

# Abortion

# Contents

<b>1</b>	<b>Abortion</b>	<b>1</b>
1.1	Types . . . . .	1
1.1.1	Induced . . . . .	1
1.1.2	Spontaneous . . . . .	1
1.2	Methods . . . . .	2
1.2.1	Medical . . . . .	2
1.2.2	Surgical . . . . .	2
1.2.3	Labor induction abortion . . . . .	3
1.2.4	Other methods . . . . .	3
1.3	Safety . . . . .	3
1.3.1	Mental health . . . . .	4
1.3.2	Unsafe abortion . . . . .	4
1.4	Incidence . . . . .	5
1.4.1	Gestational age and method . . . . .	5
1.5	Motivation . . . . .	6
1.5.1	Personal . . . . .	6
1.5.2	Societal . . . . .	6
1.5.3	Maternal and fetal health . . . . .	6
1.6	History . . . . .	7
1.7	Society and culture . . . . .	8
1.7.1	Abortion debate . . . . .	8
1.7.2	Modern abortion law . . . . .	8
1.7.3	Sex-selective abortion . . . . .	9
1.7.4	Anti-abortion violence . . . . .	9
1.8	Other animals . . . . .	10
1.9	References . . . . .	10
1.9.1	Citations . . . . .	10
1.9.2	Notes . . . . .	17
1.10	External links . . . . .	20
<b>2</b>	<b>History of abortion</b>	<b>21</b>
2.1	Premodern era . . . . .	21
2.1.1	Greco-Roman world . . . . .	22

2.1.2	Natural abortifacients . . . . .	23
2.1.3	Attitudes towards abortion . . . . .	23
2.2	Modern era . . . . .	24
2.2.1	Criminalization . . . . .	24
2.2.2	Abortion methods . . . . .	25
2.2.3	Advertising for abortifacients and abortion services . . . . .	26
2.2.4	Abortion law reform campaign . . . . .	28
2.2.5	Liberalization of abortion law . . . . .	29
2.2.6	Development of contemporary abortion methods . . . . .	30
2.3	Abortion around the world . . . . .	31
2.3.1	China . . . . .	31
2.3.2	India . . . . .	31
2.3.3	Japan . . . . .	31
2.3.4	Romania . . . . .	32
2.3.5	Thailand . . . . .	32
2.4	See also . . . . .	32
2.5	References . . . . .	32
2.6	Further reading . . . . .	36
2.7	External links . . . . .	36
<b>3</b>	<b>Abortion debate</b>	<b>37</b>
3.1	Overview . . . . .	37
3.2	Terminology . . . . .	37
3.3	Political debate . . . . .	38
3.3.1	Privacy . . . . .	38
3.3.2	U.S. judicial involvement . . . . .	38
3.3.3	Canadian judicial involvement . . . . .	39
3.3.4	Effects of legalization/illegalization . . . . .	40
3.3.5	Anti-abortion violence . . . . .	40
3.4	Moral issues . . . . .	40
3.4.1	Personhood . . . . .	40
3.4.2	Related issues . . . . .	41
3.4.3	Arguments for abortion rights which do not depend on fetal non-personhood . . . . .	42
3.4.4	Arguments against the right to abortion . . . . .	43
3.4.5	Other factors . . . . .	44
3.5	See also . . . . .	45
3.6	Notes . . . . .	45
3.7	References . . . . .	49
3.8	External links . . . . .	50
<b>4</b>	<b>Abortion law</b>	<b>51</b>
4.1	History . . . . .	51

4.2	International law . . . . .	52
4.3	National laws . . . . .	52
4.3.1	Europe . . . . .	52
4.4	Exceptions in abortion law . . . . .	53
4.5	Case law . . . . .	54
4.6	See also . . . . .	54
4.7	Notes . . . . .	54
4.8	References . . . . .	55
4.9	External links . . . . .	55
<b>5</b>	<b>History of abortion law debate</b>	<b>56</b>
5.1	Ancient Sources . . . . .	56
5.1.1	Social Considerations . . . . .	56
5.1.2	Religious and Philosophic Considerations . . . . .	57
5.1.3	Hippocratic Oath . . . . .	57
5.2	Legal Opinions . . . . .	57
5.2.1	Religious Law . . . . .	58
5.2.2	Secular Law . . . . .	58
5.3	Modern Codification . . . . .	59
5.4	References . . . . .	59
<b>6</b>	<b>Abortion in the United States</b>	<b>62</b>
6.1	Terminology . . . . .	62
6.2	History . . . . .	62
6.2.1	Pre-1960s . . . . .	62
6.2.2	Pre- <i>Roe</i> precedents . . . . .	63
6.2.3	<i>Roe v. Wade</i> . . . . .	64
6.2.4	Later judicial decisions . . . . .	65
6.3	Current legal situation . . . . .	65
6.3.1	Federal legislation . . . . .	65
6.3.2	State-by-state legal status . . . . .	66
6.4	Qualifying requirements for abortion providers . . . . .	67
6.5	Statistics . . . . .	67
6.5.1	Number of abortions in United States . . . . .	67
6.5.2	Medical abortions . . . . .	68
6.5.3	Abortions and ethnicity . . . . .	68
6.5.4	Reasons for abortions . . . . .	68
6.5.5	When women have abortions (by gestational age) . . . . .	69
6.5.6	Death . . . . .	69
6.6	Public opinion . . . . .	69
6.6.1	By gender, age, party, and region . . . . .	69
6.6.2	By trimester of pregnancy . . . . .	70

6.6.3	By circumstance or reasons . . . . .	70
6.6.4	Additional polls . . . . .	70
6.6.5	Partial birth abortion . . . . .	71
6.7	Abortion financing . . . . .	71
6.7.1	Medicaid . . . . .	71
6.7.2	Private insurance . . . . .	72
6.8	Positions of U.S. political parties . . . . .	72
6.8.1	Republican Party . . . . .	72
6.8.2	Democratic Party . . . . .	73
6.9	Effects of legalization . . . . .	74
6.10	See also . . . . .	74
6.11	Notes and references . . . . .	74
6.12	External links . . . . .	78
<b>7</b>	<b>Sex-selective abortion</b>	<b>79</b>
7.1	Human sex ratio at birth . . . . .	79
7.1.1	High or low human sex ratio implies sex-selective abortion . . . . .	79
7.1.2	High or low human sex ratio may be natural . . . . .	80
7.1.3	Data on human sex ratio at birth . . . . .	80
7.1.4	Data reliability . . . . .	81
7.2	Prenatal sex discernment . . . . .	81
7.3	Prevalence of sex-selective abortion . . . . .	81
7.3.1	Caucasus . . . . .	81
7.3.2	China . . . . .	82
7.3.3	India . . . . .	83
7.3.4	Southeast Europe . . . . .	84
7.3.5	United States . . . . .	84
7.3.6	Other countries . . . . .	85
7.3.7	Estimates of missing women . . . . .	85
7.4	Reasons for sex-selective abortion . . . . .	85
7.4.1	Cultural preference . . . . .	85
7.4.2	Disparate gendered access to resources . . . . .	86
7.4.3	One-child policy . . . . .	86
7.4.4	Trivers–Willard hypothesis . . . . .	87
7.5	Societal effects . . . . .	87
7.5.1	Missing women . . . . .	87
7.5.2	Trafficking and sex work . . . . .	87
7.5.3	Widening of the gender social gap . . . . .	87
7.5.4	Potential positive effects . . . . .	87
7.6	Sex-selective abortion in the context of abortion . . . . .	88
7.7	Laws and initiatives against sex-selective abortion . . . . .	88
7.7.1	Laws . . . . .	88

7.7.2	Media and policy initiatives . . . . .	88
7.8	See also . . . . .	89
7.9	References . . . . .	89
7.10	External links . . . . .	94
<b>8</b>	<b>Anti-abortion violence</b>	<b>95</b>
8.1	Definition and characteristics . . . . .	95
8.2	By country . . . . .	95
8.2.1	United States . . . . .	95
8.2.2	Australia . . . . .	98
8.2.3	Canada . . . . .	98
8.2.4	New Zealand . . . . .	99
8.3	Specific incidents . . . . .	99
8.3.1	Violence by Army of God . . . . .	99
8.3.2	Physician “wanted” posters . . . . .	99
8.4	Reactions . . . . .	99
8.4.1	Anti-abortion reactions . . . . .	99
8.4.2	Abortion rights supporters’ reactions . . . . .	100
8.5	Media depictions of Anti-abortion violence . . . . .	100
8.6	See also . . . . .	101
8.7	References . . . . .	101
8.7.1	Article . . . . .	101
8.7.2	List of incidents by country . . . . .	103
8.7.3	Media depictions . . . . .	104
8.8	External links . . . . .	104
<b>9</b>	<b>Abortion-rights movements</b>	<b>105</b>
9.1	Terminology . . . . .	105
9.2	Early history . . . . .	105
9.2.1	Britain . . . . .	105
9.2.2	United States . . . . .	107
9.3	Around the world . . . . .	107
9.3.1	Africa . . . . .	107
9.3.2	Ireland . . . . .	108
9.3.3	United Kingdom . . . . .	108
9.3.4	Iran . . . . .	108
9.3.5	United States . . . . .	108
9.3.6	Japan . . . . .	108
9.4	See also . . . . .	108
9.5	References . . . . .	108
9.6	External links . . . . .	109

<b>10 Anti-abortion movements</b>	<b>110</b>
10.1 Terminology . . . . .	110
10.2 Philosophical and legal arguments . . . . .	110
10.3 Movements by country . . . . .	110
10.3.1 Europe . . . . .	110
10.3.2 Israel . . . . .	111
10.3.3 North and South America . . . . .	111
10.4 See also . . . . .	111
10.5 References . . . . .	111
10.6 External links . . . . .	112
<b>11 Beginning of human personhood</b>	<b>113</b>
11.1 Scope . . . . .	113
11.2 Philosophical and religious perspectives . . . . .	113
11.3 Fetal personhood in law . . . . .	114
11.3.1 Ecclesiastical courts . . . . .	114
11.3.2 Common law . . . . .	114
11.4 Biological markers . . . . .	114
11.4.1 Fertilization . . . . .	115
11.4.2 Implantation . . . . .	116
11.4.3 Segmentation . . . . .	116
11.4.4 Brain function (brain birth) . . . . .	116
11.4.5 Fetal viability . . . . .	116
11.5 Other markers . . . . .	117
11.5.1 Individuation . . . . .	117
11.6 Ethical perspectives . . . . .	117
11.7 Legal perspectives . . . . .	117
11.7.1 United States . . . . .	117
11.8 See also . . . . .	118
11.9 References . . . . .	118
<b>12 Fetal rights</b>	<b>120</b>
12.1 Fetal protection in law . . . . .	120
12.1.1 Right-to-life and legal personhood . . . . .	120
12.2 Behavioral intervention . . . . .	121
12.2.1 Example cases . . . . .	121
12.3 See also . . . . .	122
12.4 References . . . . .	122
<b>13 Philosophical aspects of the abortion debate</b>	<b>124</b>
13.1 Overview . . . . .	124
13.2 Philosophical argumentation on the moral issue . . . . .	124

13.2.1 Arguments based on criteria for personhood . . . . .	124
13.2.2 The natural capacities view . . . . .	126
13.2.3 The deprivation argument . . . . .	126
13.2.4 The bodily rights argument . . . . .	127
13.3 See also . . . . .	128
13.4 Notes . . . . .	128
13.5 References . . . . .	130
<b>14 Ethics</b>	<b>132</b>
14.1 Defining ethics . . . . .	132
14.2 Meta-ethics . . . . .	132
14.3 Normative ethics . . . . .	133
14.3.1 Virtue ethics . . . . .	133
14.3.2 Hedonism . . . . .	134
14.3.3 State consequentialism . . . . .	135
14.3.4 Consequentialism/Teleology . . . . .	135
14.3.5 Deontology . . . . .	136
14.3.6 Pragmatic ethics . . . . .	137
14.3.7 Role ethics . . . . .	137
14.3.8 Anarchist ethics . . . . .	137
14.3.9 Postmodern ethics . . . . .	137
14.4 Applied ethics . . . . .	138
14.4.1 Specific questions . . . . .	138
14.4.2 Particular fields of application . . . . .	138
14.5 Moral psychology . . . . .	140
14.5.1 Evolutionary ethics . . . . .	140
14.6 Descriptive ethics . . . . .	140
14.7 See also . . . . .	141
14.8 Notes . . . . .	141
14.9 References . . . . .	143
14.10 Further reading . . . . .	143
14.11 External links . . . . .	144
14.12 Text and image sources, contributors, and licenses . . . . .	145
14.12.1 Text . . . . .	145
14.12.2 Images . . . . .	151
14.12.3 Content license . . . . .	154

# Chapter 1

## Abortion

For other uses, see [Abortion \(disambiguation\)](#).

**Abortion** is the ending of [pregnancy](#) by removing a fetus or embryo from the womb before it can survive on its own.<sup>[note 1]</sup> An abortion which occurs spontaneously is also known as a [miscarriage](#). An abortion may be caused purposely and is then called an [induced abortion](#), or less frequently, “[induced miscarriage](#)”. The word *abortion* is often used to mean only induced abortions. A similar procedure after the fetus could potentially survive outside the womb is known as a “[late termination of pregnancy](#)”.<sup>[1]</sup>

Modern methods use medication or surgery for abortions.<sup>[2]</sup> The drugs [mifepristone](#) and [prostaglandin](#) are as good as surgery during the [first trimester](#).<sup>[2][3]</sup> While medical methods may work in the [second trimester](#),<sup>[4]</sup> surgery has lower risk of side effects.<sup>[3][5]</sup> [Birth control](#), such as the [pill](#) or [intrauterine devices](#), can be started at once after an abortion.<sup>[3]</sup> When allowed by [local law](#), abortion in the [developed world](#) is and has long been one of the [safest procedures in medicine](#).<sup>[6][7]</sup> Uncomplicated abortions do not cause any long term [mental](#) or [physical problems](#).<sup>[8]</sup> The [World Health Organization](#) recommends safe and legal abortions be available to all women.<sup>[9]</sup> Every year [unsafe abortions](#) cause 47,000 deaths and 5 million hospital admissions.<sup>[8][10]</sup>

Around 44 million abortions occur each year in the world, with a little under half done unsafely.<sup>[11]</sup> Abortion rates have changed little between 2003 and 2008,<sup>[11]</sup> before which they decreased for decades due to better education about [family planning](#) and [birth control](#).<sup>[12]</sup> As of 2008, 40% of the world's women had access to legal abortions without limits as to reason.<sup>[13]</sup> Different governments have different limits on how late in pregnancy abortion is allowed.<sup>[13]</sup>

Since [ancient times](#) abortions, have been done using [herbal medicines](#), sharp tools, with [force](#), or through other [traditional methods](#).<sup>[14]</sup> Abortion laws and cultural or religious views of abortions are different around the world. In some areas abortion is legal only in special cases such as [rape](#), [problems with the fetus](#), [poverty](#), risk to a woman's health, or [incest](#).<sup>[15]</sup> In many places there is much [debate](#) over the moral, ethical, and legal issues of abortion. Those who are [against abortion](#) often maintain

that an embryo or fetus is a human with a [right to life](#) and may compare it to [murder](#).<sup>[16][17]</sup> Those who favor the legality of abortion often hold that a woman has a right to make decisions about her own body.<sup>[18]</sup>

### 1.1 Types

#### 1.1.1 Induced

Approximately 205 million pregnancies occur each year worldwide. Over a third are [unintended](#) and about a fifth end in induced abortion.<sup>[11][19]</sup> Most abortions result from unintended pregnancies.<sup>[20][21]</sup> In the United Kingdom, 1 to 2% of abortions are done due to genetic problems in the fetus.<sup>[8]</sup> A pregnancy can be intentionally aborted in several ways. The manner selected often depends upon the [gestational age](#) of the embryo or fetus, which increases in size as the pregnancy progresses.<sup>[22][23]</sup> Specific procedures may also be selected due to legality, regional availability, and doctor or a women's personal preference.

Reasons for procuring induced abortions are typically characterized as either therapeutic or elective. An abortion is medically referred to as a therapeutic abortion when it is performed to save the life of the pregnant woman; prevent harm to the woman's [physical or mental health](#); terminate a pregnancy where indications are that the child will have a significantly increased chance of premature morbidity or mortality or be otherwise [disabled](#); or to [selectively reduce](#) the number of fetuses to lessen health risks associated with [multiple pregnancy](#).<sup>[24][25]</sup> An abortion is referred to as an elective or voluntary abortion when it is performed at the request of the woman for non-medical reasons.<sup>[25]</sup> Confusion sometimes arises over the term “elective” because “[elective surgery](#)” generally refers to all scheduled surgery, whether medically necessary or not.<sup>[26]</sup>

#### 1.1.2 Spontaneous

Main article: [Miscarriage](#)

Spontaneous abortion, also known as miscarriage, is the

unintentional expulsion of an embryo or fetus before the 24th week of gestation.<sup>[27]</sup> A pregnancy that ends before 37 weeks of gestation resulting in a live-born infant is known as a "premature birth" or a "preterm birth".<sup>[28]</sup> When a fetus dies in utero after viability, or during delivery, it is usually termed "stillborn".<sup>[29]</sup> Premature births and stillbirths are generally not considered to be miscarriages although usage of these terms can sometimes overlap.<sup>[30]</sup>

Only 30% to 50% of conceptions progress past the first trimester.<sup>[31]</sup> The vast majority of those that do not progress are lost before the woman is aware of the conception,<sup>[25]</sup> and many pregnancies are lost before medical practitioners can detect an embryo.<sup>[32]</sup> Between 15% and 30% of known pregnancies end in clinically apparent miscarriage, depending upon the age and health of the pregnant woman.<sup>[33]</sup> 80% of these spontaneous abortions happen in the first trimester.<sup>[34]</sup>

The most common cause of spontaneous abortion during the first trimester is chromosomal abnormalities of the embryo or fetus,<sup>[25][35]</sup> accounting for at least 50% of sampled early pregnancy losses.<sup>[36]</sup> Other causes include vascular disease (such as lupus), diabetes, other hormonal problems, infection, and abnormalities of the uterus.<sup>[35]</sup> Advancing maternal age and a woman's history of previous spontaneous abortions are the two leading factors associated with a greater risk of spontaneous abortion.<sup>[36]</sup> A spontaneous abortion can also be caused by accidental trauma; intentional trauma or stress to cause miscarriage is considered induced abortion or feticide.<sup>[37]</sup>

## 1.2 Methods

### Practice of Induced Abortion Methods

MVA

D&E

EVA

Hyst.

D&C

Intact D&X

Mifepr.

Induced Miscarr.

0–12 wks

12–28 weeks

28–40 wks

Gestational age may determine which abortion methods are practiced.

### 1.2.1 Medical

Main article: Medical abortion

Medical abortions are those induced by abortifacient pharmaceuticals. Medical abortion became an alternative

method of abortion with the availability of prostaglandin analogs in the 1970s and the antiprogesterone mifepristone (also known as RU-486) in the 1980s.<sup>[38][2][3][39][40]</sup>

The most common early first-trimester medical abortion regimens use mifepristone in combination with a prostaglandin analog (misoprostol or gemeprost) up to 9 weeks gestational age, methotrexate in combination with a prostaglandin analog up to 7 weeks gestation, or a prostaglandin analog alone.<sup>[38]</sup> Mifepristone–misoprostol combination regimens work faster and are more effective at later gestational ages than methotrexate–misoprostol combination regimens, and combination regimens are more effective than misoprostol alone.<sup>[39]</sup> This regime is effective in the second trimester.<sup>[41]</sup>

In very early abortions, up to 7 weeks gestation, medical abortion using a mifepristone–misoprostol combination regimen is considered to be more effective than surgical abortion (vacuum aspiration), especially when clinical practice does not include detailed inspection of aspirated tissue.<sup>[42]</sup> Early medical abortion regimens using mifepristone, followed 24–48 hours later by buccal or vaginal misoprostol are 98% effective up to 9 weeks gestational age.<sup>[43]</sup> If medical abortion fails, surgical abortion must be used to complete the procedure.<sup>[44]</sup>

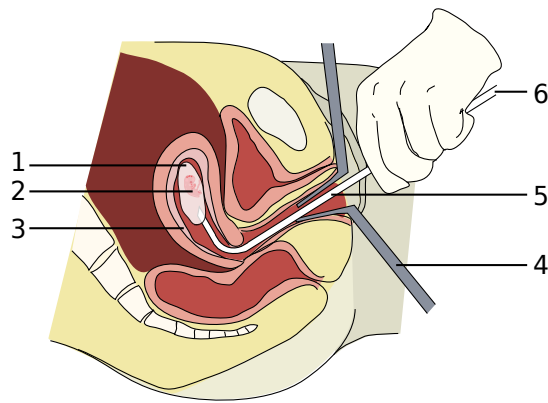
Early medical abortions account for the majority of abortions before 9 weeks gestation in Britain,<sup>[45][46]</sup> France,<sup>[47]</sup> Switzerland,<sup>[48]</sup> and the Nordic countries.<sup>[49]</sup> In the United States, the percentage of early medical abortions is far lower.<sup>[50][51]</sup>

Medical abortion regimens using mifepristone in combination with a prostaglandin analog are the most common methods used for second-trimester abortions in Canada, most of Europe, China and India,<sup>[40]</sup> in contrast to the United States where 96% of second-trimester abortions are performed surgically by dilation and evacuation.<sup>[52]</sup>

### 1.2.2 Surgical

Up to 15 weeks' gestation, suction-aspiration or vacuum aspiration are the most common surgical methods of induced abortion.<sup>[53]</sup> Manual vacuum aspiration (MVA) consists of removing the fetus or embryo, placenta, and membranes by suction using a manual syringe, while electric vacuum aspiration (EVA) uses an electric pump. These techniques differ in the mechanism used to apply suction, in how early in pregnancy they can be used, and in whether cervical dilation is necessary.

MVA, also known as "mini-suction" and "menstrual extraction", can be used in very early pregnancy, and does not require cervical dilation. Dilation and curettage (D&C), the second most common method of surgical abortion, is a standard gynecological procedure performed for a variety of reasons, including examination of the uterine lining for possible malignancy, investigation of abnormal bleeding, and abortion. Curettage refers to



*A vacuum aspiration abortion at eight weeks gestational age (six weeks after fertilization).*

- 1: Amniotic sac
- 2: Embryo
- 3: Uterine lining
- 4: Speculum
- 5: Vacurette
- 6: Attached to a suction pump

cleaning the walls of the uterus with a curette. The World Health Organization recommends this procedure, also called *sharp curettage*, only when MVA is unavailable.<sup>[54]</sup>

From the 15th week of gestation until approximately the 26th, other techniques must be used. **Dilation and evacuation (D&E)** consists of opening the cervix of the uterus and emptying it using surgical instruments and suction. After the 16th week of gestation, abortions can also be induced by **intact dilation and extraction (IDX)** (also called intrauterine cranial decompression), which requires surgical decompression of the fetus's head before evacuation. IDX is sometimes called "**partial-birth abortion**," which has been **federally banned** in the United States.

In the third trimester of pregnancy, induced abortion may be performed surgically by **intact dilation and extraction** or by **hysterotomy**. **Hysterotomy abortion** is a procedure similar to a **caesarean section** and is performed under **general anesthesia**. It requires a smaller incision than a caesarean section and is used during later stages of pregnancy.<sup>[55]</sup>

First-trimester procedures can generally be performed using **local anesthesia**, while second-trimester methods may require **deep sedation** or **general anesthesia**.<sup>[51]</sup>

### 1.2.3 Labor induction abortion

In places lacking the necessary medical skill for dilation and extraction, or where preferred by practitioners, an abortion can be induced by first **inducing labor** and then **inducing fetal demise** if necessary.<sup>[56]</sup> This is sometimes called "**induced miscarriage**". This procedure may be performed from 13 weeks gestation to the third trimester. Although it is very uncommon in the United States, more

than 80% of induced abortions throughout the second trimester are labor induced abortions in Sweden and other nearby countries.<sup>[5]</sup>

Only limited data are available comparing this method with dilation and extraction.<sup>[5]</sup> Unlike D&E, labor induced abortions may be complicated by up to 50% incidence of transient fetal survival.<sup>[5]</sup> For this reason, labor induced abortion is legally risky in the U.S. Under the **Born-Alive Infants Protection Act** of 2002, any breathing, heartbeat, umbilical cord pulsation, and voluntary muscle movement are the actions of an individual living human person protected by law, regardless of gestational age.<sup>[57]</sup>

### 1.2.4 Other methods

Historically, a number of herbs reputed to possess abortifacient properties have been used in **folk medicine**: **tansy**, **pennyroyal**, **black cohosh**, and the now-extinct **silphium**.<sup>[58]</sup> The use of herbs in such a manner can cause serious—even lethal—side effects, such as **multiple organ failure**, and is not recommended by physicians.<sup>[59]</sup>

Abortion is sometimes attempted by causing trauma to the abdomen. The degree of force, if severe, can cause serious internal injuries without necessarily succeeding in inducing **miscarriage**.<sup>[60]</sup> In Southeast Asia, there is an ancient tradition of attempting abortion through forceful abdominal massage.<sup>[61]</sup> One of the **bas reliefs** decorating the temple of **Angkor Wat** in Cambodia depicts a demon performing such an abortion upon a woman who has been sent to the **underworld**.<sup>[61]</sup>

Reported methods of unsafe, **self-induced abortion** include misuse of **misoprostol**, and insertion of non-surgical implements such as knitting needles and clothes hangers into the uterus. These methods are rarely seen in developed countries where surgical abortion is legal and available.<sup>[62]</sup> All of these, and any other method to terminate pregnancy may be called "induced miscarriage".

## 1.3 Safety

The health risks of abortion depend on whether the procedure is performed safely or unsafely. The World Health Organization defines **unsafe abortions** as those performed by unskilled individuals, with hazardous equipment, or in unsanitary facilities.<sup>[63]</sup> Legal abortions performed in the **developed world** are among the safest procedures in medicine.<sup>[61][64]</sup> In the US, the risk of **maternal death** from abortion is 0.7 per 100,000 procedures,<sup>[7]</sup> making abortion about 13 times safer for women than childbirth (8.8 maternal deaths per 100,000 live births).<sup>[65][66]</sup> This is equivalent to the risk of death from driving about 1200 km (760 miles).<sup>[7]</sup> The risk of abortion-related mortality increases with gestational age, but remains lower than that of childbirth through at least 21

weeks' gestation.<sup>[67][68][69]</sup>

Vacuum aspiration in the first trimester is the safest method of surgical abortion, and can be performed in a primary care office, abortion clinic, or hospital. Complications are rare and can include uterine perforation, pelvic infection, and retained products of conception requiring a second procedure to evacuate.<sup>[70]</sup> Preventive antibiotics (such as doxycycline or metronidazole) are typically given before elective abortion,<sup>[71]</sup> as they are believed to substantially reduce the risk of postoperative uterine infection.<sup>[51][72]</sup> Complications after second-trimester abortion are similar to those after first-trimester abortion, and depend somewhat on the method chosen.

There is little difference in terms of safety and efficacy between medical abortion using a combined regimen of mifepristone and misoprostol and surgical abortion (vacuum aspiration) in early first trimester abortions up to 9 weeks gestation.<sup>[42]</sup> Medical abortion using the prostaglandin analog misoprostol alone is less effective and more painful than medical abortion using a combined regimen of mifepristone and misoprostol or surgical abortion.<sup>[73][74]</sup>

Some purported risks of abortion are promoted primarily by anti-abortion groups, but lack scientific support.<sup>[75]</sup> For example, the question of a link between induced abortion and breast cancer has been investigated extensively. Major medical and scientific bodies (including the World Health Organization, the US National Cancer Institute, the American Cancer Society, the Royal College of Obstetricians and Gynaecologists and the American Congress of Obstetricians and Gynecologists) have concluded that abortion does not cause breast cancer,<sup>[76]</sup> although such a link continues to be promoted by anti-abortion groups.<sup>[75]</sup>

### 1.3.1 Mental health

Main article: Abortion and mental health

There is no relationship between most induced abortions and mental-health problems<sup>[8][77]</sup> other than those expected for any unwanted pregnancy.<sup>[78]</sup> The American Psychological Association has concluded that a woman's first abortion is not a threat to mental health when carried out in the first trimester, with such women no more likely to have mental-health problems than those carrying an unwanted pregnancy to term.<sup>[78][79]</sup> Although some studies show negative mental-health outcomes in women who choose abortions after the first trimester because of fetal abnormalities,<sup>[80]</sup> more rigorous research would be needed to show this conclusively.<sup>[81]</sup> Some proposed negative psychological effects of abortion have been referred to by anti-abortion advocates as a separate condition called "post-abortion syndrome", which is not recognized by any medical or psychological organization.<sup>[82]</sup>

### 1.3.2 Unsafe abortion

Main article: Unsafe abortion

Women seeking to terminate their pregnancies some-



Soviet poster circa 1925, warning against midwives performing abortions. Title translation: "Abortions performed by either trained or self-taught midwives not only maim the woman, they also often lead to death."

times resort to unsafe methods, particularly when access to legal abortion is restricted. They may attempt to self-abort or rely on another person who does not have proper medical training or access to proper facilities. This has a tendency to lead to severe complications, such as incomplete abortion, sepsis, hemorrhage, and damage to internal organs.<sup>[83]</sup>

Unsafe abortions are a major cause of injury and death among women worldwide. Although data are imprecise, it is estimated that approximately 20 million unsafe abortions are performed annually, with 97% taking place in developing countries.<sup>[6]</sup> Unsafe abortions are believed to result in millions of injuries.<sup>[6][84]</sup> Estimates of deaths vary according to methodology, and have ranged from 37,000 to 70,000 in the past decade,<sup>[6][10][85]</sup> deaths from unsafe abortion account for around 13% of all maternal deaths.<sup>[86]</sup> The World Health Organization believes that mortality has fallen since the 1990s.<sup>[87]</sup> To reduce the number of unsafe abortions, public health organizations have generally advocated emphasizing the legalization of abortion, training of medical personnel, and ensuring access to reproductive-health services.<sup>[88]</sup>

A major factor in whether abortions are performed safely or not is the legal standing of abortion. Countries with restrictive abortion laws have significantly higher rates of unsafe abortion (and similar overall abortion rates) compared to those where abortion is legal and available.<sup>[10][11][88][89][90][91]</sup> For example, the 1996 legalization of abortion in South Africa had an immediate positive impact on the frequency of abortion-related complications,<sup>[92]</sup> with abortion-related deaths dropping by more than 90%.<sup>[93]</sup> In addition, a lack of access to effective contraception contributes to unsafe abortion. It has been estimated that the incidence of un-

safe abortion could be reduced by up to 75% (from 20 million to 5 million annually) if modern family planning and maternal health services were readily available globally.<sup>[94]</sup> Rates of such abortions may be difficult to measure because they can be reported variously as miscarriage, “induced miscarriage”, “menstrual regulation”, “mini-abortion”, and “regulation of a delayed/suspended menstruation”.<sup>[95][96]</sup>

Forty percent of the world’s women are able to access therapeutic and elective abortions within gestational limits,<sup>[13]</sup> while an additional 35 percent have access to legal abortion if they meet certain physical, mental, or socioeconomic criteria.<sup>[15]</sup> While **maternal mortality** seldom results from safe abortions, unsafe abortions result in 70,000 deaths and 5 million disabilities per year.<sup>[10]</sup> Complications of unsafe abortion account for approximately an eighth of **maternal mortalities** worldwide,<sup>[97]</sup> though this varies by region.<sup>[98]</sup> Secondary infertility caused by an unsafe abortion affects an estimated 24 million women.<sup>[90]</sup> The rate of unsafe abortions has increased from 44% to 49% between 1995 and 2008.<sup>[11]</sup> Health education, access to family planning, and improvements in health care during and after abortion have been proposed to address this phenomenon.<sup>[99]</sup>

## 1.4 Incidence

There are two commonly used methods of measuring the incidence of abortion:

- Abortion rate – number of abortions per 1000 women between 15 and 44 years of age
- Abortion percentage – number of abortions out of 100 known pregnancies (pregnancies include live births, abortions and miscarriages)

In many places, where abortion is illegal or carries a heavy social stigma, medical reporting of abortion is not reliable.<sup>[89]</sup> For this reason, estimates of the incidence of abortion must be made without determining certainty related to standard error.<sup>[11]</sup>

The number of abortions performed worldwide seems to have remained stable in recent years, with 41.6 million having been performed in 2003 and 43.8 million having been performed in 2008.<sup>[11]</sup> The abortion rate worldwide was 28 per 1000 women, though it was 24 per 1000 women for developed countries and 29 per 1000 women for developing countries.<sup>[11]</sup> The same 2012 study indicated that in 2008, the estimated abortion percentage of known pregnancies was at 21% worldwide, with 26% in developed countries and 20% in developing countries.<sup>[11]</sup>

On average, the incidence of abortion is similar in countries with restrictive abortion laws and those with more liberal access to abortion. However, restrictive abortion laws are associated with increases in the percentage of

abortions which are performed unsafely.<sup>[13][100][101]</sup> The unsafe abortion rate in developing countries is partly attributable to lack of access to modern contraceptives; according to the **Guttmacher Institute**, providing access to contraceptives would result in about 14.5 million fewer unsafe abortions and 38,000 fewer deaths from unsafe abortion annually worldwide.<sup>[102]</sup>

The rate of legal, induced abortion varies extensively worldwide. According to the report of employees of Guttmacher Institute it ranged from 7 per 1000 women (Germany and Switzerland) to 30 per 1000 women (Estonia) in countries with complete statistics in 2008. The proportion of pregnancies that ended in induced abortion ranged from about 10% (Israel, the Netherlands and Switzerland) to 30% (Estonia) in the same group, though it might be as high as 36% in Hungary and Romania, whose statistics were deemed incomplete.<sup>[103][104]</sup>

The abortion rate may also be expressed as the average number of abortions a woman has during her reproductive years; this is referred to as *total abortion rate* (TAR).

