



## Steady Progress in Countering the Evil of Abortion

Americans appalled by the casual slaughter of unborn children since the 1973 U.S. Supreme Court decision in *Roe v. Wade* can take heart from a string of quiet victories in recent years. Public opposition to abortion has steadily risen, especially among the youth; the abortion rate continues its long-term decline; and in the last decade state after state has enacted laws that restrict late-term abortions, regulate medical aspects of abortion procedures, require waiting periods and disclosures of fetal development, and provide alternative counseling for those seeking to terminate pregnancies. While far from a complete victory for pro-life activists, these successes with the American public and in state legislatures are heartening. The campaign against abortion imparts a lesson of how ideas based on morality, and not just false social justice sentiment, can prevail in the public arena.

### Shifting Public Opinion

Polling on abortion can be extremely misleading, depending on how the questions are asked. In 1973, most Americans identified themselves as pro-abortion. As late as 1995, only 33 percent of Americans identified themselves as pro-life.

By 2009, however, Gallup found that 51 percent identified themselves as pro-life, two percent more than those identifying themselves as pro-choice.

The trend toward pro-life positions carries over into politics. Rasmussen polling revealed that in 2014 that 46 percent of adults were likely to vote pro-life, while only 43 percent were likely to vote pro-choice. While these numbers suggest a divided electorate on the abortion issue, the trend has been toward pro-life positions. Surveys show that many Americans still support abortion when a woman's health is in danger, a pregnancy results from rape, or fetal testing indicates serious physical defects. Support for an abortion, however, when a family is too poor, a married woman does not want more children, or a woman wants an abortion for "any reason" has declined precipitously (<http://www.norc.org/PDFs/GSS%20Reports/Trends%20m%20>).

org/PDFs/GSS%20Reports/Trends%20m%20). Polls conducted by Quinnipiac and subsequently the *Washington Post* in 2013 showed that men and women supported laws restricting abortion after 22 weeks of gestation. Particularly encouraging for the pro-life side, and disappointing for pro-abortion advocates in the American Civil Liberties Union and Planned Parenthood, was that these polls showed a consistently higher percentage of women (60 percent) over men (51 percent) supporting a ban on late-term abortions.

Not only have pro-life opinions increased since 1973. A growing number of students are actively involved in the pro-life movement. The Students for Life of America (SFLA) is found on 800 campuses across the country and in 2013 its annual conference drew 2,000 students. The March for Life held in Washington, DC every January has become the largest pro-life demonstration in the nation.

The importance of pro-life social activists in changing public opinion should not be underestimated. Once dismissed as cranks and extremists, anti-women and unconcerned about the poor, pro-life activists carried on, confident that they would some day prevail. Activists saw themselves as much like the antebellum abolitionists who likewise once faced a hostile public and a ferocious opposition.

### How Did the Pro-Life Shift Occur?

Lorne Snyder, a pro-life activist for the Alliance Defending Freedom, makes an intriguing argument that new technology, including biomedical research and social media, have been critical to the success of the anti-abortion movement (<http://repository.asu.edu/items/26675>). In an honors thesis written in 2013, she explains how the pro-life movement took advantage of Internet search engines and social media such as Google, Facebook and Twitter, as well as medical advances in understanding fetal development, to show that a fetus is more than just a "clump of cells." Medical advances in technology conveyed a new understanding of fetal development to the larger American public (see, e.g., Kohei Shiota, "Advances in the Study of Fetal Development,"

*Journal of Ultrasound in Obstetrics and Gynecology*, 2012). Ultrasound, computerized topography (CTS) and magnetic resonance imaging (MRI) revealed how a fetus develops stage by stage. Images of a fetus sucking his thumb could not help but move the general public in a way that earlier images of aborted fetuses, used by pro-life activists in the 1970s, could not. These images challenged the central argument by advocates of late-term abortions that a fetus was not actually human.

## Fetal Images Change Minds

Medical research indicated, moreover, that a human fetus displays signs of pain as early as the second trimester of pregnancy. Although studies showing pain at 18 to 20 weeks' gestation were disputed by some researchers, images of fetuses apparently reacting to pain were spread across the Internet by anti-abortion activists. These imaging tools allowed the public to witness firsthand fetal development, including the formation of eyes, mouth, hands and tongue by week 7; the development of vital organs at 8 weeks; swallowing, sucking and yawning at 9 weeks; and hearing and sex organs apparent at 20 weeks. The development of the World Wide Web in the early 1990s, the Google search engine in the late 1990s, Facebook in 2004 and YouTube in 2005 disseminated a new image of the human fetus to millions of people.

At the same time, pro-life organizations created their own websites that reached beyond newsletters or mass mailings. A computer user conducting a search under "abortion" will encounter not only Planned Parenthood or an abortion clinic but also an array of pro-life organizations. With approximately 70,000 searches every day of the topic of abortion, Snyder observes, the pro-life movement began reaching an audience that it could not reach in the past.

