal-abortion-roe-v-wade>.
- Griswold v. Connecticut, 381 US 479 (1965).
- Guigni, Marco. “Political Opportunities: From Tilly to Tilly.” *Schwizerische Zeitschrift Für Politikwissenschaft* 15 (2009): 361–67.
- Henderson, Garnet. “Abortion Vans Are Now Meeting Patients Near Ban States.” *Cosmopolitan*, October 26, 2022. <https://www.cosmopolitan.com/lifestyle/a41429848/abortion-delivered-vans/>.
- Hermetet, Coen. “Dutch Cabinet Treats Abortion as a Human Right.” *cne.news*, September 2, 2023. <https://cne.news/article/2535-dutch-cabinet-treats-abortion-as-a-human-right>.
- “Home.” Accessed April 9, 2023. <https://laslibres.org/>.
- Horwitz, Rainey. “The Jane Collective (1969–1973) | The Embryo Project Encyclopedia.” *The Embryo Project Encyclopedia*, August 7, 2017. <https://embryo.asu.edu/pages/jane-collective-1969-1973>.
- Hull, N.E.H. and Peter Charles Hoffer. *Roe v. Wade: The Abortion Rights Controversy in American History*. 3rd Updated. University Press of Kansas, 2021.
- “In-Clinic Abortion Procedure | Abortion Methods.” Accessed April 5, 2023. <https://www.plannedparenthood.org/learn/abortion/in-clinic-abortion-procedures>.
- Innovating Education in Reproductive Health. “When Abortion Is Not Available.” Accessed April 13, 2023. <https://www.innovating-education.org/course/when-abortion-is-not-available/>.
- International Campaign for Women’s Right to Safe Abortion (SAWR). “International Campaign for Women’s Right to Safe Abortion (SAWR).” Accessed February 28, 2023. <https://www.safeabortionwomensright.org/>.
- International Idea Institute for Democracy and Electoral Assistance. “Gender Quotas Database: Netherlands.” Accessed February 27, 2023. <https://www.idea.int/data-tools/data/gender-quotas/country-view/227/35>.
- International Planned Parenthood Federation. “Pro Familia - Germany | IPPF.” Accessed April 11, 2023. <https://www.ippf.org/about-us/member-associations/germany>.
- Ipas. “About Us.” Accessed February 28, 2023. <https://www.ipas.org/about-us/>.
- Isailović, Ivana. “Dobbs in the EU: Not Just an American Story.” *Verfassungsblog*, August 19, 2022. <https://doi.org/10.17176/20220819-181647-0>.
- Johnson, Steven Ross. “Planned Parenthood CEO: ‘Abortion May Have Saved Democracy.’” *U.S. News and World Report*, November 16, 2022. <https://www.usnews.com/news/elections/articles/2022-11-16/planned-parenthood-ceo-abortion-may-have-saved-democracy>.
- Joseph, Sarah, and Barrie Sander. “Scope of Application.” In *International Human Rights Law*, 4th ed., 106–28. Oxford University Press, 2022.
- Kaufman, Risa, Rebecca Brown, Catalina Martínez Coral, Jihan Jacob, Martin Onyango, and Katrine Thomasen. “Global Impacts of Dobbs v. Jackson Women’s Health Organization