### 1.4.1 Gestational age and method

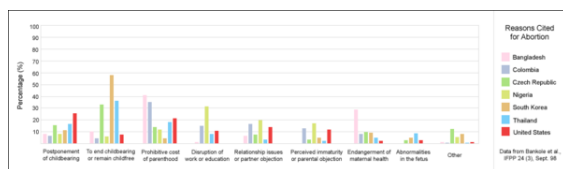
Abortion rates also vary depending on the stage of pregnancy and the method practiced. In 2003, the **Centers for Disease Control and Prevention** (CDC) reported that 26% of abortions in the United States were known to have been obtained at less than 6 weeks’ gestation, 18% at 7 weeks, 15% at 8 weeks, 18% at 9 through 10 weeks, 9.7% at 11 through 12 weeks, 6.2% at 13 through 15 weeks, 4.1% at 16 through 20 weeks and 1.4% at more than 21 weeks. 90.9% of these were classified as having been done by “curettage” (suction-aspiration, dilation and curettage, dilation and evacuation), 7.7% by “medical” means (mifepristone), 0.4% by “intrauterine instillation” (saline or prostaglandin), and 1.0% by “other” (including hysterotomy and hysterectomy).<sup>[105]</sup> According to the CDC, due to data collection difficulties the data must be viewed as tentative and some fetal deaths reported beyond 20 weeks may be natural deaths erroneously classified as abortions if the removal of the fetus is accomplished by the same procedure as an induced abortion.<sup>[106]</sup>

The Guttmacher Institute estimated there were 2,200 **intact dilation and extraction** procedures in the US during 2000; this accounts for 0.17% of the total number of abortions performed that year.<sup>[107]</sup> Similarly, in England and Wales in 2006, 89% of terminations occurred at or under 12 weeks, 9% between 13 to 19 weeks, and 1.5% at or over 20 weeks. 64% of those reported were by vacuum aspiration, 6% by D&E, and 30% were medical.<sup>[108]</sup> There are more second trimester abortions in developing countries such as China, India and Vietnam than in developed countries.<sup>[109]</sup>

## 1.5 Motivation

### 1.5.1 Personal

The reasons why women have abortions are diverse and vary across the world.<sup>[106][110]</sup>



A bar chart depicting selected data from a 1998 AGI meta-study on the reasons women stated for having an abortion.

Some of the most common reasons are to postpone childbearing to a more suitable time or to focus energies and resources on existing children. Others include being unable to afford a child either in terms of the direct costs of raising a child or the loss of income while caring for the child, lack of support from the father, inability to afford additional children, desire to provide schooling for existing children, disruption of one's own education, relationship problems with their partner, a perception of being too young to have a child, unemployment, and not being willing to raise a child conceived as a result of rape or incest, among others.<sup>[110][111]</sup>

### 1.5.2 Societal

Some abortions are undergone as the result of societal pressures. These might include the preference for children of a specific sex or race,<sup>[112]</sup> disapproval of single or early motherhood, stigmatization of people with disabilities, insufficient economic support for families, lack of access to or rejection of contraceptive methods, or efforts toward population control (such as China's one-child policy). These factors can sometimes result in compulsory abortion or sex-selective abortion.<sup>[113]</sup>

An American study in 2002 concluded that about half of women having abortions were using a form of contraception at the time of becoming pregnant. Inconsistent use was reported by half of those using condoms and three-quarters of those using the birth-control pill; 42% of those using condoms reported failure through slipping or breakage.<sup>[114]</sup> The Guttmacher Institute estimated that "most abortions in the United States are obtained by minority women" because minority women "have much higher rates of unintended pregnancy."<sup>[115]</sup>

### 1.5.3 Maternal and fetal health

An additional factor is risk to maternal or fetal health, which was cited as the primary reason for abortion in over

a third of cases in some countries and as a significant factor in only a single-digit percentage of abortions in other countries.<sup>[106][110]</sup>

In the U.S., the Supreme Court decisions in *Roe vs Wade* and *Doe vs Bolton*: "ruled that the state's interest in the life of the fetus became compelling only at the point of viability, defined as the point at which the fetus can survive independently of its mother. Even after the point of viability, the state cannot favor the life of the fetus over the life or health of the pregnant woman. Under the right of privacy, physicians must be free to use their "medical judgment for the preservation of the life or health of the mother." On the same day that the Court decided *Roe*, it also decided *Doe v. Bolton*, in which the Court defined health very broadly: "The medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient. All these factors may relate to health. This allows the attending physician the room he needs to make his best medical judgment."<sup>[116]:1200–1201</sup>

Public opinion shifted in America following television personality Sherri Finkbine's discovery during her fifth month of pregnancy that she had been exposed to thalidomide, unable to abort in the United States she traveled to Sweden. From 1962-65 there was an outbreak of German measles that left 15,000 babies with severe birth defects. In 1967, the American Medical Association publicly supported liberalization of abortion laws. A National Opinion Research Center poll in 1965 showed 73% supported abortion when the mother's life was at risk, 57% when birth defects were present and 59% for pregnancies resulting from rape or incest.<sup>[117]</sup>

### Cancer

The rate of cancer during pregnancy is 0.02–1%, and in many cases, cancer of the mother leads to consideration of abortion to protect the life of the mother, or in response to the potential damage that may occur to the fetus during treatment. This is particularly true for cervical cancer, the most common type which occurs in 1 of every 2000-13000 pregnancies, for which initiation of treatment "cannot co-exist with preservation of fetal life (unless neoadjuvant chemotherapy is chosen)." Very early stage cervical cancers (I and IIa) may be treated by radical hysterectomy and pelvic lymph node dissection, radiation therapy, or both, while later stages are treated by radiotherapy. Chemotherapy may be used simultaneously. Treatment of breast cancer during pregnancy also involves fetal considerations, because lumpectomy is discouraged in favor of modified radical mastectomy unless late-term pregnancy allows follow-up radiation therapy to be administered after the birth.<sup>[118]</sup>

Exposure to a single chemotherapy drug is estimated to cause a 7.5–17% risk of teratogenic effects on the fetus, with higher risks for multiple drug treatments. Treatment

with more than 40 Gy of radiation usually causes spontaneous abortion. Exposure to much lower doses during the first trimester, especially 8 to 15 weeks of development, can cause intellectual disability or microcephaly, and exposure at this or subsequent stages can cause reduced intrauterine growth and birth weight. Exposures above 0.005–0.025 Gy cause a dose-dependent reduction in IQ.<sup>[118]</sup> It is possible to greatly reduce exposure to radiation with abdominal shielding, depending on how far the area to be irradiated is from the fetus.<sup>[119][120]</sup>

The process of birth itself may also put the mother at risk. “Vaginal delivery may result in dissemination of neoplastic cells into lymphovascular channels, haemorrhage, cervical laceration and implantation of malignant cells in the episiotomy site, while abdominal delivery may delay the initiation of non-surgical treatment.”<sup>[121]</sup>

## 1.6 History

Main article: History of abortion

Since ancient times abortions have been done using



*Bas-relief at Angkor Wat, Cambodia, c. 1150, depicting a demon inducing an abortion by pounding the abdomen of a pregnant woman with a pestle.*<sup>[61][122]</sup>

herbal medicines, sharp tools, with force, or through other traditional methods.<sup>[14]</sup> Induced abortion has long history, and can be traced back to civilizations as varied as China under Shennong (c. 2700 BCE), Ancient Egypt with its Ebers Papyrus (c. 1550 BCE), and the Roman Empire in the time of Juvenal (c. 200 CE).<sup>[14]</sup> There is evidence to suggest that pregnancies were terminated through a number of methods, including the administration of abortifacient herbs, the use of sharpened implements, the application of abdominal pressure, and other techniques. One of the earliest known artistic representations of abortion is in a bas relief at Angkor Wat (c. 1150). Found in a series of friezes that represent judgment after death in Hindu and Buddhist culture, it depicts the technique of abdominal abortion.<sup>[61]</sup>

Some medical scholars and abortion opponents have suggested that the Hippocratic Oath forbade Ancient Greek

### FRENCH PERIODICAL PILLS.

Warranted to have the desired effect in all cases.  
**T**HESE Pills contain a portion of the only article in the whole materia medica, which can regulate the system and produce the monthly turns of females that can be taken, without hazarding life, and this article is not to be found in any of the pills or nostrums which are pictured forth so largely in the papers of the day. It has frequently occurred that the unhappy patient has by the use of these pills and nostrums given nature such a shock that they have never since enjoyed health, and they never can. It seems that they are got up and advertised merely for the object of making money, regardless of the consequences, and the readers are usually considered beneath responsibility, by all who know them.  
 The French Periodical Pills are the result of the combined knowledge and experience of some of the oldest and most distinguished physicians of Europe, and have been used by females embracing the gentility and most of the nobility of France, for the last twenty-three years. To eulogize their virtues would not add to their merits. We will only say TRY THEM, and if they do not prove to be what they are here represented to be, your money shall be refunded.  
 They contain no medicine detrimental to the constitution, but restore and debilitated constitutions to their wonted energy and healthfulness by removing from the system every impurity.  
 The only precaution necessary to be observed is ladies married should not take them if they have reason to believe they are en ciente, as they are sure to produce a miscarriage, & most without the knowledge of the patient, so gentle yet active are they.  
 All letters to be directed to DR. L. MONROE, U. S. Agent and Importer, No 58 Union street, Boston.  
 N. B. The above Pills can only be obtained at 58 Union street, all sold elsewhere in Boston, are counterfeit, and only calculated to deceive.  
 N. B. Full directions accompanying the Pills. —

*“French Periodical Pills.” An example of a clandestine advertisement published in an 1845 edition of the Boston Daily Times.*

physicians from performing abortions;<sup>[14]</sup> other scholars disagree with this interpretation,<sup>[14]</sup> and state the medical texts of Hippocratic Corpus contain descriptions of abortive techniques right alongside the Oath.<sup>[123]</sup> The physician Scribonius Largus wrote in 43 CE that the Hippocratic Oath prohibits abortion, as did Soranus, although apparently not all doctors adhered to it strictly at the time. According to Soranus' 1st or 2nd century CE work *Gynaecology*, one party of medical practitioners banished all abortives as required by the Hippocratic Oath; the other party—to which he belonged—was willing to prescribe abortions, but only for the sake of the mother's health.<sup>[124][125]</sup>

Aristotle, in his treatise on government *Politics* (350 BCE), condemns infanticide as a means of population control. He preferred abortion in such cases, with the restriction<sup>[126]</sup> “[that it] must be practised on it before it has developed sensation and life; for the line between lawful and unlawful abortion will be marked by the fact of having sensation and being alive.”<sup>[127]</sup> In Christianity, Pope Sixtus V (1585–90) was the first Pope to declare that abortion is homicide regardless of the stage of pregnancy;<sup>[128]</sup> the Catholic Church had previously been divided on whether it believed that abortion was murder, and did not begin vigorously opposing abortion until the 19th century.<sup>[14]</sup> Islamic tradition has traditionally permitted abortion until a point in time when Muslims believe the soul enters the fetus,<sup>[14]</sup> considered by various theologians to be at conception, 40 days after conception, 120 days after conception, or quickening.<sup>[129]</sup> However,

abortion is largely heavily restricted or forbidden in areas of high Islamic faith such as the **Middle East and North Africa**.<sup>[130]</sup>

In Europe and North America, abortion techniques advanced starting in the 17th century. However, conservatism by most physicians with regards to sexual matters prevented the wide expansion of safe abortion techniques.<sup>[14]</sup> Other medical practitioners in addition to some physicians advertised their services, and they were not widely regulated until the 19th century, when the practice was banned in both the United States and the United Kingdom.<sup>[14]</sup> Church groups as well as physicians were highly influential in anti-abortion movements.<sup>[14]</sup> In the US, abortion was more dangerous than childbirth until about 1930 when incremental improvements in abortion procedures relative to childbirth made abortion safer.<sup>[note 2]</sup> The Soviet Union (1919), Iceland (1935) and Sweden (1938) were among the first countries to legalize certain or all forms of abortion.<sup>[131]</sup> In 1935 Nazi Germany, a law was passed permitting abortions for those deemed “hereditarily ill”, while women considered of German stock were specifically prohibited from having abortions.<sup>[132]</sup> Beginning in the second half of the twentieth century, abortion was legalized in a greater number of countries.<sup>[14]</sup> A bill passed by the state legislature of New York legalizing abortion was signed by Governor Nelson Rockefeller in April 1970.<sup>[133]</sup>

## 1.7 Society and culture

### 1.7.1 Abortion debate

Main article: **Abortion debate**

Induced abortion has long been the source of considerable debate, controversy, and activism. An individual’s position concerning the complex **ethical, moral, philosophical, biological, and legal** issues which surround abortion is often related to his or her **value system**. Opinions of abortion may be described as being a combination of beliefs about abortion’s morality, beliefs about the proper extent of governmental authority in public policy, and beliefs about the rights and responsibilities of the woman seeking to have an abortion. **Religious ethics** also **has an influence** both on personal opinion and on the greater debate over abortion.

In both public and private debate, arguments presented in favor of or against abortion access focus on either the moral permissibility of an induced abortion, or justification of laws permitting or restricting abortion.<sup>[134]</sup> Abortion debates, especially pertaining to **abortion laws**, are often spearheaded by groups advocating one of these two positions. Anti-abortion groups who favor greater legal restrictions on abortion, including complete prohibition, most often describe themselves as “pro-life” while abor-

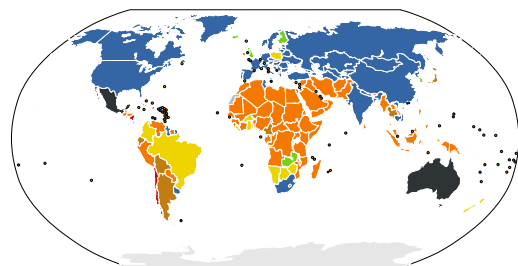
tion rights groups who are against such legal restrictions describe themselves as “pro-choice”.<sup>[135]</sup> Generally, the former position argues that a human fetus is a **human person** with a **right to live**, making abortion morally the same as murder. The latter position argues that a woman has certain **reproductive rights**, especially the choice whether or not to carry a pregnancy to term.

### 1.7.2 Modern abortion law

Main article: **Abortion law**

See also: **History of abortion law debate** and **Abortion in the United States**

Current laws pertaining to abortion are diverse. Reli-



*International status of abortion law*

*UN 2013 report on abortion law.*<sup>[136]</sup>

*Legal on request*

*Legal for maternal life, health, mental health, rape, fetal defects, and/or socioeconomic factors*

*Illegal with exception for maternal life, health, mental health, rape, and/or fetal defects*

*Illegal with exception for maternal life, health, mental health, and/or rape*

*Illegal with exception for maternal life, health, and/or mental health*

*Illegal with no exceptions*

*Varies*

*No information*<sup>[137]</sup>

gious, moral, and cultural sensibilities continue to influence abortion laws throughout the world. The right to life, the right to liberty, the right to **security of person**, and the right to **reproductive health** are major issues of human rights that are sometimes used as justification for the existence or absence of laws controlling abortion.

In jurisdictions where abortion is legal, certain requirements must often be met before a woman may obtain a safe, legal abortion (an abortion performed without the woman’s consent is considered **feticide**). These requirements usually depend on the age of the fetus, often using a **trimester**-based system to regulate the window of legality, or as in the U.S., on a doctor’s evaluation of the fetus’ **viability**. Some jurisdictions require a waiting period before the procedure, prescribe the distribution of information on **fetal development**, or require that **parents be contacted** if their minor daughter requests an abortion.<sup>[138]</sup> Other jurisdictions may require that a woman obtain the

consent of the fetus' father before aborting the fetus, that abortion providers inform women of health risks of the procedure—sometimes including “risks” not supported by the medical literature—and that multiple medical authorities certify that the abortion is either medically or socially necessary. Many restrictions are waived in emergency situations. China, which has a **one-child policy**, has at times incorporated mandatory abortions as part of their population control strategy.<sup>[139]</sup>

Other jurisdictions ban abortion almost entirely. Many, but not all, of these allow legal abortions in a variety of circumstances. These circumstances vary based on jurisdiction, but may include whether the pregnancy is a result of rape or incest, the fetus' development is impaired, the woman's physical or mental well-being is endangered, or socioeconomic considerations make childbirth a hardship.<sup>[15]</sup> In countries where abortion is banned entirely, such as **Nicaragua**, medical authorities have recorded rises in maternal death directly and indirectly due to pregnancy as well as deaths due to doctors' fears of prosecution if they treat other gynecological emergencies.<sup>[140][141]</sup> Some countries, such as **Bangladesh**, that nominally ban abortion, may also support clinics that perform abortions under the guise of menstrual hygiene.<sup>[142]</sup> This is also a terminology in traditional medicine.<sup>[143]</sup> In places where abortion is illegal or carries heavy social stigma, pregnant women may engage in **medical tourism** and travel to countries where they can terminate their pregnancies.<sup>[144]</sup> Women without the means to travel can resort to providers of illegal abortions or attempt to perform an abortion by themselves.<sup>[145]</sup>

Emergency contraception is generally available in countries that have not restricted abortion and is also sometimes available in countries that have otherwise banned abortion, such as **Chile**.<sup>[146][147]</sup> This has caused controversy, as some anti-abortion groups assert that certain forms of emergency contraception are not **contraceptives** but abortifacients (See, e.g., **Abortion in the Dominican Republic**.)

### 1.7.3 Sex-selective abortion

Main article: **Sex-selective abortion**

**Sonography** and **amniocentesis** allow parents to determine sex before childbirth. The development of this technology has led to **sex-selective abortion**, or the termination of a fetus based on sex. The selective termination of a female fetus is most common.

Sex-selective abortion is partially responsible for the noticeable disparities between the birth rates of male and female children in some countries. The preference for male children is reported in many areas of Asia, and abortion used to limit female births has been reported in Taiwan, South Korea, India, and China.<sup>[148]</sup> This deviation from the standard birth rates of males and females

occurs despite the fact that the country in question may have officially banned sex-selective abortion or even sex-screening.<sup>[149][150][151][152]</sup> In China, a historical preference for a male child has been exacerbated by the **one-child policy**, which was enacted in 1979.<sup>[153]</sup>

Many countries have taken legislative steps to reduce the incidence of sex-selective abortion. At the **International Conference on Population and Development** in 1994 over 180 states agreed to eliminate “all forms of discrimination against the girl child and the root causes of son preference”,<sup>[154]</sup> which was also condemned by a **PACE** resolution in 2011.<sup>[155]</sup> The **World Health Organization** and **UNICEF**, along with other United Nations agencies, have found that measures to reduce access to abortion are much less effective at reducing sex-selective abortions than measures to reduce gender inequality.<sup>[154]</sup>

### 1.7.4 Anti-abortion violence

Main article: **Anti-abortion violence**

In a number of cases, abortion providers and these facilities have been subjected to various forms of violence, including murder, attempted murder, kidnapping, stalking, assault, arson, and bombing. Anti-abortion violence is classified by both governmental and scholarly sources as terrorism.<sup>[156][157]</sup> Only a small fraction of those opposed to abortion commit violence.

In the United States, four physicians who performed abortions have been murdered: **David Gunn** (1993), **John Britton** (1994), **Barnett Slepian** (1998), and **George Tiller** (2009). Also murdered, in the U.S. and Australia, have been other personnel at abortion clinics, including receptionists and security guards such as **James Barrett**, **Shannon Lowney**, **Lee Ann Nichols**, and **Robert Sander-son**. Woundings (e.g., **Garson Romalis**) and attempted murders have also taken place in the United States and Canada. Hundreds of bombings, arsons, acid attacks, invasions, and incidents of vandalism against abortion providers have occurred.<sup>[158][159]</sup> Notable perpetrators of anti-abortion violence include **Eric Robert Rudolph**, **Scott Roeder**, **Shelley Shannon**, and **Paul Jennings Hill**, the first person to be executed in the United States for murdering an abortion provider.<sup>[160]</sup>

**Legal protection of access to abortion** has been brought into some countries where abortion is legal. These laws typically seek to protect abortion clinics from obstruction, vandalism, picketing, and other actions, or to protect women and employees of such facilities from threats and harassment.

Far more common than physical violence is psychological pressure. In 2003, **Chris Danze** organized pro-life organizations throughout Texas to prevent the construction of a **Planned Parenthood** facility in Austin. The organizations released the personal information online, of those

involved with construction, sending them up to 1200 phone calls a day and contacting their churches.<sup>[161]</sup> Some protestors record women entering clinics on camera.<sup>[161]</sup>

## 1.8 Other animals

Further information: *Miscarriage*

Spontaneous abortion occurs in various animals. For example, in sheep, it may be caused by crowding through doors, or being chased by dogs.<sup>[162]</sup> In cows, abortion may be caused by contagious disease, such as *Brucellosis* or *Campylobacter*, but can often be controlled by vaccination.<sup>[163]</sup> Eating pine needles can also induce abortions in cows.<sup>[164][165]</sup> In horses, a fetus may be aborted or resorbed if it has *lethal white syndrome* (congenital intestinal aganglionosis). Foal embryos that are homozygous for the *dominant white gene* (WW) are theorized to also be aborted or resorbed before birth.<sup>[166]</sup>

Viral infection can cause abortion in dogs.<sup>[167]</sup> Cats can experience spontaneous abortion for many reasons, including hormonal imbalance. A combined abortion and spaying is performed on pregnant cats, especially in *Trap-Neuter-Return* programs, to prevent unwanted kittens from being born.<sup>[168][169][170]</sup> Female rodents may terminate a pregnancy when exposed to the smell of a male not responsible for the pregnancy, known as the *Bruce effect*.<sup>[171]</sup>

Abortion may also be induced in animals, in the context of *animal husbandry*. For example, abortion may be induced in mares that have been mated improperly, or that have been purchased by owners who did not realize the mares were pregnant, or that are pregnant with twin foals.<sup>[172]</sup> Feticide can occur in horses and zebras due to male harassment of pregnant mares or forced copulation,<sup>[173][174][175]</sup> although the frequency in the wild has been questioned.<sup>[176]</sup> Male *gray langur* monkeys may attack females following male takeover, causing miscarriage.<sup>[177]</sup>

## 1.9 References

### 1.9.1 Citations

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## 1.9.2 Notes

- [1] Definitions of abortion, as with many words, vary from source to source. Language used to define abortion often reflects societal and political opinions (not only scientific knowledge). The following is a partial list of definitions as stated by obstetrics and gynecology (OB/GYN) textbooks, dictionaries, and other sources:

### Major OB/GYN textbooks

- The National Center for Health Statistics defines an "abortus" as "[a] fetus or embryo removed or expelled from the uterus during the first half of gestation—20 weeks or less, or in the absence of accurate dating criteria, born weighing < 500 g." They also define "birth" as "[t]he complete expulsion or extraction from the mother of a fetus after 20 weeks' gestation. ... in the absence of accurate dating criteria, fetuses weighing <500 g are usually not considered as births, but rather are termed abortuses for purposes of vital statistics." Cunningham, FG; Leveno, KJ; Bloom, SL; et al., eds. (2010). "1. Overview of Obstetrics". *Williams Obstetrics* (23 ed.). McGraw-Hill Medical. ISBN 978-0-07-149701-5.
- "[T]he standard medical definition of abortion [is] termination of a pregnancy when the fetus is not viable". Annas, George J.; Elias, Sherman (2007). "51. Legal and Ethical Issues in Obstetric Practice". In Gabbe, Steven G.; Niebyl, Jennifer R.; Simpson, Joe Leigh. *Obstetrics: Normal and Problem Pregnancies* (5 ed.). Churchill Livingstone. ISBN 978-0-443-06930-7.
- "Termination of a pregnancy, whether spontaneous or induced." Kottke, Melissa J.; Ziemann, Mimi (2008). "33. Management of Abortion". In Rock, John A.; Jones III, Howard W. *TeLinde's Operative Gynecology* (10 ed.). Lippincott Williams & Wilkins. ISBN 978-0-7817-7234-1.

### Other OB/GYN textbooks

- "Termination of pregnancy before 20 weeks' gestation calculated from date of onset of last menses. An alternative definition is delivery of a fetus with a weight of less than 500 g. If abortion occurs before 12 weeks' gestation, it is called early; from 12 to 20 weeks it is called late." Katz, Vern L. (2007). "16. Spontaneous and Recurrent Abortion – Etiology, Diagnosis, Treatment". In Katz, Vern L.; Lentz, Gretchen M.; Lobo, Rogerio A.; et al. *Katz: Comprehensive Gynecology* (5 ed.). Mosby. ISBN 978-0-323-02951-3.
- "Abortion is the spontaneous or induced termination of pregnancy before fetal viability. Because popular use of the word abortion implies a deliberate pregnancy termination, some prefer the word miscarriage to refer to spontaneous fetal loss before viability ... The National Center for Health Statistics, the Centers for Disease Control and Prevention (CDC), and the World Health Organization (WHO) define abortion as pregnancy termination

prior to 20 weeks' gestation or a fetus born weighing less than 500 g. Despite this, definitions vary widely according to state laws." Schorge, John O.; Schaffer, Joseph I.; Halvorson, Lisa M.; Hoffman, Barbara L.; Bradshaw, Karen D.; Cunningham, F. Gary, eds. (2008). "6. First-Trimester Abortion". *Williams Gynecology* (1 ed.). McGraw-Hill Medical. ISBN 978-0-07-147257-9.

### Major medical dictionaries

- "The spontaneous or induced termination of pregnancy before the fetus reaches a viable age." "Taber's Medical Dictionary: abortion". *Taber's Cyclopedic Medical Dictionary*. F.A. Davis. Archived from the original on 14 June 2011. Retrieved 14 June 2011.
- "Expulsion from the uterus an embryo or fetus prior to the stage of viability (20 weeks' gestation or fetal weight <500g). A distinction made between [abortion] and premature birth: premature infants are those born after the stage of viability but prior to 37 weeks." *Sedman's Medical Dictionary* (27 ed.). Lippincott Williams & Wilkins. ISBN 0-683-40008-8.
- "[P]remature expulsion from the uterus of the products of conception, either the embryo or a nonviable fetus." *Dorland's Illustrated Medical Dictionary* (31 ed.). Saunders. 2007. ISBN 978-1-4160-2364-7.

### Other medical dictionaries

- "[T]he termination of a pregnancy after, accompanied by, resulting in, or closely followed by the death of the embryo or fetus". "Medical Dictionary". *Merriam-Webster's Medical Dictionary*. Springfield, Mass.: Merriam-Webster. Archived from the original on 15 June 2011. Retrieved 15 June 2011.
- "Induced termination of pregnancy, involving destruction of the embryo or fetus." "abortion." *The American Heritage Science Dictionary*. Boston: Houghton Mifflin. 2005. ISBN 978-0-618-45504-1.
- "Interruption of pregnancy before the fetus has attained a stage of viability, usually before the 24th gestational week." "abortion." *Cambridge Dictionary of Human Biology and Evolution*. Cambridge; New York: Cambridge University Press. 2005. OCLC 54374716.
- "[A] spontaneous or deliberate ending of pregnancy before the fetus can be expected to survive." "abortion." *Mosby's Emergency Dictionary*. Philadelphia: Elsevier Health Sciences. 1998. OCLC 37553784.
- "[A] situation where a fetus leaves the uterus before it is fully developed, especially during the first 28 weeks of pregnancy, or a procedure which causes this to happen ... [T]o have an abortion to have an operation to make a fetus leave the uterus during the first period of pregnancy." "abortion". *Dictionary of Medical Terms*. London: A & C Black. 2005. OCLC 55634250.