Pro-life activist organizations and individuals offered information, opinion and mobilization through the Internet. Through Facebook, pro-life organizations such as Live Action gained over 679,000 followers, acquiring 1,000 "likes" for nearly every post. Students for Life, reaching a smaller, more engaged audience, drew 70,000 followers. Pro-life organizations began to actively use Twitter. The advance of smartphones enabled pro-life activists to reach a younger audience. No longer was the pro-life movement restricted to church or a middle-aged audience. YouTube now hosts more than 5,170,000 pro-life videos. Help for women facing crisis pregnancies is easier than ever to find.

## Translating Public Opinion to Politics

The pro-life social media campaign helped shift public opinion on abortion, especially among the youth. Although the public remains divided on legalized abortion, broadly defined, there has been a definite change

in opinion on restricting legal abortions. This is most apparent in the younger generation. When Gallup first started polling on this issue in the early 1970s, it found adults aged 18 to 29, and aged 30 to 40, were most supportive of legal abortion under any circumstances. These early Gallup polls found a sharp generational divide on the issue. Those aged 65 and older were the most opposed to abortion under any circumstances. The 50- to 64-year-olds fell in between the young and older generations. This pattern held through the late 1990s, and then started to change. Support for abortion under all circumstances began to decline. By 2009, the majority of all age groups agreed that abortion should be restricted. No longer did most Americans accept that abortion should be allowed because a woman could not afford a child, did not want more children, or wanted a boy and not a girl ([www.gallup.com/poll/126581/generational-differences-abortion](http://www.gallup.com/poll/126581/generational-differences-abortion)).

Moreover, Gallup polling revealed that young adults were slightly more likely than all other age groups, including those over 65 years of age, to say that abortion should be *illegal* in all circumstances. By 2009, 23 percent of young adults believed that abortion should be illegal in all circumstances. This compared to 21 percent of 65 years and older who shared this belief. Even more shocking for abortion advocates was that Gallup showed that across the board in every age category, the majority of Americans believed that abortion should be legal only under certain circumstances (18 to 29 years old, 51 percent; 30-49 years old, 53 percent; 50 to 64 years old, 55 percent, and 65 and older, 59 percent). Those identifying themselves as "pro-life" increased significantly and now held a majority opinion, 50 percent to 41 percent, a record for the pro-life position. The dramatic nature of this change is readily apparent in a Gallup poll conducted in 1995 showing that the "pro-choice" label held a 23-point margin, 56 percent to 35 percent.

What happened to change attitudes toward abortion? Social media and social activism played a role, but the debate over "partial-birth" abortion galvanized the public. The decline in high-profile anti-abortion violence helped temper people's views toward pro-life activism. The acceptance of adoption in our culture also encouraged consideration of the abortion issue. These and other factors contributed to "humanize" the unborn child.

Women carrying a child now have greater choices as to whether to abort a child or carry it to term. Typical in this regard was Whitney Talbott, a 20-year-old college student from Dublin, Ohio who thought of having an abortion when she became pregnant in 2014. She was thinking of having an abortion—even though she considered herself "pro-life"—until she was shown a sonogram of her 8-week-old

fetus. “I had gotten it into my head,” she told a reporter from the *Columbus Dispatch*, “that there was no way I can do this. There was no way I could tell my family. It wasn’t until the nurse gave me a pamphlet, and she showed me a picture of what the fetus looked like around the time I was estimated. The second she showed me that picture, that was when I sort of woke up and thought, OK. This isn’t about me. I had lost a grasp that there was a life inside of me and that sort of put things back into perspective for me.” With her family’s support, she went through with her pregnancy (“‘Pro-Life’ Position Gaining Support,” *Columbus Dispatch*, April 3, 2015).

In addition, the horrifying case of Kermit Gosnell, the Pennsylvania abortionist convicted in 2013 of murdering infants born alive during late-term abortions performed in grossly substandard conditions long ignored by regulators, aroused widespread indignation and drove home the need for tighter state regulation of abortion.

## Effective State Legislation

Changing attitudes on abortion became reflected in state legislation. Beginning in 2010, as Republicans increasingly won election to state offices, states began to restrict access to abortion and defund pro-abortion family planning programs. By 2014, as the pro-choice Guttmacher Institute reported, “Abortion access has changed dramatically. The debate at the federal level affected what happened at the state level, and accessing abortion is much more difficult in 2014 than it was in 2009” (“It’s Not Just Hobby Lobby: The Pro-life Movement is Winning,” <http://www.vox.com/2014/7/2/5861224>). The Guttmacher Institute estimates that more pro-life bills passed in the last three years than in the previous decade.

Prior to 2010, Republicans controlled the legislature and governor’s seat in only nine states. Following the 2010 midterms, Republicans gained control of both the legislature and the governor’s office in 21 states. The enactment of the Affordable Care Act (Obamacare) galvanized conservatives and sparked a national fight over federally funded abortion. In response, state legislatures began enacting legislation to restrict abortions. Between 2011 and 2013, states enacted 205 abortion restrictions. These restrictions took various forms, many of them leading to challenges in the courts. Twenty-five states now limit abortion coverage through the Affordable Care Act insurance markets.