- and Abortion Regression in the United States.” *Sexual and Reproductive Health Matters* 30, no. 1 (n.d.): 2135574. <https://doi.org/10.1080/26410397.2022.2135574>.
- KCRA. “Politicians, Key Figures React to Supreme Court Overturning Roe v. Wade,” June 24, 2022. <https://www.kcra.com/article/supreme-court-overturning-roe-v-wade-reactions/40406582#>.
- Ketting, Evert, and Paul Schanbel. “Induced Abortion in the Netherlands: A Decade of Experience, 1970-80.” *Studies in Family Planning* 11 (December 1980): 385–94. <https://doi.org/10.2307/1965845>.
- Kingdon, John. “Wrapping Things Up.” In *Agendas, Alternatives, and Public Policies*. Pearson, 1995.
- Kornick, Lindsay. “‘Abortion Is Actually Going to Save Democracy’ by Mobilizing Voters, Planned Parenthood President Tells MSNBC.” Fox News, August 23, 2022. <https://www.foxnews.com/media/abortion-actually-going-save-democracy-mobilizing-voters-planned-parenthood-president-tells-msnbc>.
- Later Abortion Initiative. “The Safety of Later Abortion | Later Abortion Initiative.” Accessed April 24, 2023. <https://laterabortion.org/safety-later-abortion>.
- LeBlanc, Paul. “Meet the Group Protecting Patients from Protesters Outside Abortion Clinics | CNN Politics.” CNN, January 11, 2023. <https://www.cnn.com/2023/01/11/politics/planned-parenthood-volunteer-escorts-abortion-what-matters/index.html>.
- Leeson, Sofia Stuart. “Dutch Party Wants Abortion to Be a Human Right across Europe.” EURACTIV, November 14, 2022. <https://www.euractiv.com/section/politics/news/dutch-party-wants-abortion-to-be-a-human-right-across-europe/>.
- Lewkowitz, Adam, and Nina Ayala. “How Fetal Viability Is Misunderstood.” Time Magazine. Accessed February 3, 2023. <https://time.com/6196775/fetus-prioritized-before-pregnancy-viable/>.
- “Life or Death.” *Slowburn*. Slate, June 8, 2022. <https://slate.com/podcasts/slow-burn/s7/roe-v-wade/e2/jack-barbara-willke-anti-abortion-activism-pro-life-movement>.
- Loanes, Ellen. “Dobbs Didn’t End the Anti-Abortion Movement.” Vox, January 21, 2023. <https://www.vox.com/policy-and-politics/2023/1/21/23564710/dobbs-anti-abortion-movement-roe-wade>.
- Ma Ma Cash. “ANA Helps Women from Abroad to Have an Abortion in the Netherlands – MamaCash.” Accessed April 15, 2023. <https://www.mamacash.org/en/ana-helps-women-from-abroad-to-have-an-abortion-in-the-netherlands>.
- Medical Students for Choice. “Our Mission and Values.” Accessed April 10, 2023. <https://msfc.org/about-us/mission-and-values/>.
- Middelburg, Annemarie. “Pro-Choice Demonstration in Utrecht.” Right to Rise, November 17, 2019. <https://www.right-to-rise.com/post/pro-choice-demonstration-in-utrecht>.
- “Mill’s Methods | Logic | Britannica,” March 15, 2023. <https://www.britannica.com/topic/Mills-methods>.
- Mitchell, Travis. “America’s Abortion Quandary.” *Pew Research Center’s Religion & Public Life Project* (blog), May 6, 2022. <https://www.pewresearch.org/religion/2022/05/06/americas-abortion-quandary/>.
- Moeckli, Daniel. “Equality and Non-Discrimination.” In *International Human Rights Law*, 4th ed., 151–68. Oxford University Press, 2022.

Mullery, Annette Choi, Will. “How Safe Is the Abortion Pill Compared with Other Common Drugs.” CNN, March 15, 2023. <https://www.cnn.com/2023/03/15/health/abortion-pill-safety-dg/index.html>.

NARAL Pro-Choice America. “The Insidious Power of the Anti-Choice Movement.” Accessed April 15, 2023. <https://www.prochoiceamerica.org/report/insidious-power-anti-choice-movement/>.

NL Times. “‘Abortion Buddies’ to Help Pregnant Women as Protesters Get More Intimidating | NL Times,” March 2, 2020. <https://nltimes.nl/2020/03/02/abortion-buddies-help-pregnant-women-protesters-get-intimidating>.

NL Times. “Politicians Line up to Fight Anti-Abortion, Anti-Choice Campaigners,” June 12, 2019. <https://nltimes.nl/2019/06/12/politicians-line-fight-anti-abortion-anti-choice-campaigners>.

Noor, Khairul Baharein. “Case Study: A Strategic Research Methodology.” *American Journal of Applied Sciences* 5 (November 1, 2008). <https://doi.org/10.3844/ajassp.2008.1602.1604>.

Organization of American States. “American Convention on Human Rights: Signatories and Ratifications.” Accessed February 19, 2023. https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights_sign.htm.