- "1. Induced termination of a pregnancy with destruction of the fetus or embryo; therapeutic abortion. 2. Spontaneous abortion." *The American Heritage Medical Dictionary* (reprint ed.). Houghton Mifflin. 2008. p. 2. ISBN 0-618-94725-6. OCLC 608212441.
- "Although the term abortion is generic and implies a premature termination of pregnancy for any reason, the lay public better understands the word 'miscarriage' for involuntary fetal loss or fetal wastage." *The Dictionary of Modern Medicine*. Parthenon Publishing. 1992. p. 3. ISBN 1-85070-321-3.
- "The termination of pregnancy or premature expulsion of the products of conception by any means, usually before fetal viability." *Churchill's Medical Dictionary*. Churchill Livingstone. 1989. p. 3. ISBN 0-443-08691-5.

### Bibliographies

- "An abortion refers to the termination of a pregnancy. It can be *induced* (see Definitions, Terminology, and Reference Resources) through a pharmacological or a surgical procedure, or it may be spontaneous (also called miscarriage)." "Definitions of abortion vary across and within countries as well as among different institutions. Language used to refer to abortion often also reflects societal and political opinions and not only scientific knowledge (Grimes and Gretchen 2010). Popular use of the word abortion implies a deliberate pregnancy termination, whereas a miscarriage is used to refer to spontaneous fetal loss when the fetus is not viable (i.e., not yet unable to survive independently outside the womb)." Kulczycki, Andrzej. "Abortion". *Oxford Bibliographies*. Retrieved 9 April 2014.

### Major English dictionaries (general-purpose)

- "1. a. The expulsion or removal from the womb of a developing embryo or fetus, spec. (Med.) in the period before it is capable of independent survival, occurring as a result either of natural causes (more fully spontaneous abortion) or of a deliberate act (more fully induced abortion); the early or premature termination of pregnancy with loss of the fetus; an instance of this." "abortion, n.". *Oxford English Dictionary* (Third ed.). Oxford University Press. September 2009; online version September 2011. Check date values in: |date= (help)
- "[A]n operation or other procedure to terminate pregnancy before the fetus is viable" or "[T]he premature termination of pregnancy by spontaneous or induced expulsion of a nonviable fetus from the uterus". "abortion". *Collins English Dictionary – Complete & Unabridged 11th Edition*. HarperCollins Publishers. Retrieved 7 October 2012.
- "[T]he removal of an embryo or fetus from the uterus in order to end a pregnancy" or "[A]ny of various surgical methods for terminating a pregnancy, especially during the first six months." "abortion". *Dictionary.com Unabridged*. Random House, Inc. 27 June 2011.

- “1. *medicine* the removal of an embryo or fetus from the uterus before it is sufficiently developed to survive independently, deliberately induced by the use of drugs or by surgical procedures. Also called termination or induced abortion. 2. *medicine* the spontaneous expulsion of an embryo or fetus from the uterus before it is sufficiently developed to survive independently. Also called miscarriage, spontaneous abortion.” *Chambers 21st Century Dictionary*. London: Chambers Harrap, 2001.
- “a medical operation to end a pregnancy so that the baby is not born alive”. *Longman Dictionary of Contemporary English*, online edition.

#### Other dictionaries

- “The deliberate termination of a pregnancy, usually before the embryo or fetus is capable of independent life.” *The American Heritage New Dictionary of Cultural Literacy* (3rd ed.). Houghton Mifflin Company, 2005.
- “A term that, in philosophy, theology, and social debates, often means the deliberate termination of pregnancy before the fetus is able to survive outside the uterus. However, participants in these debates sometimes use the term abortion simply to mean the termination of pregnancy before birth, regardless of whether the fetus is viable or not.” “abortion.” *Dictionary of World Philosophy*. London: Routledge, 2001.
- “1. An artificially induced termination of a pregnancy for the purpose of destroying an embryo or fetus. 2. The spontaneous expulsion of an embryo or fetus before viability;” Garner, Bryan A. (June 2009). *Black’s Law Dictionary* (9th ed.). Thomson West. ISBN 978-0-314-19949-2.

#### Encyclopedias

- “[T]he expulsion of a fetus from the uterus before it has reached the stage of viability (in human beings, usually about the 20th week of gestation).” “Abortion (pregnancy).” *Encyclopædia Britannica Online*. Encyclopædia Britannica. 2011. Archived from the original on 26 June 2011. Retrieved 26 June 2011.
- “Expulsion of the products of conception before the embryo or fetus is viable. Any interruption of human pregnancy prior to the 28th week is known as abortion.” “Abortion.” *The Columbia Encyclopedia*. New York: Columbia University Press. 2008.
- “The expulsion or removal of a fetus from the womb before it is capable of independent survival.” “Abortion.” *World Encyclopedia*. Oxford University Press. 2008.
- “[Abortion] is commonly misunderstood outside medical circles. In general terms, the word ‘abortion’ simply means the failure of something to reach fulfilment or maturity. Medically, abortion means loss of the fetus, for any reason, before it is able to survive outside the womb. The term covers accidental or spontaneous ending, or miscarriage, of

pregnancy as well as deliberate termination. The terms ‘spontaneous abortion’ and ‘miscarriage’ are synonymous and are defined as loss of the fetus before the twenty-eighth week of pregnancy. This definition implies a legal perception of the age at which a fetus can survive out of the womb. With great advances in recent years in the ability to keep very premature babies alive, this definition is in need of revision.” “Abortion and miscarriage”. *The Royal Society of Medicine Health Encyclopedia*. London: Bloomsbury Publishing. 2000.

- “Abortion is the intentional removal of a fetus or an embryo from a mother’s womb for purposes other than that of either producing a live birth or disposing of a dead embryo.” “Abortion”. *Encyclopedia of Human Rights Issues since 1945* (1 ed.). Santa Barbara, California: Routledge. 1999. ISBN 978-1-57958-166-4.

#### Journal articles about terminology

- “Abortion can be performed up to viability; thereafter, according to standard dictionaries, other terms should be used for uterine evacuation. “Late” is an acceptable descriptor for abortion; “late-term” is not. Gestational age should be expressed in completed cardinal days, weeks or months; ordinal numbers (and trimesters) should be avoided. “Intact D&E” should be used instead of the oxymoronic “partial-birth abortion” or the mysterious “D&X.”” (internal citations removed) Grimes, DA; Stuart, G (2010). “Abortion jabberwocky: the need for better terminology”. *Contraception* **81** (2): 93–96. doi:10.1016/j.contraception.2009.09.005. PMID 20103443.

[2] By 1930, medical procedures in the US had improved for both childbirth and abortion but not equally, and induced abortion in the first trimester had become safer than childbirth. In 1973, *Roe vs. Wade* acknowledged that abortion in the first trimester was safer than childbirth:

- “The 1970s”. *Time communication 1940–1989: retrospective*. Time Inc. 1989. Blackmun was also swayed by the fact that most abortion prohibitions were enacted in the 19th century when the procedure was more dangerous than now.
- Will, George (1990). *Suddenly: the American idea abroad and at home, 1986–1990*. Free Press. p. 312. ISBN 0-02-934435-2.
- Lewis, J.; Shimabukuro, Jon O. (28 January 2001). “Abortion Law Development: A Brief Overview”. Congressional Research Service. Archived from the original on 14 May 2011. Retrieved 1 May 2011.
- \*Schultz, David Andrew (2002). *Encyclopedia of American law*. Infobase Publishing. p. 1. ISBN 0-8160-4329-9.
- Lahey, Joanna N. (24 September 2009). “Birthing a Nation: Fertility Control Access and the 19th Century Demographic Transition” (PDF; preliminary version). *Colloquium*. Pomona College.

## 1.10 External links

- Organization, World Health (2012). *Safe abortion: technical and policy guidance for health systems* (PDF) (2nd ed.). Geneva: World Health Organization. ISBN 9789241548434.
- Abortion Policies: A Global Review, published by the United Nations

## Chapter 2

# History of abortion

MRS. BIRD, Female Physician, where can be obtained Dr. Vandenburg's Female Renovating Pills, from Germany, an effectual remedy for suppression, irregularity, and all cases where nature has stopped from any cause whatever. Sold only at Mrs. Bird's, 83 Duane st, near Broadway. n24 3m\*

TO THE LADIES—Madame Costello, Female Physician, still continues to treat, with astonishing success, all diseases peculiar to females. Suppression, irregularity, obstruction, &c., by whatever cause produced, can be removed by Madame C. in a very short time. Madame C.'s medical establishment having undergone thorough repairs and alterations for the better accommodation of her numerous patients, she is now prepared to receive ladies on the point of confinement, or those who wish to be treated for obstruction of their monthly periods. Madame C. can be consulted at her residence, 34 Lispenard st, at all times.—All communications and letters must be post paid. 92f 1m\*

PRINTS TO MOTHERS for the management of their

*Indirect advertisements for abortion services, like these in The New York Sun in 1842, were common during the Victorian era. At the time, abortion was illegal in New York.<sup>[1]</sup>*

The practice of **abortion**, the medical removal of a **fetus**, has been known since at least ancient times. Various methods have been used to perform an abortion, including the administration of **abortifacient** herbs, the use of sharpened implements, the application of abdominal pressure, and other techniques.

**Abortion laws** and their enforcement have fluctuated through various eras. In many **western countries** during the 20th century various **women's rights** groups, doctors, and social reformers were successful in having abortion bans repealed. While abortion remains legal in most of the West, this legality is regularly challenged by Pro-life groups.

### 2.1 Premodern era

The written evidence of abortion reflects the interests of class and caste. The **Code of Hammurabi**, of ca. 1760 BC, specified fines for causing a miscarriage through assault, with the amount varying according to the woman's social rank.<sup>[2][3]</sup>

The Vedic and *smṛti* laws of India reflected a concern with preserving the male seed of the three upper castes; and the religious courts imposed various penances for the



*Bas relief at Angkor Wat, c. 1150, depicting a demon performing an abortion upon a woman who has been sent to the underworld.*

woman or excommunication for a priest who provided an abortion.<sup>[4]</sup> The only evidence of the death penalty being mandated for abortion in the ancient laws is found in **Assyrian Law**, in the Code of Assura, c. 1075 BC;<sup>[5]</sup> and this is only imposed on a woman who procures an abortion against her husband's wishes. The first recorded evidence of induced abortion is from the Egyptian Ebers Papyrus in 1550 BC.<sup>[6]</sup>

Many of the methods employed in early and **primitive cultures** were non-surgical. Physical activities like **strenuous labor**, **climbing**, **paddling**, **weightlifting**, or **diving** were a common technique. Others included the use of irritant leaves, **fasting**, **bloodletting**, pouring hot water onto the abdomen, and lying on a heated **coconut shell**.<sup>[7]</sup> In primitive cultures, techniques developed through observation, adaptation of obstetrical methods, and **transculturation**.<sup>[8]</sup> Physical means of inducing abortion, including **battery**, **exercise**, and tightening the **girdle** were still often used as late as the **Early Modern Period** among English women.<sup>[9]</sup>

**Archaeological** discoveries indicate early **surgical** attempts at the extraction of a **fetus**; however, such methods are not believed to have been common, given the infrequency with which they are mentioned in ancient medical texts.<sup>[10]</sup>

An 8th-century **Sanskrit** text instructs women wishing to induce an abortion to sit over a pot of steam or stewed onions.<sup>[11]</sup> The technique of **massage abortion**, involving

the application of pressure to the pregnant abdomen, has been practiced in Southeast Asia for centuries. One of the bas reliefs decorating the temple of Angkor Wat in Cambodia, dated c. 1150, depicts a demon performing such an abortion upon a woman who has been sent to the underworld.<sup>[6]</sup>

Japanese documents show records of induced abortion from as early as the 12th century. It became much more prevalent during the Edo period, especially among the peasant class, who were hit hardest by the recurrent famines and high taxation of the age.<sup>[12]</sup> Statues of the Boddhisattva Jizo, erected in memory of an abortion, miscarriage, stillbirth, or young childhood death, began appearing at least as early as 1710 at a temple in Yokohama (see religion and abortion).<sup>[13]</sup>

Māori, who lived in New Zealand before and at the time of colonisation, terminated pregnancies via miscarriage-inducing drugs, ceremonial methods, and girding of the abdomen with a restrictive belt.<sup>[14]</sup> Another source claims that the Māori people did not practice abortion, for fear of Makutu, but did attempt abortion through the artificial induction of premature labor.<sup>[15]</sup>

### 2.1.1 Greco-Roman world



Cyrenian coin with an image of silphium, an abortifacient.

Much of what is known about the methods and practice of abortion in Greek and Roman history comes from early classical texts. Abortion, as a gynecological procedure, was primarily the province of women who were either midwives or well-informed laypeople. In his *Theaetetus*, Plato mentions a midwife's ability to induce abortion in the early stages of pregnancy.<sup>[16][17]</sup> It is thought unlikely that abortion was punished in Ancient Greece.<sup>[18]</sup> However, a fragment attributed to the poet Lysias "suggests that abortion was a crime in Athens against the husband, if his wife was pregnant when he died, since his unborn child could have claimed the estate."<sup>[19]</sup>

The ancient Greeks relied upon the herb silphium as an abortifacient and contraceptive. The plant, as the chief export of Cyrene, was driven to extinction, but it is suggested that it might have possessed the same abortive properties as some of its closest extant relatives in the Apiaceae family. Silphium was so central to the Cyrenian economy that most of its coins were embossed with an image of the plant.<sup>[20]</sup> Pliny the Elder cited the refined oil of common rue as a potent abortifacient. Serenus Sammonicus wrote of a concoction which consisted of rue, egg, and dill. Soranus, Dioscorides, Oribasius also detailed this application of the plant. Modern scientific studies have confirmed that rue indeed contains three abortive compounds.<sup>[21]</sup> Birthwort, a herb used to ease childbirth, was also used to induce abortion. Galen included it in a potion formula in *de Antidotis*, while Dioscorides said it could be administered by mouth, or in the form of a vaginal pessary also containing pepper and myrrh.<sup>[22]</sup>

The Greek playwright Aristophanes noted the abortifacient property of pennyroyal in 421 BC, through a humorous reference in his comedy, *Peace*.<sup>[23]</sup> Hippocrates, the Greek physician, would advise prostitutes who became pregnant to jump up and down, touching her buttocks with her heels at each leap, so as to induce miscarriage.<sup>[24]</sup> Other writings attributed to him describe instruments fashioned to dilate the cervix and curette inside of the uterus.<sup>[25]</sup>

Soranus, a 2nd-century Greek physician, prescribed diuretics, emmenagogues, enemas, fasting, and blood-letting as safe abortion methods, although he advised against the use of sharp instruments to induce miscarriage, due to the risk of organ perforation. He also advised women wishing to abort their pregnancies to engage in energetic walking, carrying heavy objects, riding animals, and jumping so that the woman's heels were to touch her buttocks with each jump, which he described as the "Lacedaemonian Leap."<sup>[24][26]</sup> He also offered a number of recipes for herbal bathes, rubs, and pessaries.<sup>[24]</sup> In *De Materia Medica Libri Quinque*, the Greek pharmacologist Dioscorides listed the ingredients of a draught called "abortion wine"—hellebore, squirting cucumber, and scammony—but failed to provide the precise manner in which it was to be prepared.<sup>[27]</sup> Hellebore, in particular, is known to be abortifacient.<sup>[28]</sup>

Tertullian, a 2nd- and 3rd-century Christian theologian, described surgical implements which were used in a procedure similar to the modern dilation and evacuation. One tool had a "nicely adjusted flexible frame" used for dilation, an "annular blade" used to curette, and a "blunted or covered hook" used for extraction. The other was a "copper needle or spike." He attributed ownership of such items to Hippocrates, Asclepiades, Erasistratus, Herophilus, and Soranus.<sup>[29]</sup>

Aulus Cornelius Celsus, a 1st-century Roman encyclopedist, offered an extremely detailed account of

a procedure to extract an already dead fetus in his only surviving work, *De Medicina*.<sup>[30]</sup> In Book 9 of *Refutation of all Heresies*, Hippolytus of Rome, another Christian theologian of the 3rd century, wrote of women tightly binding themselves around the middle so as to “expel what was being conceived.”<sup>[31]</sup>

### 2.1.2 Natural abortifacients



Art from a 13th-century illuminated manuscript features a herbalist preparing a concoction containing pennyroyal for a woman.

Botanical preparations reputed to be abortifacient were common in classical literature and folk medicine. Such folk remedies, however, varied in effectiveness and were not without the risk of adverse effects. Some of the herbs used at times to terminate pregnancy are poisonous.

A list of plants which cause abortion was provided in *De viribus herbarum*, an 11th-century herbal written in the form of a poem, the authorship of which is incorrectly attributed to Aemilius Macer. Among them were rue, Italian catnip, savory, sage, soapwort, cyperus, white and black hellebore, and pennyroyal.<sup>[27]</sup> Physicians in the Islamic world during the medieval period documented the use of abortifacients, commenting on their effectiveness and prevalence.<sup>[32]</sup>

*King's American Dispensatory* of 1898 recommended a mixture of brewer's yeast and pennyroyal tea as “a safe and certain abortive.”<sup>[33]</sup> Pennyroyal has been known to cause complications when used as an abortifacient. In 1978 a pregnant woman from Colorado died after consuming 2 tablespoonfuls of pennyroyal essential oil<sup>[34][35]</sup> which is known to be toxic.<sup>[36]</sup> In 1994 a pregnant woman, unaware of an ectopic pregnancy that needed immediate medical care, drank a tea containing pennyroyal extract to induce abortion without medical help. She later died as a result of the untreated ectopic pregnancy, mistaking the symptoms for the abortifacient working.<sup>[23]</sup>

Tansy was used to terminate pregnancies since the Middle Ages.<sup>[37]</sup> It was first documented as an emmenagogue in St. Hildegard of Bingen's *De simplicis medicinae*.<sup>[27]</sup>

A variety of juniper, known as savin, was mentioned frequently in European writings.<sup>[6]</sup> In one case in England, a rector from Essex was said to have procured it for a woman he had impregnated in 1574; in another, a man wishing to remove his girlfriend of like condition recommended to her that black hellebore and savin be boiled together and drunk in milk, or else that chopped madder be boiled in beer. Other substances reputed to have been used by the English include Spanish fly, opium, watercress seed, iron sulphate, and iron chloride. Another mixture, not abortifacient, but rather intended to relieve missed abortion, contained dittany, hyssop, and hot water.<sup>[9]</sup>

The root of worm fern, called “prostitute root” in the French, was used in France and Germany; it was also recommended by a Greek physician in the 1st century. In German folk medicine, there was also an abortifacient tea, which included marjoram, thyme, parsley, and lavender. Other preparations of unspecified origin included crushed ants, the saliva of camels, and the tail hairs of black-tailed deer dissolved in the fat of bears.<sup>[11]</sup>

### 2.1.3 Attitudes towards abortion

The Stoics believed the fetus to be plantlike in nature, and not an animal until the moment of birth, when it finally breathed air. They therefore found abortion morally acceptable.<sup>[19][38]</sup>

Aristotle wrote that, “[T]he line between lawful and unlawful abortion will be marked by the fact of having sensation and being alive.”<sup>[39]</sup> Before that point was reached, Aristotle did not regard abortion as the killing of something human.<sup>[40][41][42]</sup> Aristotle considered the embryo to gain a human soul at 40 days if male and 90 days if female; before that, it had vegetable and animal souls.

The Oath, ascribed to Hippocrates, forbade the use of pessaries to induce abortion. Modern scholarship suggests that pessaries were banned because they were reported to cause vaginal ulcers.<sup>[43]</sup> This specific prohibition has been interpreted by some medical scholars as prohibiting abortion in a broader sense than by pessary.<sup>[27]</sup>

One such interpretation was by Scribonius Largus, a Roman medical writer: “Hippocrates, who founded our profession, laid the foundation for our discipline by an oath in which it was proscribed not to give a pregnant woman a kind of medicine that expels the embryo or fetus.”<sup>[44]</sup> Other medical scholars disagree, believing that Hippocrates sought to discourage physicians from trying dangerous methods to abort a fetus.<sup>[45]</sup> This may be born out by the fact that the oath originally also prohibited surgery (at the time, it was far more dangerous, and surgeons were a separate profession from physicians).<sup>[46]</sup>

Soranus acknowledges two parties among physicians: those who would not perform abortions, citing the Hippo-

cratic Oath, and the other party, his own. Soranus recommended abortion in cases involving health complications as well as emotional immaturity, and provided detailed suggestions in his work *Gynecology*.<sup>[47][48]</sup>

Although abortion was accepted in Rome, attitudes changed with the spread of Christianity and around 211 CE emperors Septimius Severus and Caracalla banned abortion as infringing on parental rights; temporary exile was the punishment.<sup>[19]</sup> Punishment for abortion in the Roman Republic was generally inflicted as a violation of the father's right to dispose of his offspring.<sup>[18]:3</sup> Because of the influence of Stoicism, which did not view the fetus as a person, the Romans did not punish abortion as homicide.<sup>[49]</sup>

The third century legal compilation *Pauli sententiae* (attributed to Julius Paulus Prudentissimus) wrote:

[T]hose who administer a beverage for the purpose of producing abortion, or of causing affection, although they may not do so with malicious intent, still, because the act offers a bad example, shall, if of humble rank, be sent to the mines; or, if higher in degree, shall be relegated to an island, with the loss of a portion of their property. If a man or a woman should lose his or her life through such an act, the guilty party shall undergo the extreme penalty."

The Roman jurist Ulpian wrote in the *Digest*: "An unborn child is considered being born, as far as it concerns his profits." Despite this, abortion continued to be practiced "with little or no sense of shame."<sup>[50]</sup>

## In Christianity

See also: Christianity and abortion and History of early Christian thought on abortion

Tertullian, a 2nd- and 3rd-century Christian theologian argued that abortion should only be performed in cases in which abnormal positioning of the fetus in the womb would endanger the life of the pregnant women. Saint Augustine, in *Enchiridion*, makes passing mention of surgical procedures being performed to remove fetuses which have expired in utero.<sup>[51]</sup>

In contrast to their pagan environment, Christians generally shunned abortion, drawing upon early Christian writings such as the *Didache* (c. 150 A.D.), which says: "do not murder a child by abortion or kill a new-born infant."<sup>[52]</sup> Saint Augustine believed that abortion of a *fetus animatus*, a fetus with human limbs and shape, was murder. However, his beliefs on earlier-stage abortion were similar to Aristotle's,<sup>[53]</sup> though he could neither deny nor affirm whether such unformed fetuses would be resurrected as full people at the time of the second coming.<sup>[54]</sup>

- "Now who is there that is not rather disposed to think that unformed abortions perish, like seeds that have never fructified?"<sup>[51]</sup>
- "And therefore the following question may be very carefully inquired into and discussed by learned men, though I do not know whether it is in man's power to resolve it: At what time the infant begins to live in the womb: whether life exists in a latent form before it manifests itself in the motions of the living being. To deny that the young who are cut out limb by limb from the womb, lest if they were left there dead the mother should die too, have never been alive, seems too audacious."<sup>[55]</sup>

The *Leges Henrici Primi*, written c. 1115, treated pre-quickening abortion as a misdemeanor, and post-quickening abortion as carrying a lesser penalty than homicide.<sup>[56]</sup> Midwives who performed abortions were accused of committing witchcraft in *Malleus Maleficarum* (*The Hammer of Witches*), published in 1487 as a witch-hunting manual in Germany.<sup>[57]</sup>

## 2.2 Modern era

### 2.2.1 Criminalization



"Admonition against abortion." Late 19th-century Japanese Ukiyo-e woodblock print.

19th century medicine saw tremendous advances in the

fields of surgery, anaesthesia, and sanitation. Social attitudes towards abortion shifted during this period under the influence of Victorian morality, and abortion, especially in the English-speaking world, was made illegal.

The English law on abortion was first codified in legislation under sections 1 and 2 of Malicious Shooting or Stabbing Act 1803. The Bill was proposed by the Lord Chief Justice of England and Wales, Edward Law, 1st Baron Ellenborough to clarify the law relating to abortion and was the first law to explicitly outlaw it. The Act provided that it was an offence for any person to perform or cause an abortion. The punishment for performing or attempting to perform a post quickening abortion was the death penalty (section 1) and otherwise was transportation for fourteen years (section 2). In 19th century America, there was little regulation of abortion, in the tradition of English common law, pre quickening abortions were considered at most a misdemeanor. These cases proved difficult to prosecute as the testimony of the mother was usually the only means to determine when quickening had occurred.<sup>[58]</sup>

The law was amended in 1828 and 1837 - the latter removed the distinction between women who were quick with child (late pregnancy) and those who were not. It also eliminated the death penalty as a possible punishment. The latter half of the 19th century saw abortion become increasingly punished. One writer justified this by claiming that the number of abortions among married women had increased markedly since 1840.<sup>[59]</sup> The Offences against the Person Act 1861 created a new preparatory offence of procuring poison or instruments with intent to procure abortion. During the 1860s however abortion services were available in New York, New Orleans, Cincinnati, Louisville, Cleveland, Chicago and Indianapolis; with estimates of one abortion for every 4 live births.<sup>[60]</sup>

Anti-abortion statutes began to appear in the United States from the 1820s. In 1821, a Connecticut law targeted apothecaries who sold poisons to women for purposes of abortion; and New York made post-quickening abortions a felony and pre-quickening abortions a misdemeanor eight years later.<sup>[61]</sup> Criminalization accelerated from the late 1860s, through the efforts of concerned legislators, doctors, and the American Medical Association.<sup>[62]</sup> In 1873, the Comstock Law prohibited any methods of production or publication of information pertaining to the procurement of abortion, the prevention of conception and the prevention of venereal disease, even to students of medicine.<sup>[63]</sup> By 1909 the penalty for violating these laws became a \$5000 fine and up to five years imprisonment. By 1910 nearly every state had anti abortion laws.<sup>[64]</sup>

In contrast, in France social perceptions of abortion started to change. In the first half of the 19th century, abortion was viewed as the last resort for pregnant but unwed women. But as writers began to write about abor-

tion in terms of family planning for married women, the practice of abortion was reconceptualized as a logical solution to unwanted pregnancies resulting from ineffectual contraceptives.<sup>[65]</sup> The formulation of abortion as a form of family planning for married women was made "thinkable" because both medical and non-medical practitioners agreed on the relative safety of the procedure.<sup>[65]</sup>

## 2.2.2 Abortion methods

**FRENCH PERIODICAL PILLS.**  
 Warranted to have the desired effect in all cases.  
**T**HESE Pills contain a portion of the only article in the whole materia medica, which can regulate the system and produce the monthly turns of females that can be taken, without hazarding life, and this article is not to be found in any of the pills or nostrums which are pictured forth so largely in the papers of the day. It has frequently occurred that the unhappy patient has by the use of these pills and nostrums given nature such a shock that they have never since enjoyed health, and they never can. It seems that they are got up and advertised merely for the object of making money, regardless of the consequences, and the vendors are usually considered beneath responsibility, by all who know them.  
 The French Periodical Pills are the result of the combined knowledge and experience of some of the oldest and most distinguished physicians of Europe, and have been used by females embracing the gentility and most of the nobility of France, for the last twenty-three years. To colorize their virtues would not add to their merits. We will only say TRY THEM, and if they do not prove to be what they are here represented to be, your money shall be refunded.  
 They contain no medicine detrimental to the constitution, but restore and debilitated constitutions to their wonted energy and healthfulness by removing from the system every impurity.  
 The only precaution necessary to be observed is ladies married should not take them if they have reason to believe they are en ciente, as they are sure to produce a miscarriage, almost without the knowledge of the patient, so gentle yet active are they.  
 All letters to be directed to, DR. L. MONROE, U. S. Agent and Importer, No 58 Union street, Boston.  
 N. B. The above Pills can only be obtained at 58 Union street, all sold elsewhere in Boston, are counterfeit, and only calculated to deceive.  
 N. B. Full directions accompanying the Pills. - 11

An 1845 ad for "French Periodical Pills" warns against use by women who might be "en ciente [sic]" ("enceinte" is French for "pregnant").

From 1870 there was a steady decline in fertility in England, linked not to a rise in the use of artificial contraception but to more traditional methods such as withdrawal and abstinence. This was linked to changes in the perception of the relative costs of childrearing. Of course, women did find themselves with unwanted pregnancies. Abortifacients were discreetly advertised and there was a considerable body of folklore about methods of inducing miscarriages. Amongst working-class women violent purgatives were popular, pennyroyal, aloes and turpentine were all used. Other methods to induce miscarriage were very hot baths and gin, extreme exertion, a controlled fall down a flight of stairs, or veterinary medicines. So-called 'backstreet' abortionists were fairly common, although their bloody efforts could be fatal. Estimates of the number of illegal abortions performed in England varied widely: by one estimate, 100,000 women made efforts to procure a miscarriage in 1914, usually by drugs.

In New York, surgical abortion in 1800s carried a death

rate of 30% regardless of hospital setting, the AMA launched an anti abortion campaign that resulted in abortion becoming the exclusive domain of doctors.<sup>[66]</sup> A paper published in 1870 on the abortion services to be found in Syracuse, New York, concluded that the method most often practiced there during this time was to flush inside of the uterus with injected water. The article's author, Ely Van de Warkle, claimed this procedure was affordable even to a maid, as a man in town offered it for \$10 on an installment plan.<sup>[67]</sup> Other prices which 19th-century abortion providers are reported to have charged were much more steep. In Britain, it could cost from 10 to 50 guineas, or 5% of the yearly income of a lower middle class household.<sup>[6]</sup>

A rash of unexplained miscarriages in Sheffield, England were attributed to lead poisoning caused by the metal pipes which fed the city's water supply. Soon, women began using diachylon, a substance with a high concentration of lead, as an abortifacient. In 1898, a woman confessed to having used diachylon to induce a miscarriage.<sup>[6]</sup> The use of diachylon became prevalent in the English Midlands up until WWI. Criminal investigation of an abortionist in Calgary, Alberta in 1894 revealed through chemical analysis that the concoction he had supplied to a man seeking an abortifacient contained Spanish fly.<sup>[68]</sup>

Dr. Evelyn Fisher wrote of how women living in a mining town in Wales during the 1920s used candles intended for Roman Catholic ceremonies to dilate the cervix in an effort to self-induce abortion.<sup>[6]</sup> Similarly, the use of candles and other objects, such as glass rods, penholders, curling irons, spoons, sticks, knives, and catheters was reported during the 19th century in the United States.<sup>[69]</sup> Women of Jewish descent in Lower East Side, Manhattan are said to have carried the ancient Indian practice of sitting over a pot of steam into the early 20th century.<sup>[11]</sup> Abortion remained a dangerous procedure into the early 20th century, more dangerous than childbirth until about 1930.<sup>[70]</sup>

### 2.2.3 Advertising for abortifacients and abortion services

Despite bans enacted on both sides of the Atlantic Ocean, access to abortion continued, as the disguised advertisement of abortion services, abortion-inducing devices, and abortifacient medicines in the Victorian era would seem to suggest.<sup>[71]</sup> Apparent print ads of this nature were found in both the United States,<sup>[72]</sup> the United Kingdom,<sup>[6]</sup> and Canada.<sup>[73]</sup> A British Medical Journal writer who replied to newspaper ads peddling relief to women who were "temporarily indisposed" in 1868 found that over half of them were in fact promoting abortion.<sup>[6]</sup>

A few alleged examples of surreptitiously marketed abortifacients include "Farrer's Catholic Pills," "Hardy's Woman's Friend," "Dr. Peter's French Renovating



*Suggestive advertisement for the use of Beecham's Pills as an abortifacient. The text at the bottom notes that the pills "assist nature in her wondrous functions".*

Pills," "Lydia Pinkham's Vegetable Compound,"<sup>[74]</sup> and "Madame Drunette's Lunar Pills."<sup>[6]</sup> Patent medicines which claimed to treat "female complaints" often contained such ingredients as pennyroyal, tansy, and savin. Abortifacient products were sold under the promise of "restor[ing] female regularity" and "removing from the system every impurity."<sup>[74]</sup> In the vernacular of such advertising, "irregularity," "obstruction," "menstrual suppression," and "delayed period" were understood to be euphemistic references to the state of pregnancy. As such, some abortifacients were marketed as menstrual regulatives.<sup>[69]</sup>

Beecham's Pills were marketed primarily as a laxative from 1842. They were invented by Thomas Beecham from St Helens, Lancashire, England. The pills were a combination of aloe, ginger, and soap, with some other more minor ingredients. The popularity of the pills produced a wide range of testimonials that were used in advertising. The poet William Topaz McGonagall wrote a poem advertising the pills, giving his recommendation in verse.<sup>[75]</sup> Beecham's expenditure on advertising went from £22,000 to £95,000 in the 1880s.<sup>[76]</sup> An 1897 advertisement in the *Christian Herald* edition for Queen Victoria's Diamond Jubilee said: "Worth a guinea a box. Beecham's Pills for all bilious and nervous disorders such as Sick Headache, Constipation, Weak Stomach, Impaired Digestion, Disordered Liver and Female Ailments.