In Texas, for example, legislation was enacted requiring physicians performing abortions to have admitting privileges in local hospitals. Five other states moved to restrict funding to family planning providers, specifically Planned Parenthood. The state of New Hampshire cut its

family planning budget by 57 percent and Texas reduced its spending by two-thirds. Montana killed funding for family planning altogether. Measures were enacted to increase waiting periods, require alternative information about abortion, impose health codes on abortion clinics, limit abortions after 20 weeks’ gestation and so forth.

Faced with a pro-life tide sweeping the states, pro-abortion activists fought back. They relied on Democratic governors to veto legislation, and when they could not win in the political arena they moved to their favorite battlefield: the courts.

Missouri, as has often been the case, became a testing ground. When the Republican-controlled legislature in this swing state passed a bill in 2014 tripling the state’s mandatory waiting period before an abortion to 72 hours, even in the cases of rape and incest, Democratic governor Jay Nixon vetoed the bill, but it was overridden by the legislature. He took special umbrage in the measure’s requirement that doctors present the woman with materials about fetal pain and an image and audio of the heartbeat from her ultrasound.

## One Clinic Left in Missouri

Various legislative restrictions on abortion in Missouri have succeeded in whittling down the number of abortion clinics in that state to only one. Particularly effective is a 2005 law requiring an abortion doctor to have admitting privileges at a hospital within 30 miles of the abortion clinic. A similar “30-mile rule” was subsequently passed in several other states where legal challenges are pending.

The U.S. Supreme Court’s 1989 decision in *Webster v. Reproductive Health Services* upheld a law that imposed restrictions on the use of state funds, facilities and employees in performing, assisting with or counseling on abortions, provided it did not place an “undue burden” on women. When announced, the *Webster* decision caused feminists and their allies to wail that their constitutional liberties were being restricted. Three decades later they found in the decision an instrument to challenge state legislation as placing an “undue burden” on women. Judges have blocked enforcement of recent legislation regulating abortion in Wisconsin, Mississippi, Alabama and Oklahoma. In 2014, a U.S. Court of Appeals struck down a North Carolina law requiring doctors to present an ultrasound to women requesting an abortion.

Nevertheless, the Supreme Court’s 2007 decision in *Gonzales v. Carhart*, which upheld the federal ban on partial-birth abortion, indicated a more deferential attitude toward state regulations on abortion and there is reason to expect that at least some of the new state restrictions will survive judicial scrutiny. Legislative bans on abortion after 20 weeks of gestation, adopted by some 13 states and challenged only in

Arizona, present appealing arguments based on evidence of fetal pain and increased risks to maternal health resulting from late-term abortions, according to Clark D. Forsythe, senior counsel to Americans United for Life.

## Failed 'War on Women' Strategy

Pro-abortion activists are having a harder time pushing their agenda since the 2014 midterm elections. They were convinced that Obama's 2012 presidential strategy of attacking Romney for being a spokesman for a "war on women" would play equally well in the midterms. The Obama campaign won the female vote handily in 2008 and 2012. Although married women went Republican in 2012, single women and minority women widened the "gender gap" for Republicans.

To set the stage for the campaign in the 2014 midterms, Democrats in Congress demanded reauthorization of the Violence against Women Act, passage of a Pay Equity Act, and increased federal funding for Planned Parenthood. Democrats insisted that women be given unlimited access to free contraception and denounced the June 2014 Supreme Court decision in the *Hobby Lobby* case on the Obamacare contraceptive mandate.

Democrats put together what looked like a strong lineup. In North Carolina, a state won by Obama in 2012, Democrats nominated Kay Hagan for Senate; Michelle Nunn, the daughter of the popular former Senator Sam Nunn, stepped forward to run for Senate in Georgia; and Republicans had hopes in Kentucky when they nominated Alison Lundergan Grimes. Democrats believed that the war on women theme would work even against the female Republican nominee for the U.S. Senate race in Iowa, Joni Ernst. The war against women theme was used in the Colorado Senate race by

incumbent Mark Udall, so much so that his opponents began calling him "Senator Uterus." The war on women became the centerpiece in the Texas gubernatorial election with Democratic candidate Wendy Davis, who had gained national fame and a flood of outside money for her unsuccessful filibuster against a restrictive Texas abortion bill which is expected to close many abortion clinics. Even in the deep blue state of Maryland, the governor's race focused on gender issues. In the end, the Democratic strategy failed and Republicans made large gains in the November 2014 elections.

Whether Republicans can replicate their success in the 2016 presidential election remains to be seen. In any case, pro-life conservatives are making progress in persuading the public and limiting abortions. The U.S. abortion rate has declined dramatically (more than 42 percent) since 1981 and decreased by 5 percent from 2010 to 2011 alone, according to data from the Guttmacher Institute and the Centers for Disease Control. These trends should be encouraging to those who have labored since 1973 to convince Americans that the right to be born is the mother of all human rights.

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