Patashnik, Eric. “After the Public Interest Prevails: The Political Sustainability of Policy Reform.” *Governance* 16, no. 2 (2003): 203–34. <https://doi.org/10.1111/1468-0491.00214>.

“Penumbra Law and Legal Definition | USLegal, Inc.” Accessed April 13, 2021. <https://definitions.uslegal.com/p/penumbra/>.

Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 US 833 (1992).

Râker, Cara. “Dutch Protests for Abortion Rights: What’s It All about? | DutchReview.” Dutch Review, May 9, 2022. <https://dutchreview.com/news/protests-for-abortion-rights-whats-it-all-about/>.

Rankin, Lauren. “What It’s Like to Be an Abortion Clinic Escort.” Time, April 5, 2022. <https://time.com/6163613/abortion-clinic-escorts/>.

Ravitz, Jessica. “Reasons a Woman May Not Know She’s Pregnant at Six Weeks.” CNN, May 9, 2019. <https://www.cnn.com/2019/05/09/health/pregnancy-at-six-weeks/index.html>.

Reichel, Chloe. “The Leaked Dobbs Opinion, Explained.” Bill of Health, May 24, 2022. <https://blog.petrieflom.law.harvard.edu/2022/05/24/the-leaked-dobbs-opinion-explained/>.

“Religion in Germany.” In *Wikipedia*, April 27, 2023. https://en.wikipedia.org/w/index.php?title=Religion_in_Germany&oldid=1151981655.

Right to Life of Holland Area. “About | Right to Life of Holland.” Accessed April 11, 2023. <https://rtlofholland.org/about/>.

Rodrigues, Michelle. “The Absurd Pregnancy Math behind the Six-Week Abortion Ban.” *Scientific American*. Accessed January 6, 2023. <https://www.scientificamerican.com/article/the-absurd-pregnancy-math-behind-the-six-week-abortion-ban/>.

Roe v. Wade, 410 US 113 (1973).

Rutgers. “End of Five-Day Legal Reflection Period for Abortion in the Netherlands,” June 21, 2022. <https://rutgers.international/news/end-of-five-day-legal-reflection-period-for-abortion-in-the-netherlands/>.

Salas, Erick Burgueño. “Netherlands: Opinions on Role Humanity in Global Warming, by Political Party 2019.” Statista. Accessed March 24, 2023.

- <https://www.statista.com/statistics/882532/opinions-on-role-humanity-in-global-warming-in-the-netherlands-by-political-party/>.
- Schultheis, Emily. “Germany’s Cabinet Approves Revision to Nazi-Era Abortion Law.” *The Guardian*, February 6, 2019, sec. World news. <https://www.theguardian.com/world/2019/feb/06/germany-cabinet-approve-revision-nazi-era-abortion-law-paragraph-219a-doctor-advertising-ban>.
- Schumacher, Elizabeth. “Germany Moves to Reform Abortion Law.” *dw.com*, June 24, 2022. <https://www.dw.com/en/germany-moves-to-reform-abortion-law/a-62014740>.
- Sengupta, Somini. “Greta Thunberg, on Tour in America, Offers an Unvarnished View.” *The New York Times*, September 18, 2019, sec. Climate. <https://www.nytimes.com/2019/09/18/climate/greta-thunberg.html>.
- Silverman, Ellie, Lizzie Johnson, Perry Stein, and Peter Jamison. “Abortion Protests in DC, LA, NYC, Chicago Erupt as Roe v. Wade Falls.” *Washington Post*, June 24, 2022. <https://www.washingtonpost.com/dc-md-va/2022/06/24/supreme-court-abortion-protests-roe/>.
- Solanki, Mina. “‘Abortion Buddies’ to Help Women Past Protestors.” *IamExpat*, March 4, 2020. <https://www.iamexpat.nl/expat-info/dutch-expat-news/abortion-buddies-help-women-past-protestors>.
- Stenert, Jonathan. “Are Vigils against Abortions the Right Means to Save Lives?” *cne.news*, February 28, 2023. <https://cne.news/article/2654-are-vigils-against-abortions-the-right-means-to-save-lives>.
- Taladrid, Stephania. “The Post-Roe Abortion Underground.” *The New Yorker*, October 10, 2022. <https://www.newyorker.com/magazine/2022/10/17/the-post-roe-abortion-underground>.
- Talbot, Margaret. “The Study That Debunks Most Anti-Abortion Arguments.” *The New Yorker*. Accessed February 3, 2023. <https://www.newyorker.com/books/under-review/the-study-that-debunks-most-anti-abortion-arguments>.
- TFP.org. “The Growing March for Life in the Netherlands: A Symbol of Hope.” *The American TFP*, December 29, 2017. <https://www.tfp.org/growing-march-life-netherlands-symbol-hope/>.
- Thompson, Clara S. “What Germany’s Climate Movement Got Right: Breaking Rules.” *Al Jazeera*, January 20, 2022. <https://www.aljazeera.com/opinions/2022/1/20/what-germanys-climate-movement-got-right-breaking-rules>.
- Tilly, Charles, and Sidney Tarrow. *Contentious Politics*. 2nd ed. Oxford University Press, 2015.
- Tyson, Alex, Brian Kennedy, and Cary Funk. “Gen Z, Millennials Stand Out for Climate Change Activism, Social Media Engagement With Issue.” *Pew Research Center Science & Society* (blog), May 26, 2021. <https://www.pewresearch.org/science/2021/05/26/gen-z-millennials-stand-out-for-climate-change-activism-social-media-engagement-with-issue/>.
- United Nations High Commissioner for Refugees. “Refworld | CCPR General Comment No. 28: Article 3 (The Equality of Rights Between Men and Women).” *Refworld*. Accessed April 27, 2023. <https://www.refworld.org/docid/45139c9b4.html>.
- . “Refworld | International Covenant on Economic, Social and Cultural Rights.” *Refworld*. Accessed April 27, 2023. <https://www.refworld.org/docid/3ae6b36c0.html>.
- United Nations Human Rights Treaty Bodies. “UN Treaty Body Database.” Accessed February 19, 2023. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CCPR&Lang=en.