The sale is now 6 million boxes per annum.” The text was printed alongside a picture of a young woman parting with a lover and was captioned “What are the wild waves saying? Try Beecham’s Pills.”<sup>[77]</sup>



“The Female Abortionist.” *Madame Restell* is portrayed as a villainess in an 1847 copy of the *National Police Gazette*.

“Old Dr. Gordon’s Pearls of Health,” produced by a drug company in Montreal, “cure[d] all suppressions and irregularities” if “used monthly.”<sup>[78]</sup> However, a few ads explicitly warned against the use of their product by women who were expecting, or listed miscarriage as its inevitable side effect. The copy for “Dr. Peter’s French Renovating Pills” advised, “...pregnant females should not use them, as they invariably produce a miscarriage...,” and both “Dr. Monroe’s French Periodical Pills” and “Dr. Melveau’s Portuguese Female Pills” were “sure to produce a miscarriage.”<sup>[6]</sup> F.E. Karn, a man from Toronto, in 1901 cautioned women who thought themselves pregnant not to use the pills he advertised as “Friar’s French Female Regulator” because they would “speedily restore menstrual secretions.”<sup>[78]</sup>

In the mid 1930s abortifacient drugs were marketed in the United States to women by various companies under various names such as Molex Pills and Cote Pills. Since birth control devices and abortifacients were illegal to market and sell at the time, they were offered to women who were “delayed”. The recommended dosage constituted seven grains of ergotin a day. These pills generally contained ingredients such as ergotin, aloes, Black Hellebore. The efficacy and safety of these pills are unknown. In 1940 the FTC<sup>[79]</sup> deemed them unsafe and ineffective and demanded that these companies cease and desist selling these product.

A well-known example of a Victorian-era abortionist was *Madame Restell*, or Ann Lohman, who over a forty-year period illicitly provided both surgical abortion and abortifacient pills in the northern United States. She began her business in New York during the 1830s, and, by the 1840s, had expanded to include franchises in Boston and Philadelphia. It is estimated that by 1870 her annual expenditure on advertising alone was \$60,000.<sup>[6]</sup>

“MESSRS. EDITORS.—As a new phase of quack advertising has of late presented itself, it may be proper to give it a little consideration. I refer to the practice of advertising drugs for *producing abortions*. These advertisements have become so villainously common that one can hardly find a weekly newspaper whose columns are free from the nuisance: which, while they recommend abortions in an indirect manner, do not fail to impress upon the minds of the public that miscarriage can be produced, certainly and safely, with drugs! The following will serve as a specimen of the whole class. It is taken from a paper published and extensively circulated in Northern Ohio:—

“Ladies in want of a pleasant and safe remedy for irregularities, obstructions, &c., should use Dr. Miller’s Female Monthly Powders. It has been said that these powders will produce miscarriage. Without admitting the truth of this assertion, I must confess that it is the inevitable consequence of their use during the early months of pregnancy. Therefore ladies who desire an increase of family should not use them. If after this caution any lady in a certain situation should use them, she must hold herself responsible for the abortion which will surely follow. Price \$5. Sent by mail to any part of the country.”

“Such notices cannot fail to do evil by familiarizing the public with the idea that abortion may be produced whenever one does not desire an increase of family, and it is strange that editors and publishers, who claim to be the guardians of the public health and morals, should thus aid in sowing broadcast the seeds of grossest immorality, crime and suffering, and in robbing the public of money and health.”

“Dr. Miller’s Female Monthly Powders” ad copy reprinted in an 1858 article condemning such advertising.

One ad for Restell’s medical services, printed in the *New York Sun*, promised that she could offer the “strictest confidence on complaints incidental to the female frame” and that her “experience and knowledge in the treatment of cases of female irregularity, [was] such as to require but a few days to effect a perfect cure.”<sup>[80]</sup> Another, addressed to married women, asked the question, “Is it desirable, then, for parents to increase their families, regardless of consequences to themselves, or the well-being of their offspring, when a simple, easy, healthy, and certain remedy is within our control?”<sup>[81]</sup> Advertisements for the “Female Monthly Regulating Pills” she also sold vowed to resolve “all cases of suppression, irregularity, or stoppage of the menses, however obdurate.”<sup>[80]</sup> Madame Restell was an object of criticism in both the respectable and penny presses. She was first arrested in 1841, but, it was her final arrest by Anthony Comstock which led to her suicide on the day of her trial April 1, 1878.<sup>[81]</sup>

Such advertising aroused criticisms of quackery and immorality. The safety of many nostrums was suspect and the efficacy of others non-existent.<sup>[69]</sup> Horace Greeley, in a *New York Herald* editorial written in 1871, denounced abortion and its promotion as the “infamous and unfortunately common crime—so common that it affords a lucrative support to a regular guild of professional murderers, so safe that its perpetrators advertise their calling in the newspapers.”<sup>[72]</sup> Although the paper in which Greeley wrote accepted such advertisements, others, such as the *New York Tribune*, refused to print them.<sup>[72]</sup> Elizabeth Blackwell, the first woman to obtain a Doctor of Medicine in the United States, also lamented how such ads led to

the contemporary synonymy of “female physician” with “abortionist.”<sup>[72]</sup>

### 2.2.4 Abortion law reform campaign



*Stella Browne was a pioneering feminist who campaigned for the liberalization of abortion law.*

Many feminists of the era were actually opposed to the legalization of abortion.<sup>[82][83]</sup> In *The Revolution*, operated by Elizabeth Cady Stanton and Susan B. Anthony, an anonymous contributor signing “A” wrote in 1869 about the subject, arguing that instead of merely attempting to pass a law against abortion, the root cause must also be addressed. Simply passing an anti-abortion law would, the writer stated, “be only mowing off the top of the noxious weed, while the root remains. [...] No matter what the motive, love of ease, or a desire to save from suffering the unborn innocent, the woman is awfully guilty who commits the deed. It will burden her conscience in life, it will burden her soul in death; But oh! thrice guilty is he who drove her to the desperation which impelled her to the crime.”<sup>[83][84][85][86]</sup>

The movement towards the liberalization of abortion law emerged in the 1920s and '30s in the context of the victories that had been recently won in the area of birth control. Campaigners including Marie Stopes in England and Margaret Sanger in the US had succeeded in bringing the issue into the open, and birth control clinics were established which offered family planning advice and contraceptive methods to women in need.

In 1929, the Infant Life Preservation Act was passed in

Britain, which amended the law (*Offences against the Person Act 1861*) so that an abortion carried out in good faith, for the sole purpose of preserving the life of the mother, would not be an offence.<sup>[87]</sup>

Stella Browne was a leading birth control campaigner, who increasingly began to venture into the more contentious issue of abortion in the 1930s. Browne’s beliefs were heavily influenced by the work of Havelock Ellis, Edward Carpenter and other sexologists.<sup>[88]</sup> She came to strongly believe that working women should have the choice to become pregnant and to terminate their pregnancy while they worked in the horrible circumstances surrounding a pregnant woman who was still required to do hard labour during her pregnancy.<sup>[89]</sup> In this case she argued that doctors should give free information about birth control to women that wanted to know about it. This would give women agency over their own circumstances and allow them to decide whether they wanted to be mothers or not.<sup>[90]</sup>

In the late 1920s Browne began a speaking tour around England, providing information about her beliefs on the need for accessibility of information about birth control for women, women’s health problems, problems related to puberty and sex education and high maternal morbidity rates among other topics.<sup>[88]</sup> These talks urged women to take matters of their sexuality and their health into their own hands. She became increasingly interested in her view of the woman’s right to terminate their pregnancies, and in 1929 she brought forward her lecture “The Right to Abortion” in front of the *World Sexual Reform Congress* in London.<sup>[88]</sup> In 1931 Browne began to develop her argument for women’s right to decide to have an abortion.<sup>[88]</sup> She again began touring, giving lectures on abortion and the negative consequences that followed if women were unable to terminate pregnancies of their own choosing such as: suicide, injury, permanent invalidism, madness and blood-poisoning.<sup>[88]</sup>

Other prominent feminists, including Frida Laski, Dora Russell, Joan Malleson and Janet Chance began to champion this cause - the cause broke dramatically into the mainstream in July 1932 when the *British Medical Association* council formed a committee to discuss making changes to the laws on abortion.<sup>[88]</sup> On 17 February 1936, Janet Chance, Alice Jenkins and Joan Malleson established the *Abortion Law Reform Association* as the first advocacy organisation for abortion liberalization. The association promoted access to abortion in the *United Kingdom* and campaigned for the elimination of legal obstacles.<sup>[91]</sup> In its first year ALRA recruited 35 members, and by 1939 had almost 400 members.<sup>[91]</sup>

The ALRA was very active between 1936 and 1939 sending speakers around the country to talk about Labour and Equal Citizenship and attempted, though most often unsuccessfully, to have letters and articles published in newspapers. They became the most popular when a member of the ALRA’s Medico-Legal Committee re-



*Aleck Bourne was acquitted for performing an abortion on a rape victim in 1938, a landmark case in the movement for abortion rights.*

ceived the case of a fourteen year old girl who had been raped, and received a termination of this pregnancy from Dr. Joan Malleson, a progenitor of the ALRA.<sup>[91]</sup> This case gained a lot of publicity, however once the war began, the case was tucked away and the cause again lost its importance to the public.

In 1938, Joan Malleson precipitated one of the most influential cases in British abortion law when she referred a pregnant fourteen-year-old rape victim to gynaecologist Aleck Bourne. He performed an abortion, then illegal, and was put on trial on charges of procuring abortion. Bourne was eventually acquitted in *Rex v. Bourne* as his actions were "...an example of disinterested conduct in consonance with the highest traditions of the profession".<sup>[92]</sup> This court case set a precedent that doctors could not be prosecuted for performing an abortion in cases where pregnancy would probably cause "mental and physical wreck".

Finally, the Birkett Committee, established in 1937 by the government "to inquire into the prevalence of abortion, and the law relating thereto", recommended a change to abortion laws two years later. The intervention of World War II meant that all plans were shelved.<sup>[93]</sup>

### 2.2.5 Liberalization of abortion law

See also: Timeline of reproductive rights legislation, Abortion law and History of Abortion Law Debate

The Russian Soviet Federative Socialist Republic was the



*The Soviet Union first legalized abortion in 1920. The poster c. 1925 warns against unsafe abortion. Title translation: "Abortions performed by either trained or self-taught midwives not only maim the woman, they also often lead to death."*

first government to legalize abortion and make it available on request, often for no cost.<sup>[94][95]</sup> The Soviet government hoped to provide access to abortion in a safe environment performed by a trained doctor instead of *babki*.<sup>[96]</sup> While this campaign was extremely effective in the urban areas (as much as 75% of abortions in Moscow were performed in hospitals by 1925), it had much less on rural regions where there was neither access to doctors, transportation, or both and where women relied on traditional medicine.<sup>[97]</sup> In the countryside in particular, women continued to see *babki*, midwives, hairdressers, nurses, and others for the procedure after abortion was legalized in the Soviet Union.<sup>[98]</sup>

In 1936 the Soviet Union made abortion illegal again, stemming largely from Joseph Stalin's worries about population growth. Stalin wanted to encourage population growth, as well as place a stronger emphasis on the importance of the family unit to communism.<sup>[99]</sup>

In Britain, the Abortion Law Reform Association continued its campaigning after the War, and this, combined with broad social changes brought the issue of abortion back into the political arena in the 1960s. President of the Royal College of Obstetricians and Gynaecologists John Peel chaired the committee advising the British Government on what became the 1967 Abortion Act. On the grounds of reducing the amount of disease and death associated with illegal abortion, the Abortion Act allowed for legal abortion on a number of grounds, including to prevent grave permanent injury to the woman's physical or mental health, to avoid injury to the physical or mental health of the woman or her existing child(ren) if the pregnancy was still under 28 weeks, or if the child was likely to be severely physically or mentally handicapped. The free provision of abortions was provided through the National Health Service.<sup>[100]</sup>

In America an abortion reform movement emerged in the



*The United States Supreme Court membership in 1973 at the time of *Roe v. Wade*.*

1960s. In 1963 The Society for Human Abortions was formed, providing women with information on how to obtain and perform abortions.<sup>[101]</sup> In 1964 Gerri Santoro of Connecticut died trying to obtain an illegal abortion and her photo became the symbol of the pro-choice movement. Some women's rights activist groups developed their own skills to provide abortions to women who could not obtain them elsewhere. As an example, in Chicago, a group known as "Jane" operated a floating abortion clinic throughout much of the 1960s. Women seeking the procedure would call a designated number and be given instructions on how to find "Jane".<sup>[102]</sup>

In the late 1960s, a number of organizations were formed to mobilize opinion both against and for the legalization of abortion. The forerunner of the **NARAL Pro-Choice America** was formed in 1969 to oppose restrictions on abortion and expand access to abortion.<sup>[103]</sup> In late 1973 NARAL became the National Abortion Rights Action League.

In 1967, 21 members of the clergy announced in the New York Times that they would help women find safe abortion providers.<sup>[104]</sup>

In 1967, **Colorado** became the first state to decriminalize abortion in cases of rape, incest, or in which pregnancy would lead to permanent physical disability of the woman. Similar laws were passed in **California**, **Oregon**, and **North Carolina**. In 1970, **Hawaii** became the first state to legalize abortions on the request of the woman,<sup>[105]</sup> and New York repealed its 1830 law and allowed abortions up to the 24th week of pregnancy. Similar laws were soon passed in **Alaska** and **Washington**. A law in **Washington, D.C.**, which allowed abortion to protect the life or health of the woman, was challenged in the Supreme Court in 1971 in *United States v. Vuitch*. The court upheld the law, deeming that "health" meant "psychological and physical well-being," essentially allowing abortion in Washington, DC. By the end of 1972, 13 states had a law similar to that of Colorado, while **Mississippi** allowed abortion in cases of rape or incest only and **Alabama** and **Massachusetts** allowed abortions only in cases where the woman's physical health was endangered.

The landmark judicial ruling of the Supreme Court in *Roe v. Wade* ruled that a **Texas** statute forbidding abortion except when necessary to save the life of the mother was unconstitutional. The Court arrived at its decision by concluding that the issue of abortion and abortion rights falls under the **right to privacy**.

The Court held that a right to privacy existed and included the right to have an abortion. The court found that a mother had a right to abortion until viability, a point to be determined by the abortion doctor. After viability a woman can obtain an abortion for health reasons, which the Court defined broadly to include psychological well-being.

From the 1970s, and the spread of **second-wave feminism**, abortion and **reproductive rights** became unifying issues among various women's rights groups in Canada, the United States, the Netherlands, Britain, Norway, France, Germany, and Italy.<sup>[106]</sup>

## 2.2.6 Development of contemporary abortion methods



*Harvey Karman showing his invention, the Karman cannula for suction-aspiration abortion.*

Although prototypes of the modern **curette** are referred to in ancient texts, the instrument which is used today was initially designed in France in 1723, but was not applied specifically to a gynecological purpose until 1842.<sup>[107]</sup> **Dilation and curettage** has been practiced since the late 19th century.<sup>[107]</sup>

The 20th century saw improvements in abortion technology, increasing its safety, and reducing its **side-effects**.

Vacuum devices, first described by the Scottish obstetrician James Young Simpson in the 19th century, allowed for the development of suction-aspiration abortion.<sup>[107]</sup> The process was improved by the Russian doctor S. G. Bykov in 1927, where the method was used during its period of liberal abortion laws from 1920 to 1936. The technology was also used in China and Japan before being introduced to Britain and the United States in the 1960s.<sup>[107]</sup> The invention of the Karman cannula, a flexible plastic cannula which replaced earlier metal models in the 1970s, reduced the occurrence of perforation and made suction-aspiration methods possible under local anesthesia.<sup>[107]</sup>

In 1971, Lorraine Rothman and Carol Downer, founding members of the feminist self-help movement, invented the Del-Em, a safe, cheap suction device that made it possible for people with minimal training to perform early abortions called menstrual extraction.<sup>[107]</sup> During the mid-1990s in the United States the medical community showed renewed interest in manual vacuum aspiration as a method of early surgical abortion. This resurgence is due to technological advances that permit early pregnancy detection (as soon as a week after conception) and a growing popular demand for safe, effective early abortion options, both surgical and medical. An innovator in the development of early surgical abortion services is Jerry Edwards, a physician, who developed a protocol in which women are offered an abortion using a handheld vacuum syringe as soon as a positive pregnancy test is received. This protocol also allows the early detection of an ectopic pregnancy.<sup>[107]</sup>

Intact dilation and extraction was developed by Dr. James McMahon in 1983. It resembles a procedure used in the 19th century to save a woman's life in cases of obstructed labor, in which the fetal skull was first punctured with a perforator, then crushed and extracted with a forceps-like instrument, known as a cranioclast.<sup>[108][109]</sup>

In 1980, researchers at Roussel Uclaf in France developed mifepristone, a chemical compound which works as an abortifacient by blocking hormone action. It was first marketed in France under the trade name Mifegyne in 1988.<sup>[110]</sup>

## 2.3 Abortion around the world

Abortion has been banned or restricted throughout history in countries around the world. Multiple scholars have noticed that in many cases, this has caused women to seek dangerous, illegal abortions underground or inspired trips abroad for "reproductive tourism."<sup>[111][112][113]</sup> Half of the world's current deaths due to unsafe abortions occur in Asia.<sup>[111]</sup>

### 2.3.1 China

See also: Abortion in China

In the early 1950s, the Chinese government made abortion illegal, with punishments for those who received or performed illegal abortions written into the law.<sup>[114]</sup> These restrictions were seen as the government's way of emphasizing the importance of population growth.<sup>[114]</sup>

As the decade went on, however, the laws were relaxed with the intent of reducing the number of deaths and life-long injuries women sustained due to illegal abortions as well as serving as a form of population control when used in conjunction with birth control.<sup>[114]</sup> In the early 1980s, the state implemented a form of family planning which used abortion as a "back-up method"; and in 2005, there has been legislation trying to curb sex-selective abortion.<sup>[114]</sup>

### 2.3.2 India

See also: Abortion in India

India enforced the Indian Penal Code from 1860 to 1971, criminalizing abortion and punishing both the practitioners and the women who sought out the procedure.<sup>[113]</sup> As a result, countless women died in an attempt to obtain illegal abortions from unqualified midwives and "doctors."<sup>[113]</sup> Abortion was made legal under specific circumstances in 1971, but as scholar S. Chandrasekhar notes, lower class women still find themselves at a greater risk of injury or death as a result of a botched abortion.<sup>[113]</sup>

### 2.3.3 Japan

See also: Abortion in Japan

Japan is known today worldwide for its acceptance of abortion.<sup>[111][115]</sup> It is estimated that two-thirds of Japanese women have an abortion by age forty, partially due to former government restrictions on contraceptive pills on 'public hygiene grounds'.<sup>[111]</sup>

The Eugenics Protection Law of 1948 made abortion on demand legal up to twenty-two weeks' gestation so long as the woman's health was endangered; in 1949, this law was extended to consider the risk the child's birth would place on a woman's economic welfare.<sup>[111][115]</sup> Originally, each case would have to be approved by a local eugenics council, but this was removed from the law in 1952, making the decision a private one between a woman and her physician.<sup>[111][115]</sup>

In 1964, the creation of the conservative right-wing nationalist political lobbying group called Seicho-no-

It brought about a strong opposition to the abortion laws.<sup>[111]</sup> This campaign reached its peak strength in the early 1980s, but ultimately failed in 1983.<sup>[111]</sup>

### 2.3.4 Romania

See also: [Abortion in Romania](#)

In 1957, Romania legalized abortion, but in 1966, after a decline in the national birthrate, Nicolae Ceaușescu approved Decree 770, which criminalized abortion and encouraged childbirth. As a result of this decree, women were forced to seek out illegal methods of abortion that caused the deaths of over 9,000 women and left countless unwanted children abandoned in orphanages. Abortion remained illegal until 1989, when the decree was overturned.<sup>[116]</sup>

### 2.3.5 Thailand

There was intense public debate throughout the 1980s and 1990s over legal abortion reform.<sup>[111]</sup> These debates portrayed abortion as un-Buddhist and anti-religious; abortion opponents ultimately labeled it as a form of Western corruption that was inherently anti-Thai and threatened the integrity of the nation.<sup>[111]</sup> Despite this, in 2006, abortions became legal in cases of [rape](#) or [foetal impairment](#).<sup>[111]</sup> Mental health also became a factor in determining the legality of an abortion procedure.<sup>[111]</sup> The strict regulations involved in qualifying for a legal abortion, however, cause approximately 300,000 women a year to seek illegal avenues according to scholar Andrea Whittaker, with the poorest undergoing the most dangerous of procedures.<sup>[111]</sup>

## 2.4 See also

- [Gynecology](#)
- [History of medicine](#)
- [Obstetrics](#)
- [Susan B. Anthony abortion dispute](#)

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- *Christianity and Sexuality in the Early Modern World* a scholarly work by Merry E. Wiesner. Published by Routledge.
- *Abortion—my choice, God's grace: Christian women tell their stories* by Anne Marie Eggebroten]

## 2.7 External links

- Text of the Roe v Wade decision from Findlaw

## 2.6 Further reading

- Critchlow, Donald T. (1999). *Intended consequences: birth control, abortion, and the federal government in modern America*. Oxford: Oxford University Press. ISBN 0-19-504657-9. OCLC 38542669.

## Chapter 3

# Abortion debate

The **abortion debate** is the ongoing controversy surrounding the moral and legal status of induced **abortion**. The sides involved in the debate are the self-described "**pro-choice**" movement (emphasizing the right of women to decide whether to terminate a pregnancy) and the self-described "**pro-life**" movement (emphasizing the right of the embryo or fetus to gestate and be born). Both of these ascriptions are considered **loaded terms** in mainstream media where terms such as "abortion rights" or "anti-abortion" are generally preferred.<sup>[1]</sup> Each movement has, with varying results, sought to influence public opinion and to attain legal support for its position, with small numbers of anti-abortion advocates sometimes using **violence**.

For many people, abortion is essentially a moral issue, involving issues as to **commencement of human personhood**, the **rights of the fetus**, the rights of self-determination of the woman, and/or whether anybody else can make choices concerning her body. The debate has become a political and legal issue in some countries with anti-abortion campaigners seeking to enact, maintain and expand **anti-abortion laws**, while abortion rights campaigners seek the repeal or easing of such laws. Abortion laws vary considerably between jurisdictions, ranging from outright prohibition of the procedure to few limitations on it.

### 3.1 Overview

In ancient times, abortion, along with **infanticide**, was considered in the context of **family planning**, gender selection, population control, and the property rights of the patriarch.<sup>[2]</sup> Rarely were the rights of the prospective mother, much less the prospective child, taken into consideration.<sup>[3]</sup> Although generally legal, the morality of abortion, birth control and child abandonment (as a form of infanticide) was sometimes discussed. Then, as now, these discussions often concerned the nature of man, the existence of a soul, when life begins, and the **beginning of human personhood**.

While the practice of infanticide (as a form of family planning) has largely died out, child abandonment, **birth control**, and abortion are still practiced; and their morality and legality continues to be debated. While modern

debates about abortion retain some of the language of these older debates, the terminology has often acquired new meanings.

Any discussion of the putative **personhood** of the fetus will be complicated by the current legal status of children. In the U.S., a fetus or an embryo is not a full person by law, not having reached the age of majority and not deemed able to enter into contracts and sue or be sued. For the past two centuries, they have been treated as persons for the limited purposes of **Offence against the person law**. Furthermore, as one **New Jersey Superior Court** judge noted,

If a fetus is a person, it is a person in very special circumstances – it exists entirely within the body of another much larger person and usually cannot be the object of direct action by another person.<sup>[4]</sup>

This judgement discusses the logistic difficulties of treating a fetus as "the object of direct action."

Opinions in the current debate range from complete prohibition, even if done to save the woman's life,<sup>[5]</sup> to complete legalization with public funding, as in **Canada**.<sup>[6]</sup>

### 3.2 Terminology

Many of the terms used in the debate are seen as **political framing**: terms used to validate one's own stance while invalidating the opposition's. For example, the labels "pro-choice" and "pro-life" imply endorsement of widely held values such as **liberty** and **freedom**, while suggesting that the opposition must be "**anti-choice**" or "**anti-life**" (alternatively "**pro-coercion**" or "**pro-death**").<sup>[7]</sup> Terms used by some in the debate to describe their opponents include "**pro-abortion**" or "**pro-abortion**". However, these terms do not always reflect a political view or fall along a binary; in one **Public Religion Research Institute** poll, seven in ten Americans described themselves as "pro-choice" while almost two-thirds described themselves as "pro-life".<sup>[8]</sup> Another identifier in the debate is "abolitionist", which harks back to the 19th-century struggle against **human slavery**.<sup>[9][10]</sup>

Appeals are often made in the abortion debate to the rights of the fetus, pregnant woman, or other parties. Such appeals can generate confusion if the *type* of rights is not specified (whether civil, natural, or otherwise) or if it is simply assumed that the right appealed to takes precedence over all other competing rights (an example of begging the question).

The appropriate terms with which to designate the human organism prior to birth are also debated. The medical terms "embryo" and "fetus" are seen by some pro-life advocates as dehumanizing.<sup>[11][12]</sup>

### 3.3 Political debate

Politics refers to the processes, defined and limited through legal documents, by which decisions (laws) are made in governments. In politics, rights are the protections and privileges legally granted to citizens by the government. In a democracy, certain rights are considered to be inalienable, and thus not subject to grant or withdrawal by government. Regarding abortion law, the political debate usually surrounds a right to privacy, and when or how a government may regulate abortion. There is abundant debate regarding the extent of abortion regulation. Some pro-choice advocates argue that it should be illegal for governments to regulate abortion any more than other medical practices.<sup>[13]</sup> On both sides of the debate, some argue that governments should be permitted to prohibit elective abortions after the 20th week,<sup>[14]</sup> viability,<sup>[15]</sup> or the second trimester.<sup>[16]</sup> Some want to prohibit all abortions, starting from conception.<sup>[17]</sup>

#### 3.3.1 Privacy

Even though the right to privacy is not explicitly stated in many constitutions of sovereign nations, many people see it as foundational to a functioning democracy. In general the right to privacy can be found to rest on the provisions of *habeas corpus*, which first found official expression under Henry II in 11th century England, but has precedent in Anglo-Saxon law. This provision guarantees the right to freedom from arbitrary government interference, as well as due process of law. This conception of the right to privacy is operant in all countries which have adopted English common law through Acts of Reception. The Law of the United States rests on English common law by this means.

*Time* has stated that the issue of bodily privacy is "the core" of the abortion debate.<sup>[18]</sup> *Time* defined privacy, in relation to abortion, as the ability of a woman to "decide what happens to her own body".<sup>[18]</sup> In political terms, privacy can be understood as a condition in which one is not observed or disturbed by government.<sup>[19]</sup>

Traditionally, American courts have located the right to privacy in the Fourth Amendment, Ninth Amendment,

Fourteenth Amendment, as well as the penumbra of the Bill of Rights. The landmark decision, *Roe v Wade* relied on the 14th Amendment which guarantees that federal rights shall be applied equally to all persons born in the United States. The 14th Amendment has given rise to the doctrine of Substantive due process, which is said to guarantee various privacy rights, including the right to bodily integrity. In Canada, the courts have located privacy rights in the security of persons clause of the Canadian Charter of Rights and Freedoms. Section 7 of that charter echoes language used in the Universal Declaration of Human Rights, which also guarantees security of persons.

Eileen L. McDonagh explains privacy in US law:

Although not widely understood, there are in fact two components to the right to bodily integrity and liberty: the right of a person to choose how to live her own life and the right of a person to consent to the effects of a private party on her bodily integrity and liberty. In the context of constitutional guarantees, a person's right to consent to "what is done" to her body is an even stronger right than a person's right to choose "what to do" with her life...Since there are two components to the right to bodily integrity and liberty--choice and consent--once the state designates the fetus as an entity separate from the woman, her right to terminate pregnancy stems not only from her right to make a choice about her liberty, but more fundamentally, from her right to consent to how the fetus, as another entity, affects her body and liberty.<sup>[20]</sup>

While governments are allowed to invade the privacy of their citizens in some cases, they are expected to protect privacy in all cases lacking a compelling state interest. In the US, the compelling state interest test has been developed in accordance with the standards of strict scrutiny. In *Roe v Wade*, the Court decided that the state has an "important and legitimate interest in protecting the potentiality of human life" from the point of viability on, but that prior to viability, the woman's fundamental rights are more compelling than that of the state.

#### 3.3.2 U.S. judicial involvement

Main article: Abortion in the United States

*Roe v. Wade* struck down state laws banning abortion in 1973. Over 20 cases have addressed abortion law in the United States, all of which upheld *Roe v. Wade*. Since *Roe*, abortion has been legal throughout the country, but states have placed varying regulations on it, from requiring parental involvement in a minor's abortion to restricting late-term abortions.



Albert Wynn and Gloria Feldt at the U.S. Supreme Court to rally in support of *Roe v. Wade*.

Legal criticisms of the *Roe* decision address many points, among them are several suggesting that it is an overreach of judicial powers,<sup>[21]</sup> or that it was not properly based on the Constitution,<sup>[22]</sup> or that it is an example of judicial activism and that it should be overturned so that abortion law can be decided by legislatures.<sup>[23]</sup> Justice Potter Stewart, who joined with the majority, viewed the *Roe* opinion as “legislative” and asked that more consideration be paid to state legislatures.<sup>[24]</sup>

Candidates competing for the Democratic nomination for the 2008 Presidential election cited *Gonzales v. Carhart* as judicial activism.<sup>[25]</sup> In upholding the Partial-Birth Abortion Ban Act, *Carhart* is the first judicial opinion upholding a legal barrier to a specific abortion procedure.

“Where, in the performance of its judicial duties, the Court decides a case in such a way as to resolve the sort of intensely divisive controversy reflected in *Roe* and those rare, comparable cases, its [505 U.S. 833, 867] decision has a dimension that the resolution of the normal case does not carry. It is the dimension present whenever the Court’s interpretation of the Constitution calls the contending sides of a national controversy to end their national division by accepting a common mandate rooted in the Constitution [...W]hatever the premises of opposition may be, only the most convincing justification under accepted standards of precedent could suffice to demonstrate that a later decision overruling the first was anything but a surrender to political pressure and an unjustified repudiation of the principle on which the Court staked its authority in the first instance.” — Majority opinion of *Planned Parenthood v. Casey*.<sup>[26][27]</sup>

“Quite to the contrary, by foreclosing all democratic outlet for the deep passions this issue arouses, by banishing the issue from the po-

litical forum that gives all participants, even the losers, the satisfaction of a fair hearing and an honest fight, by continuing the imposition of a rigid national rule instead of allowing for regional differences, the Court merely prolongs and intensifies the anguish [over abortion].” — Justice Antonin Scalia, “concurring in the judgment in part and dissenting in part”.<sup>[27]</sup>



“No to abortion” at a 2007 meeting with Pope Benedict XVI in São Paulo, Brazil.

### 3.3.3 Canadian judicial involvement

Main article: Abortion in Canada

With *R v. Morgentaler*, the Supreme Court of Canada removed abortion from the Criminal Code. Relying on the security of person clause of the Canadian Charter of Rights and Freedoms, the court determined that, while the state has an interest in protecting the fetus “at some point”, this interest cannot override that of the pregnant woman because: “the right to security of the person of a pregnant woman was infringed more than was required to achieve the objective of protecting the fetus, and the means were not reasonable.” The only laws currently governing abortion in Canada are those which govern other medical procedures, such as those regulating licencing of facilities, the training of medical personnel, and the like.

Because the courts did not specifically establish abortion as a right, Parliament has leave to legislate on this aspect of the matter; and in 1989, the Progressive Conservative government attempted to do just that. A bill was introduced that would allow abortion only if two doctors certified that the woman’s health was in danger. This bill passed the House of Commons but was defeated by a tie vote in the Senate.

Several additional cases have considered further issues.

Although the courts have not ruled on the question of fetal personhood, the question has been raised in two cases, *Tremblay v. Daigle* and *R. v. Sullivan*. Both cases relied on the born alive rule, inherited from English common law, to determine that the fetus was not a person at law.

Two further cases are notable: *Dobson (Litigation Guardian of) v. Dobson*, and *Winnipeg Child & Family Services (Northwest Area) v. G. (D.F.)*, [1997] 3 S.C.R. 925 M], which dismissed so-called fetal abuse charges.

### 3.3.4 Effects of legalization/illegalization

Pro-choice advocates argue that illegalization of abortion increases the incidence of **unsafe abortions**, as the availability of professional abortion services decreases, and leads to increased **maternal mortality**. According to a global study collaboratively conducted by the **World Health Organization** and the **Guttmacher Institute**, most unsafe abortions occur **where abortion is illegal**.<sup>[28]</sup>

The **effect on crime of legalized abortion** is a subject of controversy, with proponents of the theory generally arguing that “unwanted children” are more likely to become criminals and that an inverse correlation is observed between the availability of abortion and subsequent crime.

Economist **George Akerlof** has argued that the legalization of abortion in the United States contributed to a declining sense of paternal duty among biological fathers and to a decline in **shotgun weddings**, even when women chose childbirth over abortion, and thus to an increase rather than a decrease in the rate of children born to unwed mothers.<sup>[29][30]</sup>

### 3.3.5 Anti-abortion violence

Main article: **Anti-abortion violence**

Anti-abortion violence is **violence** committed against individuals and organizations that provide **abortion**.<sup>[31]</sup> Incidents of violence have included destruction of property, in the form of **vandalism**; crimes against people, including **kidnapping**, **stalking**, **assault**, **attempted murder**, and **murder**; and crimes affecting both people and property, including **arson** and **bombings**. Anti-abortion violence is most frequently committed in the United States, though it has also occurred in Australia, Canada, and New Zealand. G. Davidson Smith of **Canadian Security Intelligence Service** defined anti-abortion violence as “single issue terrorism”.<sup>[32]</sup> A study of 1982–87 violence considered the incidents “limited political” or “subrevolutionary” terrorism.<sup>[33]</sup>

Some of those opposed to abortion have sometimes resorted to very public demonstrations of violence in an effort to achieve their objective of curbing abortions. Those who engage in or support such actions defend the use of force—as **justifiable homicide** or **defense of others**—in the interest of protecting the life of the **fetus**.<sup>[34]</sup> In the 1980s political scientist David C. Nice associated anti-abortion violence with U.S. states having weaker social restraints, higher abortion rates, less confidence in state government, and more violence by men against

women.<sup>[35]</sup> Anti-abortion violence has been described as a form of **Christian terrorism**.<sup>[36]</sup> Some supporters of such violence embrace this designation.<sup>[37]</sup>

## 3.4 Moral issues

Main article: **Philosophical aspects of the abortion debate**

**Ethics** is “**moral philosophy**”, or the study of **values** and the analysis of **right and wrong**. The ethical debate over abortion usually surrounds the issues of whether a fetus has **rights**, in particular a **right to life**, and whether the pregnant woman’s rights over her own body justify abortion *even if* the fetus has a right to life. For many, there is a strong association between **religion and abortion ethics**.

Ethical question regarding abortion usually include:

- Are embryos, zygotes and fetuses “persons” worthy of legal protections?
- Should the *potential* to be a person give embryos, zygotes and fetuses a **right to life**?
- Does a fetus gain rights as it gets closer to birth?
- Does a woman have an absolute right to determine what happens in and to her body?
- Is abortion acceptable in cases of rape, incest, or contraception failure?
- If abortion is acceptable only under these circumstances, does it subject the rights of a fetus to circumstances of its conception?
- Is abortion acceptable in cases where the fetus is deformed?
- If abortion is acceptable only if the fetus is deformed, does it **subject the rights of a fetus to its physical health**?
- Is abortion acceptable in cases where if the pregnancy were to continue, it would pose a direct threat to the life of the mother?<sup>[38][39]</sup>

### 3.4.1 Personhood

There are differences of opinion as whether, and if so the point in time when, a zygote/embryo/fetus acquires “**personhood**”. Traditionally, the concept of **personhood** entailed the concept of **soul**, a **metaphysical** concept referring to a non-corporeal or extra-corporeal dimension of **human being**. However, in the “modern” world, the concepts of **subjectivity** and **intersubjectivity**, **personhood**, **mind**, and **self** have come to encompass a number of aspects of human being previously considered the domain of the “soul”.<sup>[40][41]</sup> Thus, while the historical question

has been: when does the **soul enter the body**, in modern terms, the question could be put instead: at what point does the developing individual develop personhood or selfhood.<sup>[42]</sup>

Related issues attached to the question of the beginning of human personhood include the legal status, bodily integrity, and subjectivity of the pregnant woman<sup>[43]</sup> and the philosophical concept of “natality” (i.e. “the distinctively human capacity to initiate a new beginning”, which a new human life embodies).<sup>[44]</sup>

### 3.4.2 Related issues

Many of the views in favor of and against the right to abortion are framed in the context of other debates whose arguments and implications relate directly to the topic of abortion.

#### Fetal pain

Main article: Neonatal perception

Fetal pain, its existence, and its implications are part of a larger debate about abortion. A 2005 multidisciplinary systematic review in *JAMA* in the area of fetal development found that a fetus is unlikely to feel pain until after the sixth month of pregnancy.<sup>[45][46]</sup> Developmental neurobiologists suspect that the establishment of **thalamocortical** connections (at about 26 weeks) may be critical to fetal perception of pain.<sup>[47]</sup> However, legislation was proposed by anti-abortion advocates that would require abortion providers to tell a woman that the fetus may feel pain during an abortion procedure.<sup>[48]</sup>

The 2005 JAMA review concluded that data from dozens of medical reports and studies indicate that fetuses are unlikely to feel pain until the **third trimester** of pregnancy.<sup>[45]</sup> However a number of medical critics have since disputed these conclusions.<sup>[46][49]</sup> Other researchers such as Anand and Fisk have challenged the idea that pain cannot be felt before 26 weeks, positing instead that pain can be felt at around 20 weeks.<sup>[50]</sup> Anand’s suggestion is disputed in a March 2010 report on **Fetal Awareness** published by a working party of the Royal College of Obstetricians and Gynaecologists, citing a lack of evidence or rationale. Page 20 of the report definitively states that the fetus cannot feel pain prior to week 24. Because pain can involve sensory, emotional and cognitive factors, leaving it “impossible to know” when painful experiences are perceived, even if it is known when thalamocortical connections are established.<sup>[51]</sup>

Wendy Savage—press officer, Doctors for a Woman’s Choice on Abortion—considers the question to be irrelevant. In a 1997 letter to the *British Medical Journal*, April 1997, she noted that the majority of surgical abortions in Britain were performed under general anesthesia which

affects the fetus, and considers the discussion “to be unhelpful to women and to the scientific debate.” Others caution against unnecessary use of fetal anesthetic during abortion, as it poses potential health risks to the pregnant woman.<sup>[45]</sup> David Mellor and colleagues have noted that the fetal brain is already awash in naturally occurring chemicals that keep it sedated and anesthetized until birth.<sup>[52]</sup> At least one anesthesia researcher has suggested the fetal pain legislation may make abortions harder to obtain because abortion clinics lack the equipment and expertise to supply fetal anesthesia. Anesthesia is administered directly to fetuses only while they are undergoing surgery.<sup>[50]</sup>

#### Fetal personhood

Main article: Beginning of human personhood

Although the two main sides of the abortion debate tend to agree that a human fetus is biologically and genetically human (that is, of the human species), they often differ in their view on whether or not a human fetus is, in any of various ways, a *person*. Pro-life supporters argue that abortion is morally wrong on the basis that a fetus is an innocent **human person**<sup>[53]</sup> or because a fetus is a potential life that will, in most cases, develop into a fully functional human being.<sup>[54]</sup> Others reject this position by drawing a distinction between *human being* and *human person*, arguing that while the fetus is *innocent* and *biologically human*, it is not a *person* with a *right to life*.<sup>[55]</sup> In support of this distinction, some propose a list of criteria as markers of **personhood**. For example, Mary Ann Warren suggests **consciousness** (at least the capacity to feel pain), **reasoning**, **self-motivation**, the ability to **communicate**, and **self-awareness**.<sup>[56]</sup> According to Warren, a being need not exhibit all of these criteria to qualify as a person with a right to life, but if a being exhibits *none* of them (or perhaps only one), then it is certainly not a person. Warren concludes that as the fetus satisfies only one criterion, consciousness (and this only after it becomes **susceptible to pain**),<sup>[57]</sup> the fetus is not a person and abortion is therefore morally permissible. Other philosophers apply similar criteria, concluding that a fetus lacks a right to life because it lacks **brain waves** or higher brain function,<sup>[58]</sup> **self-consciousness**,<sup>[59]</sup> **rationality**,<sup>[60]</sup> and **autonomy**.<sup>[61]</sup> These lists diverge over precisely *which* features confer a right to life,<sup>[62]</sup> but tend to propose various *developed* psychological or physiological features not found in fetuses.

Critics of this typically argue that some of the proposed criteria for personhood would disqualify two classes of *born* human beings – reversibly comatose patients, and human infants – from having a right to life, since they, like fetuses, are not self-conscious, do not communicate, and so on.<sup>[63]</sup> Defenders of the proposed criteria may respond that the reversibly comatose *do* satisfy the relevant criteria because they “retain all their *unconscious* mental

states”.<sup>[64]</sup> or at least some higher brain function (brain waves). Warren concedes that infants are not “persons” by her proposed criteria,<sup>[65]</sup> and on that basis she and others, including the moral philosopher Peter Singer, conclude that **infanticide** could be morally acceptable under some circumstances (for example if the infant is severely disabled<sup>[66]</sup> or in order to save the lives of several other infants<sup>[67]</sup>). Critics may see such concessions as an indication that the right to life cannot be adequately defined by reference to developed psychological features.

An alternative approach is to base personhood or the right to life on a being’s *natural* or *inherent* capacities. On this approach, a being **essentially** has a right to life if it has a *natural capacity* to develop the relevant psychological features; and, since human beings do have this natural capacity, they essentially have a right to life beginning at **conception** (or whenever they come into existence).<sup>[68]</sup> Critics of this position argue that mere genetic potential is not a plausible basis for respect (or for the right to life), and that basing a right to life on natural capacities would lead to the counterintuitive position that **anencephalic** infants, irreversibly comatose patients, and brain-dead patients kept alive on a **medical ventilator**, are all persons with a right to life.<sup>[69]</sup> Respondents to this criticism argue that the noted human cases in fact would not be classified as persons as they do not have a natural capacity to develop any psychological features.<sup>[70][71][72]</sup> Also, in a view that favors benefiting even unconceived but **potential future persons**, it has been argued as justified to abort an **unintended pregnancy** in favor for conceiving a new child later in better conditions.<sup>[73]</sup>



Members of Bound4LIFE in Washington, D.C. symbolically cover their mouths with red tape.

Philosophers such as **Aquinas** use the concept of **individuation**. They argue that abortion is not permissible from the point at which individual human identity is realized. **Anthony Kenny** argues that this can be derived from everyday beliefs and language and one can legitimately say “if my mother had had an abortion six months into her pregnancy, she would have killed me” then one can reasonably infer that at six months the “me” in question would have been an existing person with a valid claim

to life. Since division of the zygote into twins through the process of **monozygotic twinning** can occur until the fourteenth day of pregnancy, **Kenny** argues that individual identity is obtained at this point and thus abortion is not permissible after two weeks.<sup>[74]</sup>

### 3.4.3 Arguments for abortion rights which do not depend on fetal non-personhood

#### Bodily rights

An argument first presented by **Judith Jarvis Thomson** states that *even if* the fetus is a person and has a right to life, abortion is morally permissible because a woman has a right to control her own body and its life-support functions. Thomson’s variant of this argument draws an analogy between forcing a woman to continue an unwanted pregnancy and forcing a person to allow his body to be used to maintain blood **homeostasis** (as a **dialysis machine** is used) for another person suffering from **kidney failure**. It is argued that just as it would be permissible to “unplug” and thereby cause the death of the person who is using one’s kidneys, so it is permissible to abort the fetus (who similarly, it is said, has no right to use one’s body’s life-support functions against one’s will).<sup>[75]</sup>

Critics of this argument generally argue that there are morally relevant disanalogies between abortion and the kidney failure scenario. For example, it is argued that the fetus is the woman’s child as opposed to a mere stranger;<sup>[76]</sup> that abortion *kills* the fetus rather than merely letting it die;<sup>[77]</sup> and that in the case of pregnancy arising from voluntary intercourse, the woman has either tacitly consented to the fetus using her body,<sup>[78]</sup> or has a duty to allow it to use her body since she herself is responsible for its need to use her body.<sup>[79]</sup> Some writers defend the analogy against these objections, arguing that the disanalogies are morally irrelevant or do not apply to abortion in the way critics have claimed.<sup>[80]</sup>

Alternative scenarios have been put forth as more accurate and realistic representations of the moral issues present in abortion. **John Noonan** proposes the scenario of a family who was found to be liable for frostbite finger loss suffered by a dinner guest whom they refused to allow to stay overnight, although it was very cold outside and the guest showed signs of being sick. It is argued that just as it would not be permissible to refuse temporary accommodation for the guest to protect him from physical harm, it would not be permissible to refuse temporary accommodation of a fetus.<sup>[81]</sup>

Other critics claim that there is a difference between artificial and extraordinary means of preservation, such as medical treatment, kidney dialysis, and blood transfusions, and normal and natural means of preservation, such as gestation, childbirth, and breastfeeding. They argue that if a baby was born into an environment in which

there was no replacement available for her mother's breast milk, and the baby would either breastfeed or starve, the mother would have to allow the baby to breastfeed. But the mother would never have to give the baby a blood transfusion, no matter what the circumstances were. The difference between breastfeeding in that scenario and blood transfusions is the difference between using your body as a kidney dialysis machine, and gestation and childbirth.<sup>[82][83][84][85][86][87]</sup>

### Sexual emancipation and equality

Margaret Sanger wrote: "No woman can call herself free until she can choose consciously whether she will or will not be a mother."<sup>[88]</sup> Denying the right to abortion can be construed from this perspective as a form of female oppression under a patriarchal system, perpetuating inequality between the sexes. Among pro-choice advocates, sexual-equality discussion often involves the additional debate regarding to what degree the potential father should have a choice in deciding whether or not to abort the developing child.

## 3.4.4 Arguments against the right to abortion

### Discrimination

The book *Abortion and the Conscience of the Nation* presents the argument that abortion involves unjust discrimination against the unborn. According to this argument, those who deny that fetuses have a right to life do not value *all* human life, but instead select arbitrary characteristics (such as particular levels of physical or psychological development) as giving some human beings more value or rights than others.<sup>[89]</sup>

In contrast, philosophers who define the right to life by reference to particular levels of physical or psychological development typically maintain that such characteristics are morally relevant,<sup>[90]</sup> and reject the assumption that all human life necessarily has value (or that membership in the species *Homo sapiens* is in itself morally relevant).<sup>[91]</sup>

### Deprivation

Further information: Philosophical aspects of the abortion debate

The argument of deprivation states that abortion is morally wrong because it deprives the fetus of a valuable future.<sup>[92]</sup> On this account, killing an *adult* human being is wrong because it deprives the victim of a *future like ours*—a future containing highly valuable or desirable experiences, activities, projects, and enjoyments.<sup>[93]</sup> If a being has such a future, then (according to the argu-

ment) killing that being would seriously harm it and hence would be seriously wrong.<sup>[94]</sup> But since a fetus does have such a future, the "overwhelming majority" of deliberate abortions are placed in the "same moral category" as killing an innocent adult human being.<sup>[95]</sup> Not *all* abortions are unjustified according to this argument: abortion would be justified if the same justification could be applied to killing an adult human.

Criticism of this line of reasoning follows several threads. Some reject the argument on grounds relating to **personal identity**, holding that the fetus is *not the same entity* as the adult into which it will develop, and thus that the fetus does not have a "future like ours" in the required sense.<sup>[96]</sup> Others grant that the fetus has a future like ours, but argue that being deprived of this future is not a significant harm or a significant wrong to the fetus, because there are relatively few *psychological connections* (continuations of memory, belief, desire and the like) between the fetus as it is now and the adult into which it will develop.<sup>[97]</sup> Another criticism is that the argument creates inequalities in the wrongness of killing:<sup>[98]</sup> as the futures of some people appear to be far more valuable or desirable than the futures of other people, the argument appears to entail that some killings are far more *wrong* than others, or that some people have a far stronger *right to life* than others—a conclusion that is taken to be counterintuitive or unacceptable.



The 2004 March for Women's Lives near the Washington Monument.

### Argument from uncertainty

Some pro-life supporters argue that if there is uncertainty as to whether the fetus has a right to life, then having an abortion is equivalent to consciously taking the risk of killing another. According to this argument, if it is not known for certain whether something (such as the fetus) has a right to life, then it is reckless, and morally wrong, to treat that thing as if it *lacks* a right to life (for example by killing it).<sup>[99]</sup> This would place abortion in the same moral category as **manslaughter** (if it turns out that the fetus has a right to life) or certain forms of **criminal neg-**

ligence (if it turns out that the fetus does not have a right to life).<sup>[100]</sup>

David Boonin replies that if this kind of argument were correct, then the killing of nonhuman animals and plants would also be morally wrong, because (Boonin contends) it is not known for certain that such beings lack a right to life.<sup>[101]</sup> Boonin also argues that arguments from uncertainty fail because the mere fact that one might be mistaken in finding certain arguments persuasive (for example, arguments for the claim that the fetus lacks a right to life) does not mean that one should act contrary to those arguments or assume them to be mistaken.<sup>[102]</sup>

## Religious beliefs

Main article: Religion and abortion

Each religion has many varying views on the moral implications of abortion. These views can often be in direct opposition to each other.<sup>[103]</sup> Muslims regard abortion as *haram* meaning forbidden. Muslims typically cite the Quranic verse 17:32 which states that a fetus shouldn't be aborted out of fear of poverty.<sup>[104]</sup> Pro-life Christians support their views with Scripture references such as that of Luke 1:15; Jeremiah 1:4–5; Genesis 25:21–23; Matthew 1:18; and Psalm 139:13–16. The Catholic Church believes that human life begins at conception as does the right to life; thus, abortion is considered immoral.<sup>[105]</sup> The Church of England also considers abortion to be morally wrong, though their position admits abortion when “the continuance of a pregnancy threatens the life of the mother”.<sup>[106]</sup>

## 3.4.5 Other factors

### Mexico City Policy

Main article: Mexico City Policy

The Mexico City policy—also known as the “Global Gag Rule”—required any non-governmental organization receiving U.S. government funding to refrain from performing or promoting abortion services in other countries. This had a significant effect on the health policies of many nations across the globe. The Mexico City Policy was instituted under President Reagan, suspended under President Clinton, reinstated by President George W. Bush,<sup>[107]</sup> and suspended again by President Barack Obama on January 24, 2009.<sup>[108]</sup>

### Public opinion

Main article: Societal attitudes towards abortion

A number of opinion polls around the world have explored public opinion regarding the issue of abortion. Results have varied from poll to poll, country to country, and region to region, while varying with regard to different aspects of the issue.

A May 2005 survey examined attitudes toward abortion in 10 European countries, asking respondents whether they agreed with the statement, “If a woman doesn't want children, she should be allowed to have an abortion”. The highest level of approval was 81% (in the Czech Republic); the lowest was 47% (in Poland).<sup>[109]</sup>

In North America, a December 2001 poll surveyed Canadian opinion on abortion, asking in what circumstances they believe abortion should be permitted; 32% responded that they believe abortion should be legal in all circumstances, 52% that it should be legal in certain circumstances, and 14% that it should be legal in no circumstances. A similar poll in April 2009 surveyed people in the United States about U.S. opinion on abortion; 18% said that abortion should be “legal in all cases”, 28% said that abortion should be “legal in most cases”, 28% said abortion should be “illegal in most cases” and 16% said abortion should be “illegal in all cases”.<sup>[110]</sup> A November 2005 poll in Mexico found that 73.4% think abortion should not be legalized while 11.2% think it should.<sup>[111]</sup>

Of attitudes in South America, a December 2003 survey found that 30% of Argentines thought that abortion in Argentina should be allowed “regardless of situation”, 47% that it should be allowed “under some circumstances”, and 23% that it should not be allowed “regardless of situation”.<sup>[112]</sup> A more recent poll now suggest that 45% of Argentineans are in favor of abortion for any reason in the first twelve weeks. This same poll conducted in September 2011 also suggests that most Argentineans favor abortion being legal when a woman's health or life is at risk (81%), when the pregnancy is a result of rape (80%) or the fetus has severe abnormalities (68%).<sup>[113]</sup> A March 2007 poll regarding the abortion law in Brazil found that 65% of Brazilians believe that it “should not be modified”, 16% that it should be expanded “to allow abortion in other cases”, 10% that abortion should be “decriminalized”, and 5% were “not sure”.<sup>[114]</sup> A July 2005 poll in Colombia found that 65.6% said they thought that abortion should remain illegal, 26.9% that it should be made legal, and 7.5% that they were unsure.<sup>[115]</sup>

### Effect upon crime rate

Main article: Legalized abortion and crime effect

A theory attempts to draw a correlation between the United States' unprecedented nationwide decline of the overall crime rate during the 1990s and the decriminalization of abortion 20 years prior.

The suggestion was brought to widespread attention by a

1999 academic paper, *The Impact of Legalized Abortion on Crime*, authored by the economists Steven D. Levitt and John Donohue. They attributed the drop in crime to a reduction in individuals said to have a higher statistical probability of committing crimes: unwanted children, especially those born to mothers who are African American, impoverished, adolescent, uneducated, and single. The change coincided with what would have been the adolescence, or peak years of potential criminality, of those who had not been born as a result of *Roe v. Wade* and similar cases. Donohue and Levitt's study also noted that states which legalized abortion before the rest of the nation experienced the lowering crime rate pattern earlier, and those with higher abortion rates had more pronounced reductions.<sup>[116]</sup>

Fellow economists Christopher Foote and Christopher Goetz criticized the methodology in the Donohue-Levitt study, noting a lack of accommodation for statewide yearly variations such as cocaine use, and recalculating based on incidence of crime per capita; they found no statistically significant results.<sup>[117]</sup> Levitt and Donohue responded to this by presenting an adjusted data set which took into account these concerns and reported that the data maintained the statistical significance of their initial paper.<sup>[118]</sup>

Such research has been criticized by some as being utilitarian, discriminatory as to race and socioeconomic class, and as promoting eugenics as a solution to crime.<sup>[119][120]</sup> Levitt states in his book *Freakonomics* that they are neither promoting nor negating any course of action—merely reporting data as economists.

## Breast cancer hypothesis

Main article: [Abortion – breast cancer hypothesis](#)

The abortion-breast cancer hypothesis posits that induced abortion increases the risk of developing breast cancer.<sup>[121]</sup> This position contrasts with the scientific consensus that abortion does *not* cause breast cancer.<sup>[122][123][124][125]</sup>

In early pregnancy, levels of estrogen increase, leading to breast growth in preparation for lactation. The hypothesis proposes that if this process is interrupted by an abortion – before full maturity in the third trimester – then more relatively vulnerable immature cells could be left than there were prior to the pregnancy, resulting in a greater potential risk of breast cancer. The hypothesis mechanism was first proposed and explored in rat studies conducted in the 1980s.<sup>[126][127][128]</sup>

## 3.5 See also

## 3.6 Notes

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- [2] See generally, “The Kindness of Strangers: The Abandonment of Children in Western Europe from Late Antiquity to the Renaissance”, John Boswell ISBN 978-0-226-06712-4 Nov. 1998, Intro.
- [3] See generally Spivack, Carla, *To Bring Down the Flowers: The Cultural Context of Abortion Law in Early Modern England*. Available at SSRN: Introduction
- [4] *State v Loce* September 6, 1991
- [5] “Sister Margaret’s Choice” May 27, 2010
- [6] Christine Ammer; JoAnn E. Manson (February 2009). *The Encyclopedia of Women’s Health*. Infobase Publishing. p. 7. ISBN 978-0-8160-7407-5. Retrieved February 24, 2012.
- [7] Holstein and Gubrium (2008). *Handbook of Constructionist Research*. Guilford Press.
- [8] “Committed to Availability, Conflicted about Morality: What the Millennial Generation Tells Us about the Future of the Abortion Debate and the Culture Wars”. Public Religion Research Institute. June 9, 2011.
- [9] Andrea Grimes (2014-04-11). “Portrait of an Anti-Abortion ‘Abolitionist’”. Retrieved 2015-05-26. It is no accident that Ragon both calls himself an “abolitionist” and that his group uses these so-called disturbing images. He sees himself as carrying on the tradition of 19th century anti-slavery activists, who he says similarly tried to shock their fellow Americans into action.
- [10] Irin Carmon (2014-03-08). “Meet the rebels of the anti-abortion movement”. Retrieved 2015-05-26. AHA activists disdain the phrase “pro-life” altogether. They prefer “abolitionists,” with all slavery comparisons explicitly intended, and they want to push the larger movement to abide by their uncompromising positions.
- [11] Brennan 'Dehumanizing the vulnerable' 2000
- [12] Getek, Kathryn; Cunningham, Mark (February 1996). “A Sheep in Wolf’s Clothing – Language and the Abortion Debate”. *Princeton Progressive Review*.
- [13] “Abortion”. *Positions*. British Columbia Civil Liberties Association. Retrieved 2007-05-24. ...rights call for complete legal freedom to secure an abortion, in the sense that the legal status of abortion should be the same as that of other medical services that a doctor provides to a patient
- [14] “Abortion”. *Where We Stand—CMA Position Papers*. California Medical Association. December 1973. p. 43. Retrieved 2007-05-24. Good medical practice indicates that abortion should not be performed after the 20th week of pregnancy

- [15] Lee, Ellie; Ann Furedi (February 2002). "Abortion issues today – a position paper" (PDF). *Legal Issues for Pro-Choice Opinion – Abortion Law in Practice*. University of Kent, Canterbury, CT2 7NY, UK. p. 2. Retrieved 2007-05-24. While most people have no difficulty accepting the legality of abortion at early stages of pregnancy, fewer are so sure about their position as pregnancy progresses – especially when the fetus is perceived to be 'viable'
- [16] "Abortion". *Positions*. American Medical Women's Association. 2000. Archived from the original on 2007-09-20. Retrieved 2007-05-24. The 1973 Supreme court decision *Roe v. Wade* struck a fair balance between the responsibility of the state to protect a woman's right to make personal medical decisions and the responsibility of the state to protect the potentially viable third trimester fetus
- [17] Johnston, Wm. Robert (2002-12-24). "Evaluation of the BGCT Christian Life Commission's "Abortion and the Christian Life"". *Committee Report*. First Baptist Church, Brownsville, Texas. Archived from the original on 11 April 2007. Retrieved May 2007. ...the unique value that human life has, as a gift from God, regardless of stage of development or physical health, from the point of conception to the point of physical death
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- [59] Tooley 1972: 44.
- [60] Singer 2000: 128 and 156-157.
- [61] McMahan 2002: 260
- [62] It is similarly unclear *which* features one must have a natural capacity for, in order to have a right to life (cf Schwarz 1990: 105-109), or *which* features constitute a "future like ours".
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- [65] Warren 1982
- [66] Singer 2000: 186-193
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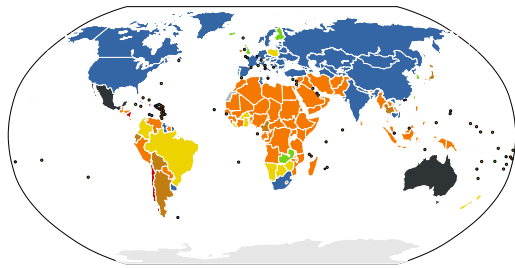
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### 3.8 External links

- [Findlaw](#): full text of *Roe V Wade* decision, plus discussion
- [Abortion and Ethics](#) Case studies, Christian and non-Christian responses and resources for students
- [Reasons why women have induced abortions](#), evidence from 27 countries
- [Recordings of the College Historical Society debate on abortion](#) featuring Professor William Binchy, Frances Kissling and Rebecca Gomperts
- [Interactive map of the Abortion debate](#)
- [Religious perspectives on abortion](#)

## Chapter 4

# Abortion law



*International status of **abortion law**, United Nations 2013 report.<sup>[1]</sup>*

**Abortion law** is legislation and common law which prohibits, restricts or otherwise regulates the availability of abortion. Abortion has been a controversial subject in many societies through history on religious, moral, ethical, practical, and political grounds. It has been banned frequently and otherwise limited by law. However, abortions continue to be common in many areas, even where they are illegal, with according to the World Health Organization (WHO) abortion rates being similar in countries where the procedure is legal and in countries where it is not,<sup>[2]</sup> due to unavailability of modern contraceptives in areas where abortion is illegal.<sup>[3]</sup> The number of abortions worldwide is declining due to increased access to contraception according to WHO.<sup>[2]</sup> Almost two thirds of the world's women currently reside in countries where abortion may be obtained on request for a broad range of social, economic or personal reasons. Abortion laws vary widely by nation. Seven countries in Latin America and Europe ban the procedure entirely. Abortion in Canada is available to women without any legal restrictions,<sup>[4]</sup> while in Ireland abortions are illegal except when a woman's life is at imminent risk<sup>[5]</sup> and Chile bans abortion with no exception for the life of the pregnant woman.<sup>[6]</sup>

### 4.1 History

Main article: History of abortion

Abortion has been part of family planning since ancient times, with natural abortifacients being found amongst

a wide variety of tribal people and in all our written sources. Our earliest texts contain no mention of abortion or abortion law. When it does appear, it is entailed in concerns about male property rights, preservation of social order, and the duty to produce fit citizens for the state or community. The harshest penalties were generally reserved for a woman who procured an abortion against her husband's wishes, and for slaves who produced abortion in a woman of high status. Religious texts often contained severe condemnations of abortion, recommending penance but seldom enforcing secular punishment. As a matter of common law in England and the United States, abortion was illegal anytime after quickening—when the movements of the fetus could first be felt by the woman. Under the born alive rule, the fetus was not considered a “reasonable being” in *rerum natura*; and abortion was not treated as murder in English law.