- “United Nations Treaty Collection: 3. International Covenant on Economic, Social, and Cultural Rights.” Accessed February 3, 2023. https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4.
- “United Nations Treaty Collection: 8. Convention on the Elimination of All Forms of Discrimination against Women.” Accessed February 3, 2023. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=en.
- United States Senate. “U.S. Senate: Women in the Senate.” Accessed February 27, 2023. <https://www.senate.gov/reference/Index/Women.htm>.
- Whittle, Helen. “German Abortion Clinics Targeted by US-Style Protests – DW – 03/04/2023.” dw.com, March 4, 2023. <https://www.dw.com/en/german-abortion-clinics-targeted-by-us-style-protests/a-64877764>.
- Whole Women’s Health v. Hellerstedt, 579 US_ (2016).
- “Why Is Abortion Penalized in the Dutch Criminal Code? | Erasmus University Rotterdam.” Accessed February 3, 2023. <https://www.eur.nl/en/news/why-abortion-penalized-dutch-criminal-code>.
- Wise, Cat, Frank Carlson, and Mary Fecteau. “How Anti-Abortion Activists Laid the Groundwork for Rollback of Roe v. Wade.” PBS NewsHour, June 16, 2022. <https://www.pbs.org/newshour/show/how-anti-abortion-activists-laid-the-groundwork-for-rollback-of-roe-v-wade>.
- Women on Waves. “Who Are We?” Accessed February 3, 2023. <https://www.womenonwaves.org/en/page/650/who-are-we>.
- “Women vs. Connecticut.” *Slowburn*. Slate, June 15, 2022. <https://slate.com/podcasts/slow-burn/s7/roe-v-wade/e3/women-vs-connecticut-abortion-lawsuit-roe-v-wade-abele-v-markle>.
- World Health Organization. “Abortion.” Accessed January 6, 2023. <https://www.who.int/news-room/fact-sheets/detail/abortion>.
- Young, Katharine G. “Rights and Obligations.” In *International Human Rights Law*, 4th ed., 129–48. Oxford University Press, 2022.
- Zernike, Kate. “The Gender Gap in the Abortion Debate.” *The New York Times*, November 7, 2022, sec. U.S. <https://www.nytimes.com/2022/11/07/us/abortion-midterms-voters-men.html>.