In the 19th century, many Western countries began to codify abortion law or place further restrictions on the practice. Anti-abortion groups were led by a combination of conservative groups opposed to abortion on moral grounds, and by medical professionals who were concerned about the danger presented by the procedure and the regular involvement of non-medical personnel in performing abortions. Nevertheless, it became clear that illegal abortions continued to take place in large numbers even where abortions were rigorously restricted. It was difficult to obtain sufficient evidence to prosecute the women and abortion doctors, and judges and juries were often reluctant to convict. For example, Henry Morgentaler, a Canadian pro-choice advocate, was never convicted by a jury. He was acquitted by a jury in the 1973 court case, but the acquittal was overturned by five judges on the Quebec Court of Appeal in 1974. He went to prison, appealed, and was again acquitted. In total, he served 10 months, suffering a heart attack while in solitary confinement. Many were also outraged at the invasion of privacy and the medical problems resulting from abortions taking place illegally in medically dangerous circumstances. Political movements soon coalesced around the legalization of abortion and liberalization of existing laws.

By the early 20th century, many countries had begun to liberalise abortion laws, at least when performed to pro-

protect the life of the woman, and in some cases on woman's request. Under Vladimir Lenin, the Soviet Union legalized abortions on request in 1920, but in 1936 Joseph Stalin placed prohibitions on abortions this was restricted to medically recommended cases only in order to increase population growth.<sup>[7][8][9]</sup> In the 1930s, several countries (Poland, Turkey, Denmark, Sweden, Iceland, Mexico) legalized abortion in some special cases (pregnancy from rape, threat to mother's health, fetal malformation). In 1948 abortion was legalized in Japan, 1952 in Yugoslavia (on a limited basis), and 1955 in the Soviet Union (on demand). Some Soviet allies (Poland, Hungary, Bulgaria, Czechoslovakia, Romania) legalized abortion in the late fifties under pressure from the Soviets.

The availability of contraceptives in the 1950s and 1960s in Western countries resulted in comparatively few changes in abortion law. In the United Kingdom, the Abortion Act of 1967 clarified and prescribed abortions as legal up to 28 weeks. Other countries soon followed, including Canada (1969), the United States (1973 in most states, pursuant to *Roe v. Wade*, the federal Supreme Court decision which legalized abortion nationwide), Tunisia (1973), Austria (1974), France (1975), New Zealand (1977), Italy (1978), the Netherlands (1980), and Belgium (1990). However, these countries vary greatly in the circumstances under which abortion was to be permitted. In 1975 the West German Supreme Court struck down a law legalizing abortion, holding that they contradict the constitution's human rights guarantees. In 1976 a law was adopted which enabled abortions up to 12 weeks. After Germany's reunification, despite the legal status of abortion in the former East Germany, a compromise was reached which deemed most abortions up to 12 weeks legal. In jurisdictions governed under sharia law, abortion after the 120th day (17 weeks) is illegal.<sup>[10]</sup>

## 4.2 International law

There are international or multinational treaties that directly deal with abortion, but human rights law touches on the issues. The American Convention on Human Rights, which in 2013 had 23 Latin American parties, declares human life as commencing with conception.

## 4.3 National laws

While abortions are legal in most countries, the grounds on which they are permitted vary. According to the United Nations publication *World Abortion Policies 2011*<sup>[11]</sup> abortion is allowed in most countries in order to save a woman's life (97% of countries). Other commonly accepted reasons are preserving physical (67%) or mental health (63%). Abortion in the case of rape or incest is accepted in about half of all countries (49%), and performing them because of economic or social reasons

in about a third (34%). Performing abortion only on the basis of a woman's request is allowed in 29% of all countries, including in North America and in most European countries.

In some countries additional procedures must be followed before the abortion can be carried out even if the basic grounds for it are fulfilled. For example, in the United Kingdom and Finland, where abortions are not granted based merely on a woman's request, approval for each abortion must be obtained from two doctors.<sup>[12][13]</sup> How strictly all of the procedures dictated in the legislature are followed in practice is another matter. For example, in the United Kingdom Care Quality Commission's report in 2012 found that several NHS clinics were circumventing the law, using forms pre-signed by one doctor, thus allowing abortions to patients who only met with one doctor.<sup>[14]</sup>

The effect of national laws as of 2011 for each of the 193 Member States of the United Nations and two non-Member States (the Holy See and Niue) is listed in the U.N. *World Abortion Policies 2011*<sup>[11]</sup> report, and summarized in the following table. The publication also includes information on national estimates of abortion rate, fertility rate, maternal mortality ratio, levels of contraceptive use, unmet need for family planning, and government support for family planning, as well as regional estimates of unsafe abortion.

### [1] Category definitions

- 0 : Abortion not allowed.
- 1 : General legal principles allow abortion to be performed in order to save a woman's life.
- 2 : Abortion explicitly allowed in order to save a woman's life.
- 3 : Abortion explicitly allowed in order to save a life and for certain other reasons.
- 4 : Abortion allowed on request.

### [2] Category varies by subnational region.

### [3] See Abortion in Mexico

### [4] See Abortion in the United States

### [5] See Abortion in Australia

## 4.3.1 Europe

Despite a wide variation in the restrictions under which it is permitted, abortion is legal in most European countries. The exceptions are micro-states where it is totally illegal (Vatican and Malta), micro-states where it is mostly illegal and severely restricted (San Marino, Liechtenstein and Andorra) and more notably Ireland, the only relatively normal sized European state where great prohibitions on abortion exist.<sup>[17]</sup> The other states with existent,

but less severe restrictions are [Finland](#), [Poland](#), [Iceland](#) and the [United Kingdom](#). All the remaining states make abortion legal on request. Although nearly every European country makes abortion available on demand during the first trimester, when it comes to later-term abortions, there are very few with laws as liberal as those of the United States.<sup>[18]</sup> Restrictions on abortion are most stringent in countries that are more strongly observant of the Catholic faith.<sup>[17]</sup>

### European Union

Most countries in the European Union allow abortion on demand during the first trimester. After the first trimester, abortion is allowed only under certain circumstances, such as risk to woman's life or health, fetal defects or other specific situations that may be related to the circumstances of the conception or the woman's age. For instance, in Austria, second trimester abortions are allowed only if there is a serious risk to physical health of woman (that cannot be averted by other means); risk to mental health of woman (that cannot be averted by other means); immediate risk to life of woman (that cannot be averted by other means); serious fetal impairment (physical or mental); or if the woman is under 14 years of age. Some countries, such as Denmark, allow abortion after the first trimester for a variety of reasons, including socioeconomic ones, but a woman needs an authorization to have such an abortion.<sup>[19]</sup>

It should be noted that the access to an abortion in much of Europe depends not as much on the letter of the law, but on the prevailing social views which lead to the interpretation of the laws. For instance, in parts of Europe, laws which allow a second trimester abortion due to mental health concerns (when it is deemed that the woman's psychological health would suffer from the continuation of the pregnancy) have come to be interpreted very liberally, while in other conservative areas it is difficult to have a legal abortion even in the early stages of the pregnancy due to the policy of conscientious objection, under which doctors are allowed to refuse to perform an abortion if it is against their moral or religious convictions.<sup>[20]</sup>

Malta is the only European country that bans abortion in all cases, and does not have an exception for situations where the woman's life is in danger. The law however is not strictly enforced in relation to instances where a pregnancy endangers the woman's life (see [Abortion in Malta](#)).

In Italy abortion is legal, but, in the past years, it has become more and more difficult to access it, due to the rising number of objectors among doctors and nurses. Most women seeking abortions now resort to going abroad, paying a large price, or obtaining a clandestine abortion in unauthorized clinics.<sup>[21]</sup>

In Ireland abortion is illegal with the exception of cases where a woman's life is endangered by the continuation of

her pregnancy (see [Abortion in the Republic of Ireland](#)). Andorra allows for abortions only when there is a threat to the woman's life.<sup>[22]</sup>

With the exception of Poland, Europe's formerly Communist countries have liberal abortion laws. Poland is a country with a strict abortion law, and where it is also difficult to have a legal abortion on request. Abortion is allowed only in cases of risk to the life or health of the woman, when the pregnancy is a result of a criminal act (the criminal act has to be confirmed by a prosecutor), or when the fetus is seriously malformed. A doctor who performs an abortion which is deemed to not have a legal basis is subject to criminal prosecution, and, out of fear of prosecution, doctors avoid abortions, except in the most extreme circumstances.<sup>[20]</sup>

Most European countries have laws which stipulate that minor girls need their parents' consent or that the parents must be informed of the abortion. In most of these countries however, this rule can be circumvented if a committee agrees that the girl may be posed at risk if her parents find out about the pregnancy, or that otherwise it is in her best interests to not notify her parents. The interpretation in practice of these laws depends from region to region, as with the other abortion laws.<sup>[20]</sup>

In countries where abortion is illegal or restricted, it is common for women to travel to neighboring countries with more liberal laws. It was estimated in 2007 that over 6,000 Irish women travel to England to have abortions every year.<sup>[20]</sup>

## 4.4 Exceptions in abortion law

There are a few common exceptions sometimes found in legal domains where abortion is generally forbidden. Legal domains which do not have abortion on demand will often allow it when the health of the mother is at stake. "Health of the mother" may mean something different in different areas: for example, the [Republic of Ireland](#) allows abortion only to save the life of the mother, whereas pro-lifers in the United States argue health exceptions are used so broadly as to render a ban essentially meaningless.<sup>[23]</sup>

Laws allowing abortion in cases of rape or incest often go together. For example, before *Roe v. Wade*, 13 US states allowed abortion in the case of either rape or incest, but only 1 allowed for it just for rape ([Mississippi](#)), and none for just incest.<sup>[24]</sup>

Also, many countries allow for abortion only through the first or second trimester, and some may allow abortion in cases of fetal defects, e.g., [Down syndrome](#).

## 4.5 Case law

### Australia

- *R v Davidson* (1969)
- *R v Sood* (No 3) [2006] NSWSC 762

### Canada

- Abortion trial of Emily Stowe (1879)
- *Azoulay v. The Queen* (1952)
- *Morgentaler v. The Queen* (1976)
- *R. v. Morgentaler* (1988)
- *Borowski v. Canada (Attorney General)* (1989)
- *Tremblay v. Daigle* (1989)
- *R. v. Morgentaler* (1993)

### Germany

- German Federal Constitutional Court abortion decision (1975)

### Ireland

- *Attorney General v. X* (1992)

### United States

- *Roe v. Wade* (1973)
- *Doe v. Bolton* (1973)
- *H. L. v. Matheson* (1981)
- *City of Akron v. Akron Center for Reproductive Health* (1983)
- *Webster v. Reproductive Health Services* (1989)
- *Hodgson v. Minnesota* (1990)
- *Planned Parenthood v. Casey* (1992)
- *Bray v. Alexandria Women's Health Clinic* (1993)
- *Stenberg v. Carhart* (2000)
- *McCorvey v. Hill* (2004)
- *Ayotte v. Planned Parenthood of New England* (2006)
- *Gonzales v. Carhart* (2007)

### European Court of Human Rights

- *A. B. and C. v. Ireland* (2009)

## 4.6 See also

- Abortion
- Abortion debate
- Conscience clause
- History of abortion
- Medical law
- Mexico City Policy
- Religion and abortion
- *Roe v. Wade*

## 4.7 Notes

- [1] World Abortion Policies 2013
- [2] Abortion Rates Similar in Countries That Legalize, Prohibit Procedure, a WHO Study Says
- [3] Singh, Susheela et al. *Adding it Up: The Costs and Benefits of Investing in Family Planning and Newborn Health*, pages 17, 19, and 27 (New York: Guttmacher Institute and United Nations Population Fund 2009): "Some 215 million women in the developing world as a whole have an unmet need for modern contraceptives.... If the 215 million women with unmet need used modern family planning methods....[that] would result in about 22 million fewer unplanned births; 25 million fewer abortions; and seven million fewer miscarriages....If women's contraceptive needs were addressed (and assuming no changes in abortion laws)...the number of unsafe abortions would decline by 73% from 20 million to 5.5 million." A few of the findings in that report were subsequently changed, and are available at: "Facts on Investing in Family Planning and Maternal and Newborn Health" (Guttmacher Institute 2010).
- [4] "abortion on demand". *Dictionary.com*. Retrieved 2007-05-01. (1) the right of a woman to have an abortion during the first six months of a pregnancy; (2) an abortion performed on a woman solely at her own request
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- [23] "'Health' of the Mother". *Newsweek*. October 15, 2008
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- *Europe's Abortion Laws*. (February 12, 2007). *BBC News*. Retrieved February 12, 2007.
- United Nations Population Division. (2007). *World Abortion Policies 2007*. Retrieved October 3, 2007.

## 4.9 External links

- Center for Reproductive Rights
- Pregnant Pause: Summary of Abortion Laws Around the World
- Laws on Abortion in the Second Trimesters, The International Consortium for Medical Abortion (ICMA)
- Abortion: Judicial History and Legislative Response Congressional Research Service

## 4.8 References

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## Chapter 5

# History of abortion law debate

In the earliest written sources, abortion is not considered as a general category of crime. Rather, specific kinds of abortion are prohibited, for various social and political reasons. In the earliest texts, it can be difficult to discern to what extent a particular religious injunction held force as secular law. In later texts, the rationale for abortion laws may be sought in a wide variety of fields including philosophy, religion, and jurisprudence. These rationales were not always included in the wording of the actual laws.

### 5.1 Ancient Sources

Tribal people in more modern times have been had access to many herbal **abortifacients**,<sup>[1][2]</sup> **emmenagogues**, and contraceptives, which had varying degrees of effectiveness. Some of these are mentioned in the earliest literature of the ancient world, however citations for abortion related matters are scarce in the earliest written texts.

#### 5.1.1 Social Considerations

See also: **Abortion debate**

In the ancient world, discussions of offspring limitation, whether through contraception, abortion, or **infanticide** were often entailed in discussions population control,<sup>[3]</sup> property rights of the patriarch,<sup>[4]</sup> and of the regulation of women engaged in illicit sex.<sup>[5]</sup> **Cicero** explains:

“I remember a case which occurred when I was in Asia: how a certain woman of Miletus, who had accepted a bribe from the alternative heirs and procured her own abortion by drugs, was condemned to death: and rightly, for she had cheated the father of his hopes, his name of continuity, his family of its support, his house of an heir, and the Republic of a citizen-to-be.”<sup>[6]</sup>

Families wealthy or poor may have had different reasons for practicing offspring limitation. The wealthy may

have been concerned about breaking a large inheritance into numerous smaller portions for many heirs. A poor family may have been unable to feed a large number of children.<sup>[7]</sup> At times, extreme poverty may have driven some to cannibalism, as in II Kings 6:29 which saw child cannibalism as a tragedy but neither sin nor crime.

**Aristotle**, held concerns that would today fall under the rubric **eugenics**. In his view, abortion and infanticide were permissible when they accorded with the welfare of the state. He advocated mandatory exposure of children born with deformities, and deemed abortion advisable when a couple had exceeded their quota of children, or when a couple had conceived passed their optimal child-bearing age,<sup>[8][9]</sup> as he believed that the **eudaimonia** of the individual was entwined with the welfare of the state. Plato held views similar to Aristotle's.

In Hindu scriptures, the matter is interpreted as reflecting a concern for the preservation of the male seed of the three “pure” castes, with the meaning of one word associated with abortion, **bhrūṇahan**, being “the killer of a learned Brahmin”. Offspring limitation facilitated the financial stability of the influential families, preserving social order; and the males of these castes were required to perform important religious rituals.<sup>[10]</sup> While caste mixing was severely condemned, abortion was not recommended, and the texts elaborated a complex set of rules for the social integration of people born of such unions.

Of some concern in all these discussions is the ability of the woman to conceal her pregnancy in the early stages, and to terminate an unwanted pregnancy through the use of herbs<sup>[5]</sup> or, more rarely, crude surgery. Since menses may be interrupted by medical conditions other than pregnancy, a woman taking an **emmenagogue** could not necessarily be accused of attempting abortion, even if she did lose a fetus with the bringing on of stopped menses. Therefore, social control of childbirth, essential to the preservation of the social order, could only effectively be exercised after **quickenings**.

**Note:**

While the issue of child sacrifice may be included in such discussions, as part of a larger discussion of social attitudes toward children,

it is a matter separate from abortion. In general, anything sacrificed to the gods is sacrificed precisely because it is valued by society and is therefore deemed an appropriate gift to the gods. In the case of contraception, abortion and exposure of newborns, the prospective child is not valued and is therefore disposable.

### 5.1.2 Religious and Philosophic Considerations

See also: [Religion and abortion](#), [Philosophical aspects of the abortion debate](#), [Ensoulement](#) and [Right to life](#)

It was not until the [Axial Age](#) that religious text began to include explorations of more philosophic concepts, which often involved considerations of the nature of man, which in turn involved considerations of the nature of the soul. There were three main views that had various impacts on the question of abortion: a belief that this material world is accompanied by an incorporeal one, a belief that matter is an illusion and everything is incorporeal, and a belief that everything, including the [soul](#) is material in nature. The ancient Egyptians developed a complicated five part version of the nature of man, including both a soul (similar to a modern ghost) and a spirit (similar to the Buddhist stream of consciousness).<sup>[11]</sup> The later Vedic literature, the [Atharvaveda](#) and [Upanishads](#), held a doctrine of a World soul and an eternally reincarnating soul that enters the new physical body at conception.<sup>[12]</sup> At times, these two kinds of soul were believed to be of the same substance. Many Greeks believed in [panpsychism](#) (that all things have an individual soul), while others believed that individuals emanate from a World soul, made of a different substance; and it is possible that Plato believed in elements of both.<sup>[13]</sup>

Believers in [transmigration of souls](#) had varying opinions. Buddhism rejected the Hindu notion of an eternal soul [atman](#), positing an ephemeral “stream of consciousness” that enters the physical body at conception.<sup>[10]</sup> Judaism and Islam also taught various forms of [pre-existence](#) of a soul created by God, but believed in only one earthly incarnation, and that the soul enters the body at conception. Plato believed that the pre-existent soul enters the body at first breath.

The Stoics considered the fetus to be a part of the woman’s body and held that the [soul](#) (the [pneuma](#)) enters the body when the newborn takes its first breath. Even then, the Stoics believed the child is neither rational being nor moral agent until 14 years of age.<sup>[8]</sup> Aristotle proposed a theory of progressive ensoulment, stating that the fetus acquired first a vegetative soul, then an animal soul, then a rational soul, with the male providing the “rational soul” that animated the fetus at 40 days after conception.<sup>[14]</sup> Opinion in the Islamic world differed as to whether the soul was “blown into” the fetus at 40 days

or 120.<sup>[15]</sup> Anglo-Saxon medical texts held that a fetus was “a man without a soul” until after the third month.<sup>[5]</sup>

Generally, the question of the morality of abortion involved the question of the nature of the “animating principle”, usually called the “rational soul”, when the animating principle entered the body, whether it was an integral part of the bodily form and substance, whether it was pre-existent and subject to [reincarnation](#) or [pre-existence](#), and whether a reincarnating soul might suffer as a result of the abortion. On these bases, some societies allowed [infanticide](#) of the newborn prior to its first breath (Stoic) or first nourishment (Germanic tribes), while some had differing laws for abortion depending on whether [quickening](#) had occurred.

### 5.1.3 Hippocratic Oath

Main article: [Hippocratic Oath](#)

The Hippocratic Oath is a code of professional conduct that can be compared with a set of similar edicts set down by Confucius.<sup>[16]</sup> It is often cited as evidence of abortion attitudes in ancient Greece.

In [Roe v. Wade](#), the US Supreme Court questioned the validity of this source, noting that “the Oath originated in a group representing only a small segment of Greek opinion and that it certainly was not accepted by all ancient physicians.”<sup>[17]</sup>

The clause referencing abortion has been questioned on a number of grounds. Authorship of this and other sections has been questioned as the language reflects Pythagorean influence; it has been suggested that he specify that he would not give a pessary to a woman because that would abrogate the husband’s prerogative in the matter;<sup>[18]</sup> and is at odds with Hippocrates’ own conduct when asked by a friend to provide an abortion for her slave girl whom the kinswoman had been using as a prostitute. He describes the kind of abortion he prescribed, and records no indication of his opinion of the slave’s profession.<sup>[19]</sup> Elsewhere, he gives instruction on how to obtain an abortion through bloodletting.

## 5.2 Legal Opinions

See also: [Crime § History](#), [Classical Hindu law in practice](#) and [Capital punishment § History](#)

The earliest texts almost uniformly preach respect for human life; but a reading of these passages must be balanced with passages meting out harsh and often horrific punishment for social transgressions of lower caste individuals against the upper castes. In ancient India, a sudra could be horribly punished for the crime of learning the Vedas;<sup>[20]</sup> and in Rome, the Twelve Tablets were published only in

response to “demands of the people”.<sup>[21]</sup>

The value of a human being varied according to rank and social circumstances. (Thus, even an upper class male might be considered a mere boy until well into his later years; with the term “boy” having a meaning similar to slave.)<sup>[22]</sup> A slave woman might be punished by her master if he disapproved of her abortion, regardless of who the father was, because she destroyed his property. The monetary value of human beings is reflected in the value of fines paid for personal crimes, which varied in accordance both with the rank of the offender and of the victim. In Lev. 27:6, an infant of one month or less has no monetary value.

### 5.2.1 Religious Law

There are no prohibitions of abortion in the Confucian texts, nor mention of it in the earliest Vedas. While there is no direct mention of abortion in the Bible, Exodus 21:22–24 states that a man who causes a woman to miscarry may be fined. Most Jewish writers allowed abortion to save the mother’s life, and hesitated to impose civil laws against abortion, feeling that most women would ignore them.<sup>[23]</sup> The Talmud deems the fetus to be part of its mother and has no “juridical personality”.<sup>[24]</sup> There is also no direct mention of abortion in the Qu’ran, although based on Qur’an 23:12–14, most jurists agree that abortion is acceptable up to 120 days after conception.<sup>[15]</sup>

While the earliest Vedas have no mention of abortion, later scripture condemns it as one of the vilest of crimes, resulting in loss of caste and thus loss of liberation from *samsara*.<sup>[10]</sup> Despite such harsh condemnation, the penalty for abortion is the withholding of water libations from the woman; while the abortionist may lose caste and, with it, opportunity for liberation from *samsara*.<sup>[10]</sup>

In Buddhism, the oldest Theravada texts condemn abortion but do not prohibit or prescribe penance. In later texts, a Buddhist monk who provides abortion is “defeated” – excluded from the religious community – if the fetus dies. If the mother dies but not the fetus, this is only a grave sin, because he had not intended to kill her.

Generally, most texts allow abortion to save the woman’s life.

### Ecclesiastical Courts in Europe

Following the decline of the Roman Empire, Ecclesiastical courts held wide jurisdiction throughout Europe. Their purpose was to instruct and correct, rather than to punish, and therefore imposed sentences of penance, rather than corporal punishment.<sup>[25]</sup> The Church treated the killing of an unformed or “unanimated” fetus as a matter of “anticipated homicide”, with a corresponding lesser penance required,<sup>[26]</sup> while late abortion was homicide.

One of the earliest Churchmen, Tertullian, believed that the soul of the fetus is generated by the parents along with the generation of the new body. This viewpoint, later known as *traducianism*, was deemed unsatisfactory by St. Augustine, as it did not account for original sin. Basing himself on the Septuagint version of Exodus 21:22, he deemed abortion, while deplorable, to be less than murder. He also affirmed the Aristotelian view of delayed hominization. St. Fulgentius opposed abortion even for the purpose of saving the woman’s life, saying: “But let the child be brought to term and baptized and saved from perdition.”<sup>[27]</sup>

The Venerable Bede, in the Penitential ascribed to him by Albers c. 725, upheld the 40 day distinction, prescribing a one year penance for abortion before the 40th day, and added that it makes a difference whether the woman was simply in financial desperation, or had conceived out of “harlotry”. After 40 days the penance was 7 1/2 years, the same as for homicide.<sup>[28]</sup>

In the 12th century, in the *Decretum Gratiani*,

Gratian, and the medieval canon law generally, merely followed the prevailing scientific view of the period that quickening represented the time at which the fetus was “vivified,” defined as the time at which it was “ensouled.”<sup>[29]</sup>

A century later, St. Thomas Aquinas upheld delayed hominization: “seed and what is not seed is determined by sensation and movement.”<sup>[30]</sup>

In 1588, Pope Sixtus V adopted a papal bull adopting the position of St. Thomas Aquinas that contraception and abortion were crimes against nature and sins against marriage. This verdict was relaxed three years later by Pope Gregory XIV, who pronounced that abortion before “hominization” should not be subject to ecclesiastical penalties that were any stricter than civil penalties (*Codices iuris fontes*, ed. P. Gasparri, vol. 1 (Rome, 1927), pp. 330–331).

### 5.2.2 Secular Law

The Code of Hammurabi, ca. 1760 BC, contains the earliest known laws about miscarriage caused by assault, and seems intended to protect the rights of the father,<sup>[31]</sup> Articles 209–214 required monetary compensation in accordance with the social rank of the prospective mother, and a separate fine if the woman dies.<sup>[32][33]</sup> The *Zend Avesta* imposes a sentence of Peshôtanu (200 lashes) on a woman who, out of fear of discovery, “brings on menses” when conception occurs out of wedlock, with no mention of a penalty for the male.<sup>[34]</sup> The Code of the Assura, c. 1075 BCE has penalties for several different types of abortion crimes: if a woman aborts against her husband’s wishes, if a man causes an abortion in any woman at the first stage of pregnancy; if a man causes an abortion in a harlot. In

the first case, the woman is to be crucified; in the second, the man is fined two talents; and in the third, the man is to make restitution for a life.<sup>[35]</sup>

While there is no comprehensive review of property rights law in the Old Celtic Law, we do know that a husband could divorce his wife in the case of abortion.<sup>[36]</sup>

While there were no laws against abortion in Ancient Rome, the *Twelve Tables* did allow for infanticide through exposure in cases of unwanted female newborns, and mandated that children born deformed also be exposed. In 211 AD, at the intersection of the reigns of *Septimius Severus* and *Caracalla*, abortions which violated the father's rights or the mother's duties were punished by temporary exile.<sup>[37]</sup>

The *Visigothic Code* had a system of punishments similar to that of the *Zend Avesta*, with 200 lashes for a woman causing her own abortion, or for a male slave performing an abortion on a freeborn woman, but with various fines in all other circumstances.<sup>[38]</sup>

In 9th century England, King Alfred's laws laid down the wergeld to be paid in compensation for various murders: If a man slay a woman with child, he shall pay full wergeld for the woman, and half wergeld for the dead fetus, in compensation for the husband's material loss.<sup>[39]</sup>

In the Middle Ages, German women were allowed to expose their newborns.<sup>[40]</sup>

### English Common Law

Starting with *Leges Henrici Primi*, around 1115, abortion was treated as a misdemeanor prior to "quickening", accruing a penalty of 3 years' penance, or as a "quasi homicide" after quickening. It is believed that abortion cases were usually heard in ecclesiastical courts, which dealt with matters of morality,<sup>[41]</sup> rather than in secular courts, which dealt with breaches of the King's peace. The punishment for the capital crime of homicide was therefore not applied. Drawing on *William Staunford*, *Edward Coke* first formulated the *born alive rule* in *Institutes of the Lawes of England*, drawing on the established definition of *Murder in English law* that the victim be "a reasonable creature *in rerum natura*". This formulation appeared in *William Blackstone's* commentaries and in *Bouvier's Law Dictionary*. *Henry Bracton*, considered abortion to be homicide.<sup>[42]</sup>

## 5.3 Modern Codification

Some have claimed that scientific knowledge of fertilization,<sup>[43]</sup> was used to justify the stricter abortion laws that were codified during the 19th century. This ignores other, perhaps more salient, aspects of the history of abortion law. The historical debate about vivification, animation, and delayed hominization were

debates about when the fetus could be considered a "reasonable creature" – a *human being* – not simply when it had physical life; and this is what *quickening* was said to signify.

The process of criminalizing abortion, however, can be placed in a broader context whereby professional associations began to employ licencing procedures as a means of driving "irregulars" out of practice in fields as diverse as medicine and architecture.<sup>[44]</sup> Toward the end of the 18th century, medical associations began to co-operate "in vigorous measures for the suppression of *empiricism*, and the encouragement of regular practitioners"<sup>[45]</sup> – that is, for the suppression of medicine based on practice, such as herbalism and midwifery, and the promotion of medical science based on theory – and also began to assist in the regulation, restriction, and commercialization of reproduction products such as pessaries, condoms and abortifacients.<sup>[46]</sup> Science based medicine at the time was based on *humorism*, a theory that had not changed since Galen's day, and relied on dangerous practices such as bloodletting, purging, and the extensive use of *mercury*, a toxin. Public backlash forced a temporary retreat, with licencing regulations being repealed during the next few decades.

In 1857, a more successful campaign was launched. The newly formed AMA

"were motivated to organize for the criminalization of abortion in part by their desire to win professional power, control medical practice, and restrict their irregular competitors, including homeopaths, midwives, and others. Hostility towards feminists, immigrants, and Catholics fueled the medical campaign against abortion and the passage of abortion laws by state legislatures."<sup>[47]</sup>

Despite a flurry of well publicized inquests beginning with the turn of the 19th century, prosecutions for abortions usually proceeded only in response to a woman's death. In addition to the abortionist, unmarried men whose lovers had died were increasingly prosecuted as well, the reasoning being that only his refusal to marry could have driven a woman to abortion.<sup>[47]</sup>

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## Chapter 6

# Abortion in the United States

Not to be confused with [spontaneous abortion](#) or [miscarriage](#).

**Abortion in the United States** has been and remains one of the most controversial issues in [United States](#) culture and politics. Various [anti-abortion laws](#) have been on the statute books of each state since at least 1900. In 1973, [abortion](#) was prohibited entirely in 30 states and legal in limited circumstances (such as pregnancies resulting from rape or incest) in 20 other states. In that year, the [Supreme Court](#) in *Roe v. Wade* invalidated all of these laws, and set guidelines for the availability of abortion. *Roe* established that the [right of privacy](#) of a woman to obtain an abortion “must be considered against important state interests in regulation.”<sup>[1]</sup> *Roe* established a “trimester” (i.e., 12 week) threshold of state interest in the life of the fetus corresponding to its increasing “viability” (likelihood of survival outside the uterus) over the course of a pregnancy, such that states were prohibited from banning abortion early in pregnancy but allowed to impose increasing restrictions or outright bans later in pregnancy.

That decision was modified by the 1992 case *Planned Parenthood v. Casey*, which upheld the “central holding” in *Roe*, but replacing the trimester system with the point of fetal viability (whenever it may occur) as defining a state’s right to override the woman’s autonomy. *Casey* also lowered the legal standard to which states would be held in justifying restrictions imposed on a woman’s rights. *Roe* had held this to be “[strict scrutiny](#)”—the traditional Supreme Court test for impositions upon fundamental [Constitutional](#) rights—whereas *Casey* created a new standard referring to “[undue burden](#)”, specifically to balance the state’s and the woman’s interests in the case of abortion.

Before *Roe v. Wade*, abortion was legal in several states of the United States, but that decision imposed a uniform framework for state legislation on the subject, and established a minimal period during which abortion must be legal (under greater or lesser degrees of restriction throughout the pregnancy). That basic framework, modified in *Casey*, remains nominally in place, although the effective availability of abortion varies significantly from state to state as many counties have no abortion providers.<sup>[2]</sup>

In the United States, the main actors in the abortion debate are most often labelled either as “[pro-choice](#)” or “[pro-life](#)”, though shades of opinion exist, and most Americans are considered to be somewhere in the middle.<sup>[3]</sup> In a Gallup.com survey of 1014 adults found that opinions on abortion in the United States remain nearly evenly split, with 46% of participants identifying as pro-life and 47% identifying as pro-choice.<sup>[4]</sup> The poll results also indicated that Americans harbor a diverse and shifting set of opinions on the legal status of abortion in the US; the survey polled that only 28% of respondents believed abortion should be legal under any circumstances, and 48% of respondents believed that abortion should be legal under “most” or “only a few circumstances.” Recent polling results also found that only 34% of Americans were satisfied with abortion laws in the United States.<sup>[4]</sup>

## 6.1 Terminology

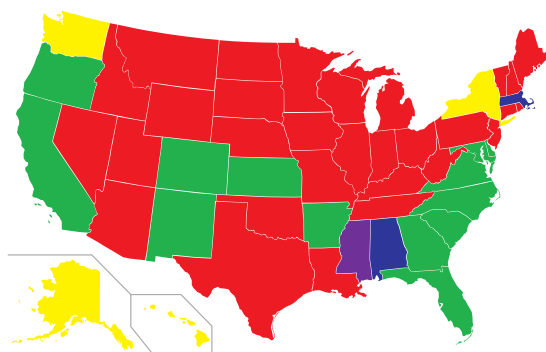
Main article: [Abortion](#)

The abortion debate most commonly relates to the “induced abortion” of an [embryo](#) or [fetus](#) at some point in a pregnancy, and this is also how the term is used in a legal sense.<sup>[5]</sup> Another term sometimes used is that of an “elective abortion”, which is used in relation to a claim to an unrestricted right of a woman to an abortion, whether or not she chooses to have one. In medical parlance, *abortion* can refer to miscarriage or abortion, but not after the fetus is viable. Doctors call abortions *termination of pregnancy* after viability.

## 6.2 History

### 6.2.1 Pre-1960s

At the time of the independence of the United States, English [common law](#) on abortion applied in most of the then states, and abortion was not permitted after [quickening](#), that is after the start of [fetal movements](#). James Wilson,



*Abortion laws in the U.S. before Roe.*

*Illegal. (30)*

*Legal in case of rape (1)*

*Legal in case of danger to woman's health (2)*

*Legal in case of danger to woman's health, rape or incest, or likely damaged fetus (13)*

*Legal on request (4)*

a framer of the U.S. Constitution, explained the view as follows:

Abortions became illegal by statute in Britain in 1803 and various anti-abortion statutes began to appear in the United States from the 1820s codifying or expanding the common law rules. In 1821, a [Connecticut](#) law targeted [apothecaries](#) who sold “poisons” to women for purposes of inducing an abortion; and [New York](#) made post-quickening abortions a felony and pre-quickening abortions a misdemeanor eight years later. It is sometimes argued that the early American abortion laws were motivated not by ethical concerns about abortion but by concern about the safety of the procedure. However, some legal theorists point out that this theory is inconsistent with the fact that abortion was punishable regardless of whether any harm befell the pregnant woman and the fact that many of the early laws punished not only the doctor or abortionist, but also the woman who hired them.<sup>[7]</sup>

A birth control movement developed during the 19th and early 20th centuries presaging the modern debate over women's body rights.<sup>[8]</sup> A campaign was launched against the movement and the use and availability of [contraceptives](#).

At the same time, the criminalization of abortion accelerated from the late 1860s, through the efforts of concerned legislators, doctors, and the [American Medical Association](#).<sup>[9]</sup> In 1873, [Anthony Comstock](#) created the [New York Society for the Suppression of Vice](#), an institution dedicated to supervising the morality of the public, and later that year, Comstock successfully influenced the United States Congress to pass the [Comstock Law](#), which made illegal the delivery by U.S. mail, or by other modes of transportation, of “obscene, lewd, or lascivious” material, as well as prohibiting any methods of production or publication of information pertaining to the procurement of [abortion](#), the prevention [conception](#) and the prevention

of [venereal disease](#), even to students of medicine.<sup>[10]</sup> The production, publication, importation, and distribution of such materials was suppressed under the [Comstock Laws](#) as being obscene and similar prohibitions were passed by 24 of the then 37 states.<sup>[11]</sup>

By 1900 abortion was a felony in every state. Some states did include provisions allowing for abortion in limited circumstances, generally to protect the woman's life or to terminate pregnancies arising from rape or incest. Abortions continued to occur, however, and increasingly became readily available. The [American Birth Control League](#) was founded by [Margaret Sanger](#) in 1921 to promote the founding of birth control clinics, to enable women to control their own fertility.<sup>[12]</sup>

In the 1930s, licensed physicians performed an estimated 800,000 abortions a year.<sup>[13]</sup>

## 6.2.2 Pre-Roe precedents

In 1964 [Gerri Santoro](#) of [Connecticut](#) died trying to obtain an illegal abortion and her photo became the symbol of the pro-choice movement. Some women's rights activist groups developed their own skills to provide abortions to women who could not obtain them elsewhere. As an example, in [Chicago](#), a group known as “[Jane](#)” operated a floating abortion clinic throughout much of the 1960s. Women seeking the procedure would call a designated number and be given instructions on how to find “[Jane](#)”.<sup>[14]</sup>

In 1965, the U.S. Supreme Court case *Griswold v. Connecticut* struck down one of the remaining contraception [Comstock laws](#) in [Connecticut](#) and [Massachusetts](#). However, *Griswold* only applied to marital relationships. *Eisenstadt v. Baird* (1972) extended its holding to unmarried persons as well. Following *Griswold case*, the [American College of Obstetricians and Gynecologists](#) (ACOG) issued a [medical bulletin](#) accepting a recommendation from 6 years earlier which clarified that conception is implantation, not fertilization; and consequently [birth control](#) methods that prevented implantation became classified as [contraceptives](#), not [abortifacients](#).

In 1967, [Colorado](#) became the first state to decriminalize abortion in cases of rape, incest, or in which pregnancy would lead to permanent physical disability of the woman. Similar laws were passed in [California](#), [Oregon](#), and [North Carolina](#). In 1970, [Hawaii](#) became the first state to legalize abortions on the request of the woman,<sup>[15]</sup> and [New York](#) repealed its 1830 law and allowed abortions up to the 24th week of pregnancy. Similar laws were soon passed in [Alaska](#) and [Washington](#). A law in [Washington, D.C.](#), which allowed abortion to protect the life or health of the woman, was challenged in the Supreme Court in 1971 in *United States v. Vuitch*. The court upheld the law, deeming that “health” meant “psychological and physical well-being,” essentially allowing abortion in [Washington, DC](#). By the end of 1972,

13 states had a law similar to that of Colorado, while **Mississippi** allowed abortion in cases of rape or incest only and **Alabama** and **Massachusetts** allowed abortions only in cases where the woman's physical health was endangered. In order to obtain abortions during this period, women would often travel from a state where abortion was illegal to states where it was legal. The legal position prior to *Roe v. Wade* was that abortion was illegal in 30 states and legal under certain circumstances in 20 states.<sup>[16]</sup>

In the late 1960s, a number of organizations were formed to mobilize opinion both against and for the legalization of abortion. In 1966, the **National Conference of Catholic Bishops** assigned Monsignor **James T. McHugh** to document efforts to reform abortion laws, and anti-abortion groups began forming in various states in 1967. In 1968, McHugh led an advisory group which became the **National Right to Life Committee**.<sup>[17][18]</sup> The forerunner of the **NARAL Pro-Choice America** was formed in 1969 to oppose restrictions on abortion and expand access to abortion.<sup>[19]</sup> Following *Roe v. Wade*, in late 1973 NARAL became the National Abortion Rights Action League.

### 6.2.3 *Roe v. Wade*

Main article: *Roe v. Wade*

In deciding *Roe v. Wade* on January 22, 1973, the



*The United States Supreme Court membership in 1973.*

Supreme Court ruled that a **Texas** statute forbidding abortion except when necessary to save the life of the mother was unconstitutional. The Court arrived at its decision by concluding that the issue of abortion and abortion rights falls under the **right to privacy** (in the sense of the right of a person not to be encroached by the state). In its opinion it listed several landmark cases where the court had previously found a right to privacy implied by the Constitution. The Court did not recognize a right to abortion in all cases:

State regulation protective of fetal life after viability thus has both logical and biological justifications. If the State is interested in protecting fetal life after viability, it may go so far

as to proscribe abortion during that period, except when it is necessary to preserve the life or health of the mother.<sup>[20]</sup>

The Court held that a right to privacy existed and included the right to have an abortion. The court found that a mother had a right to abortion until viability, a point to be determined by the abortion doctor. After viability a woman can obtain an abortion for health reasons, which the Court defined broadly to include psychological well-being.

A central issue in the *Roe* case (and in the wider abortion debate in general) is whether human life or personhood begins at conception, birth, or at some point in between. The Court declined to make an attempt at resolving this issue, noting: “We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer.” Instead, it chose to point out that historically, under English and American **common law** and statutes, “the unborn have never been recognized ...as persons in the whole sense” and thus the fetuses are not legally entitled to the protection afforded by the right to life specifically enumerated in the Fourteenth Amendment. So rather than asserting that human life begins at any specific point, the court simply declared that the State has a “compelling interest” in protecting “potential life” at the point of viability.

### *Doe v Bolton*

Main article: *Doe v Bolton*

Under *Roe v Wade*, state governments may not prohibit **late terminations of pregnancy** when “necessary to preserve the [woman’s] life or health”, even if it would cause the demise of a viable fetus.<sup>[21]</sup> This rule was clarified by the 1973 judicial decision *Doe v Bolton*, which specifies “that the medical judgment may be exercised in the light of all factors-- physical, emotional, psychological, familial, and the woman’s age-- relevant to the well-being of the patient.”<sup>[22][23][24]</sup> It is by this provision for the mother’s mental health that women in the US legally choose abortion after viability when screenings reveal abnormalities that do not cause a baby to die shortly after birth.<sup>[25][26][27][28]</sup>

### *Jane Roe and Mary Doe*

“Jane Roe” of the landmark *Roe v. Wade* lawsuit, whose real name is **Norma McCorvey**, is now a pro-life advocate. McCorvey writes that she never had the abortion and became the “pawn” of two young and ambitious lawyers who were looking for a plaintiff who they could

use to challenge the Texas state law prohibiting abortion. However, attorney Linda Coffee says she does not remember McCorvey having any hesitancy about wanting an abortion.<sup>[29]</sup>

“Mary Doe” of the companion *Doe v. Bolton* lawsuit, the mother of three whose real name is Sandra Cano, maintains that she never wanted or had an abortion and that she is “ninety-nine percent certain that [she] did not sign” the affidavit to initiate the suit.<sup>[30]</sup>

### 6.2.4 Later judicial decisions

In the 1992 case of *Planned Parenthood v. Casey*, the Court abandoned *Roe*’s strict trimester framework.<sup>[31]</sup> Instead adopting the standard of undue burden for evaluating state abortion restrictions,<sup>[32]</sup> but reemphasized the right to abortion as grounded in the general sense of liberty and privacy protected under the constitution: “Constitutional protection of the woman’s decision to terminate her pregnancy derives from the Due Process Clause of the Fourteenth Amendment. It declares that no State shall ‘deprive any person of life, liberty, or property, without due process of law.’ The controlling word in the cases before us is ‘liberty’.”<sup>[33]</sup>

The Supreme Court continues to grapple with cases on the subject. On April 18, 2007 it issued a ruling in the case of *Gonzales v. Carhart*, involving a federal law entitled the Partial-Birth Abortion Ban Act of 2003 which President George W. Bush had signed into law. The law banned intact dilation and extraction, which opponents of abortion rights referred to as “partial-birth abortion,” and stipulated that anyone breaking the law would get a prison sentence up to 2.5 years. The United States Supreme Court upheld the 2003 ban by a narrow majority of 5-4, marking the first time the Court has allowed a ban on any type of abortion since 1973. The opinion, which came from justice Anthony Kennedy, was joined by Justices Antonin Scalia, Clarence Thomas, and the two recent appointees, Samuel Alito and Chief Justice John Roberts.

## 6.3 Current legal situation

### 6.3.1 Federal legislation

Since 1995, led by Congressional Republicans, the U.S. House of Representatives and U.S. Senate had moved several times to pass measures banning the procedure of intact dilation and extraction, also commonly known as partial birth abortion. After several long and emotional debates on the issue, such measures passed twice by wide margins, but President Bill Clinton vetoed those bills in April 1996 and October 1997 on the grounds that they did not include health exceptions. Congressional supporters of the bill argue that a health exception would render the bill unenforceable, since the *Doe v. Bolton* deci-

sion defined “health” in vague terms, justifying any motive for obtaining an abortion. Subsequent Congressional attempts at overriding the veto were unsuccessful.

On October 2, 2003, with a vote of 281-142, the House again approved a measure banning the procedure, called the *Partial-Birth Abortion Ban Act*. Through this legislation, a doctor could face up to two years in prison and face civil lawsuits for performing such an abortion. A woman who undergoes the procedure cannot be prosecuted under the measure. The measure contains an exemption to allow the procedure if the woman’s life is threatened. On October 21, 2003, the United States Senate passed the same bill by a vote of 64-34, with a number of Democrats joining in support. The bill was signed by President George W. Bush on November 5, 2003, but a federal judge blocked its enforcement in several states just a few hours after it became public law. The Supreme Court upheld the nationwide ban on the procedure in the case *Gonzales v. Carhart* on April 18, 2007, signaling a substantial change in the Court’s approach to abortion law.<sup>[34]</sup> The 5-4 ruling said the *Partial Birth Abortion Ban Act* does not conflict with previous Court decisions regarding abortion.

The current judicial interpretation of the U.S. Constitution regarding abortion in the United States, following the Supreme Court of the United States’s 1973 landmark decision in *Roe v. Wade*, and subsequent companion decisions, is that abortion is legal but may be restricted by the states to varying degrees. States have passed laws to restrict late term abortions, require parental notification for minors, and mandate the disclosure of abortion risk information to patients prior to the procedure.<sup>[35]</sup>

The key, deliberated article of the U.S. Constitution is the Fourteenth Amendment, which states that

The official report of the U.S. Senate Judiciary Committee, issued in 1983 after extensive hearings on the Human Life Amendment (proposed by Senators Orrin Hatch and Thomas Eagleton), stated what substantially remains true today:

One aspect of the legal abortion regime now in place has been determining when the fetus is “viable” outside the womb as a measure of when the “life” of the fetus is its own (and therefore subject to being protected by the state). In the majority opinion delivered by the court in *Roe v. Wade*, viability was defined as “potentially able to live outside the mother’s womb, albeit with artificial aid. Viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks.” When the court ruled in 1973, the then-current medical technology suggested that viability could occur as early as 24 weeks. Advances over the past three decades have allowed fetuses that are a few weeks less than 24 weeks old to survive outside the mother’s womb. These scientific achievements, while life-saving for premature babies, have made the determination of being “viable” somewhat more complicated.

As of 2006, the youngest child to survive a premature birth in the United States was a girl born at Kapiolani Medical Center in Honolulu, Hawaii at 21 weeks and 3 days gestation gestational age.<sup>[38]</sup> Because of the split between federal and state law, legal access to abortion continues to vary somewhat by state. Geographic availability, however, varies dramatically, with 87 percent of U.S. counties having no abortion provider.<sup>[39]</sup> Moreover, due to the Hyde Amendment, many state health programs do not cover abortions; currently 17 states (including California, Illinois and New York) offer or require such coverage.<sup>[40]</sup>

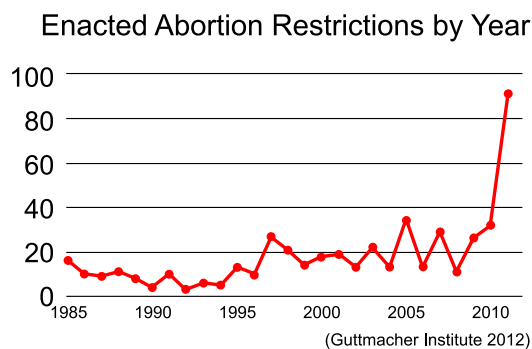
The legality of abortion in the United States is frequently a major issue in nomination battles for the U.S. Supreme Court. However, nominees typically remain silent on the issue during their hearings, because it is an issue that may come before them as judges.

The Unborn Victims of Violence Act, commonly known as "Laci and Conner's Law" was passed by Congress and signed into law by President Bush on April 1, 2004, allowing two charges to be filed against someone who kills a pregnant mother (one for the mother and one for the fetus). It specifically bans charges against the mother and/or doctor relating to abortion procedures. Nevertheless, it has generated much controversy among pro-choice advocates who view it as a potential step in the direction of banning abortion.

### 6.3.2 State-by-state legal status

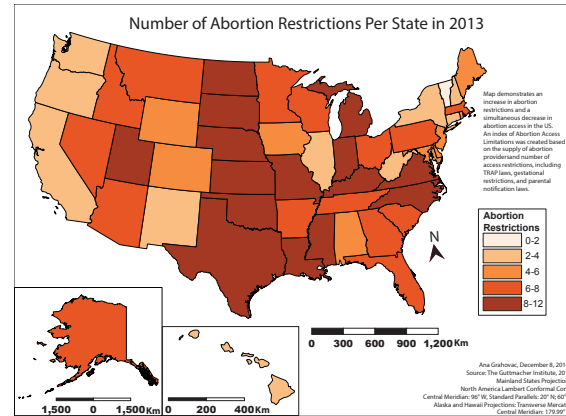
Main articles: Abortion in the United States by state and Types of abortion restrictions in the United States

Various states have laws on abortion, some of which



*The Guttmacher Institute found that state restrictions on abortion greatly increased in 2011.*

refer to as feticide. On March 6, 2006, South Dakota Governor Mike Rounds signed into law a pro-life statute which made performing abortions a felony, and that law was subsequently repealed in a November 7, 2006 referendum.<sup>[41]</sup> On February 27, 2006, Mississippi's House Public Health Committee voted to approve a ban on abortion, and that bill died after the House and Sen-



*This map demonstrate an increase in abortion restrictions and a simultaneous decrease in abortion access in the US in 2013. An index of abortion access was created using the supply of abortion providers, TRAP laws, gestational restrictions, and parental notification laws to measure abortion access in the US.*

ate failed to agree on compromise legislation.<sup>[42]</sup> Several states have enacted "trigger laws" which "would take effect if *Roe v. Wade* is overturned."<sup>[43]</sup> North Dakota HB 1572 or the *Personhood of Children Act*, which passed the North Dakota House of Representatives on February 18, 2009, but was later defeated in the North Dakota Senate, aimed to allocate rights to "the pre-born, partially born", and if passed, would likely have been used to challenge *Roe v. Wade*.<sup>[44]</sup> On February 15, 2012, the Virginia House of Delegates passed House Bill 1 in a vote of 66-32, that effectively outlaws all Virginia abortions by declaring that the rights of persons apply from the moment sperm and egg unite. It also passed a second bill in a 63-36 vote, that requires women to have a transvaginal ultrasound before undergoing abortions.<sup>[45]</sup>

In addition, some states have sought to ban abortion by means of an amendment to the state constitution, three of which have already reached the ballot for a vote. Colorado citizens voted on Amendment 48 on November 4, 2008, and it failed to pass, with 73.21% voting against it and 26.79% voting for it.<sup>[46]</sup> A similar initiative, Amendment 62, made the Colorado ballot on November 2, 2010, where it failed again, this time 70.53% to 29.47%.<sup>[47]</sup> On November 8, 2011, Initiative 26, a "personhood" measure that would have banned all abortions and some forms of contraception, was defeated on the Mississippi ballot, 57.87% voting "no" to 42.13%.<sup>[48][49]</sup> All three of these amendments made it to the ballot through a citizen initiative process, as opposed to being referred to the ballot by their state legislatures.

These amendments, dubbed "personhood amendments," have so far contained far-reaching language that go beyond simply banning abortion. They define personhood as beginning from the moment of conception and/or fertilization, which would potentially outlaw forms of birth control, in addition to potentially banning in-vitro fertilization. The umbrella organization Personhood USA,

based in Colorado and co-founded by Cal Zastrow and Keith Mason,<sup>[50]</sup> was responsible for getting Amendments 48 and 62 onto the ballot in Colorado.<sup>[51]</sup> They plan to get another amendment onto the ballot in 2012, this time with slightly revised wording composed by legal analyst Gualberto Garcia Jones. Personhood USA also plans on pushing for such amendments in Montana and Oregon.<sup>[52]</sup>

Other states are considering personhood amendments banning abortion, some through legislative methods and others through citizen initiative campaigns. Among these states are Florida, Ohio, Georgia, Texas, and Arkansas.<sup>[53][54][55]</sup>

In 2015 Kansas became the first state to ban the dilation and evacuation procedure, a common second-trimester abortion procedure.<sup>[56]</sup>

24 states have mandatory counseling and waiting periods, while 6 states require in person counseling.<sup>[57]</sup>

Abortion in the Northern Mariana Islands, a United States Commonwealth, is illegal.

## 6.4 Qualifying requirements for abortion providers

Qualifying requirements for performing abortions vary from state to state.<sup>[58]</sup> Currently, California, Oregon, Montana, Vermont, and New Hampshire allow qualified non-physician health professionals, such as physicians' assistants, nurse practitioners, and certified nurse midwives, to do first-trimester aspiration abortions, and to prescribe drugs for medical abortions. Additionally, Washington State, New Mexico, Illinois, Maryland, New York, Massachusetts, Connecticut, and New Jersey allow qualified non-physicians to prescribe drugs for medical abortions only. In all other states, only licensed physicians may perform abortions.<sup>[59]</sup>

## 6.5 Statistics

Main article: Abortion statistics in the United States

Because reporting of abortions is not mandatory, statistics are of varying reliability. The Centers For Disease Control (CDC)<sup>[60]</sup> regularly compiles these statistics.

### 6.5.1 Number of abortions in United States

The annual number of legal induced abortions in the United States doubled between 1973 and 1979, and peaked in 1990. There was a slow but steady decline

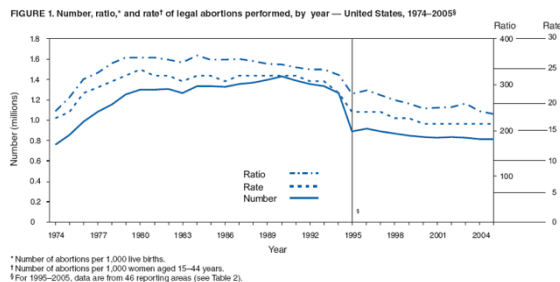


Chart source: CDC, 2005

through the 1990s. Overall, the number of annual abortions decreased by 6% between 2000 and 2009, with temporary spikes in 2002 and 2006.<sup>[61]</sup>

According to the Guttmacher Institute, since 1973, roughly 50 million legal induced abortions have been performed in the United States.<sup>[62]</sup>

By 2011, abortion rate in the United States dropped to its lowest point since the Supreme Court legalized the procedure. According to a study performed by Guttmacher Institute, long-acting contraceptive methods were having a significant impact in reducing unwanted pregnancies. There were fewer than 17 abortions for every 1,000 women of child-bearing age. That was a 13 percent decrease from 2008's numbers and slightly higher than the rate in 1973, when the Supreme Court's *Roe v. Wade* decision legalized abortion. The study indicated a long-term decline in the abortion rate. The rate has dropped significantly from its all-time high in 1981, when there were roughly 30 abortions for every 1,000 women of reproductive age. The overall number of abortions also fell 13 percent from 2008 to nearly 1.1 million in 2011." In 2013, the Centers for Disease Control and Prevention also reported a decline in abortion rates.<sup>[63][64][65][66]</sup>

Even though abortion is legal, abortion can carry heavy social stigma; for this reason incidence of abortions may be difficult to measure because in medicine they can be reported variously as miscarriage, "induced miscarriage", "menstrual regulation", "mini-abortion", and "regulation of a delayed/suspended menstruation".<sup>[67][68]</sup>

In 2012, according to a report by the New York City Department of Health and Mental Hygiene, in New York City there were more black fetuses aborted (31,328) than were born (24,758). There was a total of 73,815 abortions in 2012 in New York City; 42.4% were of black descent.<sup>[69][70][71][72]</sup>

According to the data published by the Centers for Disease Control and Prevention (CDC), 39,052 African American fetuses and 14,529 white fetuses were aborted in Mississippi between 1995 and 2010. 71.67% of the fetuses aborted in Mississippi were black and 26.6% were white. The total number of abortions (from all races) in Mississippi from 1995 to 2010 was 54,484. Whites outnumber African Americans in Mississippi 1.6-to-1.<sup>[73]</sup>

### 6.5.2 Medical abortions

A **Guttmacher Institute** survey of abortion providers estimated that early **medical abortions** accounted for 17% of all nonhospital abortions and slightly over one-quarter of abortions before 9 weeks gestation in the United States in 2008.<sup>[74]</sup> Medical abortions voluntarily reported to the **CDC** by 34 reporting areas (excluding Alabama, California, Connecticut, Delaware, Florida, Hawaii, Illinois, Louisiana, Maryland, Massachusetts, Nebraska, Nevada, New Hampshire, Pennsylvania, Tennessee, Vermont, Wisconsin, and Wyoming) and published in its annual **abortion surveillance reports** have increased every year since the September 28, 2000 **FDA** approval of **mifepristone** (RU-486): 1.0% in 2000, 2.9% in 2001, 5.2% in 2002, 7.9% in 2003, 9.3% in 2004, 9.9% in 2005, 10.6% in 2006, 13.1% in 2007, 15.8% in 2008, 17.1% in 2009 (25.2% of those at less than 9 weeks gestation).<sup>[75]</sup> Medical abortions accounted for 32% of first trimester abortions at **Planned Parenthood** clinics in the United States in 2008.<sup>[76]</sup>

### 6.5.3 Abortions and ethnicity

Abortion rates are higher among minority women in the U.S. In 2000-2001, the rates among black and Hispanic women were 49 per 1,000 and 33 per 1,000, respectively, vs. 13 per 1,000 among non-Hispanic white women. Note that this figure includes all women of reproductive age, including women that are not pregnant. In other words, these abortion rates reflect the rate at which U.S. women of reproductive age have an abortion each year.<sup>[77]</sup> While White women obtain 60% of all abortions, African American women are three times more likely to have an abortion.<sup>[78]</sup>

In 2004, the rates of abortion by ethnicity in the U.S. were 50 abortions per 1,000 black women, 28 abortions per 1,000 Hispanic women, and 11 abortions per 1,000 white women.<sup>[79]</sup>

### 6.5.4 Reasons for abortions

Another study, in **1998**, revealed that in **1987-1988** women reported the following as their primary reasons for choosing an abortion:<sup>[80][81]</sup> The source of this information, takes findings into account from 27 nations including the United States, and therefore these findings may not be typical for any one nation.

- 25.9% Want to postpone childbearing.
- 21.3% Cannot afford a **baby**
- 14.1% Has relationship problem or partner does not want pregnancy
- 12.2% Too young; parent(s) or other(s) object to pregnancy

- 10.8% Having a **child** will disrupt **education** or **job**
- 7.9% Want no (more) **children**
- 3.3% Risk to **fetal** health
- 2.8% Risk to **maternal** health
- 2.1% Other

According to a **1987** study that included specific data about **late abortions** (i.e. abortions “at 16 or more weeks’ gestation”),<sup>[82]</sup> women reported that various reasons contributed to their having a late abortion:

- 71% Woman did not recognize she was pregnant or misjudged gestation
- 48% Woman found it hard to make arrangements for abortion
- 33% Woman was afraid to tell her partner or parents
- 24% Woman took time to decide to have an abortion
- 8% Woman waited for her relationship to change
- 8% Someone pressured woman not to have abortion
- 6% Something changed after woman became pregnant
- 6% Woman did not know timing is important
- 5% Woman did not know she could get an abortion
- 2% A fetal problem was diagnosed late in pregnancy
- 11% Other.

In **2000**, cases of rape or incest accounted for 1% of abortions.<sup>[83]</sup>

A **2004** study by the **Guttmacher Institute** reported that women listed the following amongst their reasons for choosing to have an abortion:<sup>[81]</sup>

- 74% Having a baby would dramatically change my life
- 73% Cannot afford a baby now
- 48% Do not want to be a single mother or having relationship problems
- 38% Have completed my childbearing
- 32% Not ready for another child
- 25% Do not want people to know I had sex or got pregnant
- 22% Do not feel mature enough to raise another child

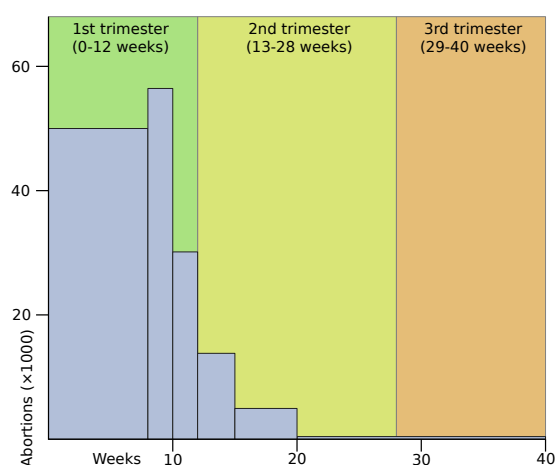
- 14% Husband or partner wants me to have an abortion
- 13% Possible problems affecting the health of the fetus
- 12% Concerns about my health
- 6% Parents want me to have an abortion
- 1% Was a victim of rape
- less than 0.5% Became pregnant as a result of incest

A **2008 National Survey of Family Growth (NSFG)** shows that rates of unintended pregnancy are highest among Blacks, Hispanics, and women with lower socioeconomic status.<sup>[84]</sup>

- 70% of all pregnancies among Black women were unintended
- 57% of all pregnancies among Hispanic women were unintended
- 42% of all pregnancies among White women were unintended

### 6.5.5 When women have abortions (by gestational age)

According to the Centers for Disease Control, in 2011, most (64.5%) abortions were performed by  $\leq 8$  weeks' gestation, and nearly all (91.4%) were performed by  $\leq 13$  weeks' gestation. Few abortions (7.3%) were performed between 14–20 weeks' gestation or at  $\geq 21$  weeks' gestation (1.4%). From 2002 to 2011, the percentage of all abortions performed at  $\leq 8$  weeks' gestation increased 6%.<sup>[85]</sup>



*Abortion in the United States by gestational age, 2004. (Data source: Centers for Disease Control and Prevention)*

### 6.5.6 Death

In the US, risk of **death** by abortion is lower than childbirth for pregnancies terminated at or before 21 weeks' gestation.<sup>[86][87]</sup>

## 6.6 Public opinion

See also: **Societal attitudes towards abortion, United States pro-choice movement and United States pro-life movement**

Leading up to the 40th anniversary of the *Roe v. Wade* Supreme Court decision in January 2013, a majority of Americans believed abortion should be legal in all or most cases, according to a poll by NBC News and the *Wall Street Journal*.<sup>[88]</sup> As well, approximately 70% of respondents oppose *Roe v. Wade* being overturned, which is the highest percentage on this question since 1989.<sup>[88]</sup> A poll by the **Pew Research Center** yielded similar results.<sup>[89]</sup> Moreover, 48% of Republicans opposed overturning *Roe*, compared to 46% who supported overturning it.<sup>[89]</sup>

Gallup notes that abortion attitudes are shifting. Gallup declared in May 2010 that more Americans identifying as “pro-life” is “the new normal”, while also noting that there had been no increase in opposition to abortion. It suggested that political polarization may have prompted more Republicans to call themselves “pro-life”.<sup>[90]</sup> The terms “pro-choice” and “pro-life” do not always reflect a political view or fall along a binary; in one **Public Religion Research Institute** poll, seven in ten Americans described themselves as “pro-choice” while almost two-thirds described themselves as “pro-life”. The same poll found that 56% of Americans were in favor of legal access to abortion in all or some cases.<sup>[91]</sup>

### 6.6.1 By gender, age, party, and region

**Pew Research Center** polling shows little change in views from 2008 to 2012; modest differences based on gender or age.<sup>[92]</sup>

(The original article's table also shows by party affiliation, religion, and education level.)

A January 2003 **CBS News/New York Times** poll examined whether Americans thought abortion should be legal or not, and found variations in opinion which depended upon **party affiliation** and the region of the country.<sup>[93]</sup> The **margin of error** is  $\pm 4\%$  for questions answered of the entire sample (“overall” figures) and may be higher for questions asked of subgroups (all other figures).<sup>[93]</sup>

### 6.6.2 By trimester of pregnancy

A *CNN/USA Today/Gallup* poll in January 2003 asked about the legality of abortion by trimester, using the question, “Do you think abortion should generally be legal or generally illegal during each of the following stages of pregnancy?”<sup>[94]</sup> This same question was also asked by Gallup in March 2000 and July 1996.<sup>[95][96]</sup> Polls indicate general support of abortion during the first trimester although support drops dramatically for abortion during the second and third trimester.

### 6.6.3 By circumstance or reasons

According to Gallup’s long-time polling on abortion, the majority of Americans are neither strictly Pro-Life or Pro-Choice; it depends upon circumstances. Gallup polling from 1996 to 2009 consistently reveals that when asked the question, “Do you think abortions should be legal under any circumstances, legal only under certain circumstances, or illegal in all circumstances?”, Americans repeatedly answer ‘legal only under certain circumstances’. According to the poll, in any given year 48-57% say legal only under certain circumstances (for 2009, 57%), 21-34% say legal under any circumstances (for 2009, 21%), and 13-19% illegal in all circumstances (for 2009, 18%), with 1-7% having no opinion (for 2009, 4%).<sup>[95]</sup>

*"Do you think abortions should be legal under any circumstances, legal only under certain circumstances, or illegal in all circumstances?"*

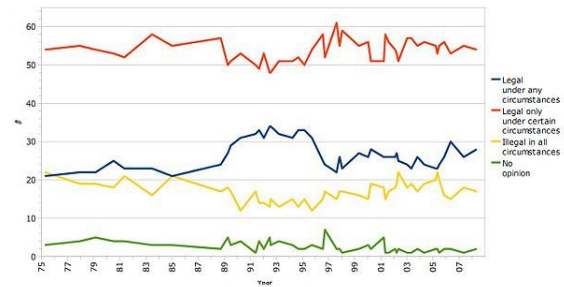
According to the aforementioned poll,<sup>[95]</sup> Americans differ drastically based upon situation of the pregnancy, suggesting they do not support unconditional abortions. Based on two separate polls taken May 19–21, 2003, of 505 and 509 respondents respectively, Americans stated their approval for abortion under these various circumstances:

Another separate trio of polls taken by Gallup in 2003, 2000, and 1996,<sup>[95]</sup> revealed public support for abortion as follows for the given criteria:

Gallup furthermore established public support for many issues supported by the Pro-Life community and opposed by the Pro-Choice community.<sup>[95]</sup>

An October 2007 *CBS News* poll explored under what circumstances Americans believe abortion should be allowed, asking the question, “What is your personal feeling about abortion?” The results were as follows:<sup>[94]</sup>

### 6.6.4 Additional polls



*Results of Gallup opinion poll in USA since 1975 - legal restriction of abortion<sup>[97]</sup>*

- A June 2000 *Los Angeles Times* survey found that, although 57% of polltakers considered abortion to be murder, half of that 57% believed in allowing women access to abortion. The survey also found that, overall, 65% of respondents did not believe abortion should be legal after the first trimester, including 72% of women and 58% of men. Further, the survey found that 85% of Americans polled supported abortion in cases of risk to a woman’s physical health, 54% if the woman’s mental health was at risk, and 66% if a congenital abnormality was detected in the fetus.<sup>[98]</sup>
- A July 2002 Public Agenda poll found that 44% of men and 42% of women thought that “abortion should be generally available to those who want it”, 34% of men and 35% of women thought that “abortion should be available, but under stricter than limits it is now”, and 21% of men and 22% of women thought that “abortion should not be permitted”.<sup>[99]</sup>
- A January 2003 *ABC News/Washington Post* poll also examined attitudes towards abortion by gender. In answer to the question, “On the subject of abortion, do you think abortion should be legal in all cases, legal in most cases, illegal in most cases or illegal in all cases?”, 25% of women responded that it should be legal in “all cases”, 33% that it should be legal in “most cases”, 23% that it should be illegal in “most cases”, and 17% that it should be illegal in “all cases”. 20% of men thought it should be legal in “all cases”, 34% legal in “most cases”, 27% illegal in “most cases”, and 17% illegal in “all cases”.<sup>[99]</sup>

- Most Fox News viewers favor both parental notification as well as parental consent, when a minor seeks an abortion. A **Fox News** poll in 2005 found that 78% of people favor a notification requirement, and 72% favor a consent requirement.<sup>[100]</sup>
- An April 2006 **Harris** poll on *Roe v. Wade*, asked, “In 1973, the U.S. Supreme Court decided that states’ laws which made it illegal for a woman to have an abortion up to three months of pregnancy were unconstitutional, and that the decision on whether a woman should have an abortion up to three months of pregnancy should be left to the woman and her doctor to decide. In general, do you favor or oppose this part of the U.S. Supreme Court decision making abortions up to three months of pregnancy legal?”, to which 49% of respondents indicated favor while 47% indicated opposition. The Harris organization has concluded from this poll that “49 percent now support *Roe vs. Wade*.”<sup>[101]</sup>
- Two polls were released in May 2007 asking Americans “With respect to the abortion issue, would you consider yourself to be pro-choice or pro-life?” May 4 through 6th, a CNN poll found 45% said pro-choice and 50% said pro-life.<sup>[102]</sup> Within the following week, a Gallup poll found 50% responding pro-choice and 44% pro-life.<sup>[103]</sup>
- In 2011, a poll conducted by the Public Religion Research Institute found that 43% of respondents identified themselves as both “pro-life” and “pro-choice”.<sup>[104]</sup>

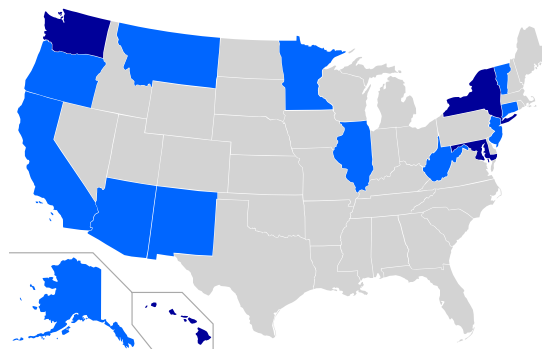
### 6.6.5 Partial birth abortion

See also: **Partial-Birth Abortion Ban Act**

“Partial-Birth abortion” is a non-medical term for a procedure called **intact dilation and extraction** used by those who oppose the procedure. A **Rasmussen Reports** poll four days after the Supreme Court’s opinion in *Gonzales v. Carhart* found that 40% of respondents “knew the ruling allowed states to place some restrictions on specific abortion procedures.” Of those who knew of the decision, 56% agreed with the decision and 32% were opposed.<sup>[105]</sup> An ABC poll from 2003 found that 62% of respondents thought partial-birth abortion should be illegal; a similar number of respondents wanted an exception “if it would prevent a serious threat to the woman’s health.” Additional polls from 2003 found between 47–70% in favor of banning this type of abortion and between 25–40% opposed.<sup>[106]</sup>

Gallup has repeatedly queried the American public on this issue, as seen on its *Abortion* page.<sup>[95]</sup>

## 6.7 Abortion financing



*State Medicaid coverage of medically necessary abortion services.*

**Navy blue:** Medicaid covers medically necessary abortion for low-income women through legislation

**Royal blue:** Medicaid covers medically necessary abortions for low-income women under court order

**Gray:** Medicaid denies abortion coverage for low-income women except for cases of rape, incest, or life endangerment.

The abortion debate has also been extended to the question of who pays the medical costs of the procedure, with some states using the mechanism as a way of reducing the number of abortions. The cost of an abortion varies depending on factors such as location, facility, timing, and type of procedure. In 2005, a nonhospital abortion at 10 weeks’ gestation ranged from \$90 to \$1,800 (average: \$430), whereas an abortion at 20 weeks’ gestation ranged from \$350 to \$4,520 (average: \$1,260). Costs are higher for a medical abortion than a first-trimester surgical abortion.

### 6.7.1 Medicaid

The **Hyde Amendment** is a federal legislative provision barring the use of federal Medicaid funds to pay for abortions except for rape and incest.<sup>[107]</sup> The provision, in various forms, was in response to *Roe v. Wade*, and has been routinely attached to annual appropriations bills since 1976, and represented the first major legislative success by the **pro-life movement**. The law requires that states cover abortions under Medicaid in the event of rape, incest, and life endangerment. Based on the federal law:

- 32 states and DC fund abortions through Medicaid only in the cases of rape, incest, or life endangerment. SD covers abortions only in the cases of life endangerment, which does not comply with federal requirements under the Hyde Amendment. IN, UT and WI have expanded coverage to women whose physical health is jeopardized, and IA, MS, UT and VA also include fetal abnormality cases.
- 17 states (AK, AZ, CA, CT, HI, IL, MD, MA, MN,

MT, NJ, NM, NY, OR, VT, WA, WV) use their own funds to cover all or most “medically necessary” abortions sought by low-income women under Medicaid, 13 of which are required by State court orders to do so.<sup>[108]</sup>

### 6.7.2 Private insurance

- 5 states (ID, KY, MO, ND, OK) restrict insurance coverage of abortion services in private plans: OK limits coverage to life endangerment, rape or incest circumstances; and the other four states limit coverage to cases of life endangerment.
- 12 states (CO, IL, KY, MA, MS, NE, ND, OH, PA, RI, SC, VA) restrict abortion coverage in insurance plans for public employees, with CO and KY restricting insurance coverage of abortion under any circumstances.
- U.S. laws also ban federal funding of abortions for federal employees and their dependents, Native Americans covered by the Indian Health Service, military personnel and their dependents, and women with disabilities covered by Medicare.<sup>[109]</sup>

## 6.8 Positions of U.S. political parties

Though members of both major political parties come down on either side of the issue, the **Republican Party** is often seen as being **pro-life**, since the official party platform opposes abortion and considers unborn children to have an inherent right to life. **Republicans for Choice** represents the minority of that party. In 2006 pollsters found that 9% of Republicans favor the availability of abortion in most circumstances.<sup>[110]</sup> Of Republican National Convention delegates in 2004, 13% believed that abortion should be generally available, and 38% believed that it should not be permitted. The same poll showed that 17% of all Republican voters believed that abortion should be generally available to those who want it, while 38% believed that it should not be permitted.<sup>[111]</sup>

The **Democratic Party** platform considers abortion to be a woman’s right. **Democrats for Life of America** represents the minority of that party. In 2006 pollsters found that 74% of Democrats favor the availability of abortion in most circumstances.<sup>[110]</sup> However, a **Zogby International** poll in 2004 found that 43% of all Democrats believed that abortion “destroys a human life and is manslaughter.”<sup>[112]</sup> Of Democratic National Convention delegates in 2004, 75% believed that abortion should be generally available, and 2% believed that abortion should not be permitted. The same poll showed that 49% of all Democratic voters believed that abortion should be gen-

erally available to those who want it, while 13% believed that it should not be permitted.<sup>[113]</sup>

The **Green Party** of the United States supports abortion as a woman’s right.

The **Libertarian Party** platform (2012) states that “government should be kept out of the matter, leaving the question to each person for their conscientious consideration.”<sup>[114]</sup> Abortion is a **contentious issue** among Libertarians, and the Maryland-based organization **Libertarians for Life** opposes the legality of abortion in most circumstances. See also **Libertarian perspectives on abortion**.

In the United States the abortion issue has become deeply politicized: in 2002, 84% of state **Democratic** platforms supported the right to having an abortion while 88% of state **Republican** platforms opposed it. This divergence also led to **Christian Right** organizations like **Christian Voice**, **Christian Coalition** and **Moral Majority** having an increasingly strong role in the Republican Party. This opposition has been extended under the Foreign Assistance Act: in 1973 **Jesse Helms** introduced an amendment banning the use of aid money to promote abortion overseas, and in 1984 the **Mexico City Policy** prohibited financial support to any overseas organization that performed or promoted abortions. The “Mexico City Policy” was revoked by **President Bill Clinton** and subsequently reinstated by **President George W. Bush**. **President Barack Obama** overruled this policy by Executive Order on January 23, 2009.<sup>[115]</sup>

The official platforms of the **major political parties** in the US are as follows:

### 6.8.1 Republican Party

- 2012: “We support a human life amendment to the Constitution and endorse legislation to make clear that the Fourteenth Amendment’s protections apply to unborn children. We oppose using public revenues to promote or perform abortion or fund organizations which perform or advocate it and will not fund or subsidize health care which includes abortion coverage. We support the appointment of judges who respect traditional family values and the sanctity of innocent human life. We oppose the nonconsensual withholding or withdrawal of care or treatment, including food and water, from people with disabilities, including newborns, as well as the elderly and infirm, just as we oppose active and passive euthanasia and assisted suicide.”<sup>[116]</sup>
- 2008: “Faithful to the first guarantee of the Declaration of Independence, we assert the inherent dignity and sanctity of all human life and affirm that the unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution, and we en-

dorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children. We oppose using public revenues to promote or perform abortion and will not fund organizations which advocate it. We support the appointment of judges who respect traditional family values and the sanctity and dignity of innocent human life..."<sup>[117]</sup>

- 2004: "As a country, we must keep our pledge to the first guarantee of the Declaration of Independence. That is why we say the unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution and we endorse legislation to make it clear that the Fourteenth Amendment's protections apply to unborn children. Our purpose is to have legislative and judicial protection of that right against those who perform abortions. We oppose using public revenues for abortion and will not fund organizations which advocate it. We support the appointment of judges who respect traditional family values and the sanctity of innocent human life."<sup>[118]</sup>
- 2000: "Ban abortion with Constitutional amendment. We say the unborn child has a fundamental right to life. We support a human life amendment to the Constitution and we endorse legislation that the 14th Amendment's protections apply to unborn children. Our purpose is to have legislative and judicial protection of that right against those who perform abortions. We oppose using public revenues for abortion and will not fund organizations which advocate it. We support the appointment of judges who respect the sanctity of innocent human life."<sup>[119]</sup>
- 2000: "Alternatives like adoption, instead of punitive action. Our goal is to ensure that women with problem pregnancies have the kind of support, material and otherwise, they need for themselves and for their babies, not to be punitive towards those for whose difficult situation we have only compassion. We oppose abortion, but our pro-life agenda does not include punitive action against women who have an abortion. We salute those who provide alternatives to abortion and offer adoption services."<sup>[119]</sup>
- 1996: "The unborn child has a fundamental individual right to life which cannot be infringed. We support a human life amendment to the Constitution and we endorse legislation to make clear that the Fourteenth Amendment's protections apply to unborn children."<sup>[120]</sup>

## 6.8.2 Democratic Party

- 2012: "The Democratic Party strongly and unequivocally supports Roe v. Wade and a woman's right to make decisions regarding her pregnancy, including

a safe and legal abortion, regardless of ability to pay. We oppose any and all efforts to weaken or undermine that right. Abortion is an intensely personal decision between a woman, her family, her doctor, and her clergy; there is no place for politicians or government to get in the way."<sup>[121]</sup>

- 2008: "The Democratic Party strongly and unequivocally supports Roe v. Wade and a woman's right to choose a safe and legal abortion, regardless of ability to pay, and we oppose any and all efforts to weaken or undermine that right. The Democratic Party also strongly supports access to affordable family planning services and comprehensive age-appropriate sex education which empower people to make informed choices and live healthy lives. We also recognize that such health care and education help reduce the number of unintended pregnancies and thereby also reduce the need for abortions. The Democratic Party also strongly supports a woman's decision to have a child by ensuring access to and availability of programs for pre and post natal health care, parenting skills, income support, and caring adoption programs."<sup>[122]</sup>
- 2004: "Support right to choose even if mother cannot pay. Because we believe in the privacy and equality of women, we stand proudly for a woman's right to choose, consistent with Roe v. Wade, and regardless of her ability to pay. We stand firmly against Republican efforts to undermine that right. At the same time, we strongly support family planning and adoption incentives. Abortion should be safe, legal, and rare."<sup>[123]</sup>
- 2000: "Choice is a fundamental, constitutional right. Democrats stand behind the right of every woman to choose. We believe it is a constitutional liberty. This year's Supreme Court ruling show us that eliminating a woman's right to choose is only one justice away. Our goal is to make abortion more rare, not more dangerous. We support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing."<sup>[124]</sup>
- 1996: "Our goal is to make abortion less necessary and more rare, not more difficult and more dangerous. We support contraceptive research, family planning, comprehensive family life education, and policies that support healthy childbearing. For four years in a row, we have increased support for family planning. The abortion rate is dropping. Now we must continue to support efforts to reduce unintended pregnancies, and we call on all Americans to take personal responsibility to meet this important goal."<sup>[125]</sup>

## 6.9 Effects of legalization

The risk of death due to legal abortion has fallen considerably since legalization in 1973, due to increased physician skills, improved medical technology, and earlier termination of pregnancy.<sup>[126]</sup> From 1940 through 1970, deaths of pregnant women during abortion fell from nearly 1,500 to a little over 100.<sup>[126]</sup> According to the Centers for Disease Control, the number of women who died in 1972 from illegal abortion was thirty-nine (39).<sup>[127]</sup> In 1960, Dr. Mary Calderone, a former director of Planned Parenthood, said:

The **Roe effect** is an hypothesis which suggests that since supporters of abortion rights cause the erosion of their own political base by having fewer children, the practice of abortion will eventually lead to the restriction or illegalization of abortion. The **legalized abortion and crime effect** is another controversial theory that posits legal abortion reduces crime, because unwanted children are more likely to become criminals.

Since *Roe v. Wade*, there have been numerous attempts to reverse the decision. In the 2011 election season, Mississippi placed an amendment on the ballot that redefine how the state viewed abortion. The personhood amendment defined personhood as “every human being from the moment of fertilization, cloning or the functional equivalent thereof”. If passed, it would have been illegal to get an abortion in the state.<sup>[129]</sup>

On July 11, 2012, a Mississippi federal judge ordered an extension of his temporary order to allow the state’s only abortion clinic to stay open. The order will stay in place until U.S. District Judge **Daniel Porter Jordan III** can review newly drafted rules on how the Mississippi Department of Health will administer a new abortion law. The law in question came into effect on July 1.<sup>[130]</sup>

## 6.10 See also

- Abortion by country
- Abortion and religion
- Catholic Church and abortion in the United States
- Feminism in the United States
- Types of abortion restrictions in the United States
- Reproductive rights
- Anti-abortion violence in the United States
- War on Women

### Notable cases

- **Becky Bell**, an American teenage girl who died as a result of an unsafe abortion in 1988.

- **Sherri Finkbine**, an actress who had difficulty seeking an abortion for her **Thalidomide** deformed baby.
- **Gerardo Flores**, convicted in 2005 on two counts of capital murder for giving his girlfriend, who was carrying twins, an at-home abortion.
- **Gerri Santoro**, an American woman who died because of an illegal abortion in 1964.

## 6.11 Notes and references

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- [2] Alesha Doan (2007). *Opposition and Intimidation: The Abortion Wars and Strategies of Political Harassment*. University of Michigan Press. p. 57. ISBN 9780472069750.
- [3] Saad, Lydia (August 8, 2011). “Plenty of Common Ground Found in Abortion Debate”. Gallup.com. Retrieved 2013-08-08.
- [4] “Abortion | Gallup Historical Trends”. Gallup.com. Retrieved 2014-08-10.
- [5] According to the Supreme Court’s decision in *Roe v. Wade*:
 

“(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman’s attending physician.

“(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

“(c) For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.”

Likewise, *Black’s Law Dictionary* defines abortion as “knowing destruction” or “intentional expulsion or removal.”

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- [31] *Planned Parenthood v. Casey*, 505 U.S. 833, 878 (1992), "(b) We reject the rigid trimester framework of *Roe v. Wade*. To promote the State's profound interest in potential life, throughout pregnancy the State may take measures to ensure that the woman's choice is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right."
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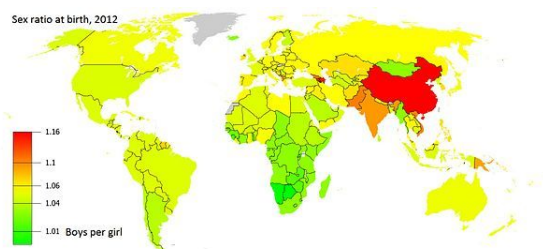
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## 6.12 External links

- Full Text of *Roe v. Wade* Decision
- Interactive maps comparing U.S. abortion restrictions by state
- Number of Abortions - Abortion Counters

## Chapter 7

# Sex-selective abortion



World map of birth sex ratios, 2012

**Sex-selective abortion** is the practice of terminating a pregnancy based upon the predicted sex of the infant. The selective **abortion** of female fetuses is most common in areas where cultural norms value male children over female children, especially in parts of People's Republic of China, India, Pakistan, the Caucasus, and Southeast Europe.<sup>[1][2][3]</sup>

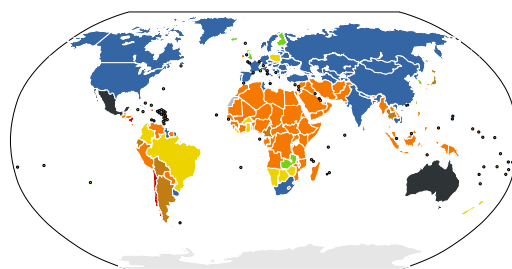
Sex-selective abortion affects the **human sex ratio**—the relative number of males to females in a given age group.<sup>[4][5]</sup> Studies and reports focusing on sex-selective abortion are predominantly statistical; they assume that birth sex ratio—the overall ratio of boys and girls at birth for a regional population, is an indicator of sex-selective abortion. This assumption has been questioned by some scholars.<sup>[6]</sup>

Scholars who support the assumption suggest that the expected birth sex ratio range is 103 to 107 males to females at birth.<sup>[7][8]</sup> Countries considered to have significant practices of sex-selective abortion are those with birth sex ratios of 108 and above (**selective abortion of females**), and 102 and below (**selective abortion of males**).<sup>[7]</sup>

## 7.1 Human sex ratio at birth

Main article: **Human sex ratio**

Sex-selective abortion affects the **human sex ratio**—the relative number of males to females in a given age group.<sup>[4]</sup> Studies and reports that discuss sex-selective abortion are based on the assumption that birth sex ratio—the overall ratio of boys and girls at birth for a regional population, is an indicator of sex-selective abortion.<sup>[6][9]</sup>



*The **human sex ratio** at birth can vary for natural reasons as well as from sex-selective abortion. In many nations abortion is legal (see above map, dark blue).*

The natural human sex ratio at birth was estimated, in a 2002 study, to be close to 106 boys to 100 girls.<sup>[10]</sup> Human sex ratio at birth that is significantly different from 106 is often assumed to be correlated to the prevalence and scale of sex-selective abortion. This assumption is controversial, and a subject of continuing scientific studies.

### 7.1.1 High or low human sex ratio implies sex-selective abortion

One school of scholars suggest that any birth sex ratio of boys to girls that is outside of the normal 105-107 range, necessarily implies sex-selective abortion. These scholars<sup>[11]</sup> claim that both the sex ratio at birth and the population sex ratio are remarkably constant in human populations. Significant deviations in birth sex ratios from the normal range can only be explained by manipulation, that is sex-selective abortion.<sup>[12]</sup>

In a widely cited article,<sup>[13]</sup> Amartya Sen compared the birth sex ratio in Europe (106) and United States (105) with those in Asia (107+) and argued that the high sex ratios in East Asia, West Asia and South Asia may be due to excessive female mortality. Sen pointed to research that had shown that if men and women receive similar nutritional and medical attention and good health care then females have better survival rates, and it is the male which is the genetically fragile sex.<sup>[8]</sup>

Sen estimated 'missing women' from extra women who

would have survived in Asia if it had the same ratio of women to men as Europe and United States. According to Sen, the high birth sex ratio over decades, implies a female shortfall of 11% in Asia, or over 100 million women as missing from the 3 billion combined population of South Asia, West Asia, North Africa and China.

### 7.1.2 High or low human sex ratio may be natural

Other scholars question whether birth sex ratio outside 103-107 can be due to natural reasons. William James and others<sup>[6][14]</sup> suggest that conventional assumptions have been:

- there are equal numbers of X and Y chromosomes in mammalian sperms
- X and Y stand equal chance of achieving conception
- therefore equal number of male and female zygotes are formed, and that
- therefore any variation of sex ratio at birth is due to sex selection between conception and birth.

James cautions that available scientific evidence stands against the above assumptions and conclusions. He reports that there is an excess of males at birth in almost all human populations, and the natural sex ratio at birth is usually between 102 to 108. However the ratio may deviate significantly from this range for natural reasons such as early marriage and fertility, teenage mothers, average maternal age at birth, paternal age, age gap between father and mother, late births, ethnicity, social and economic stress, warfare, environmental and hormonal effects.<sup>[6][15]</sup> This school of scholars support their alternate hypothesis with historical data when modern sex-selection technologies were unavailable, as well as birth sex ratio in sub-regions, and various ethnic groups of developed economies.<sup>[16][17]</sup> They suggest that direct abortion data should be collected and studied, instead of drawing conclusions indirectly from human sex ratio at birth.

James hypothesis is supported by historical birth sex ratio data before technologies for ultrasonographic sex-screening were discovered and commercialized in the 1960s and 1970s, as well by reverse abnormal sex ratios currently observed in Africa. Michel Garenne reports that many African nations have, over decades, witnessed birth sex ratios below 100, that is more girls are born than boys.<sup>[18]</sup> Angola, Botswana and Namibia have reported birth sex ratios between 94 to 99, which is quite different than the presumed 104 to 106 as natural human birth sex ratio.<sup>[19]</sup>

John Graunt noted that in London over a 35-year period in the 17th century (1628–62),<sup>[20]</sup> the birth sex ratio was 1.07; while Korea's historical records suggest a birth sex

ratio of 1.13, based on 5 million births, in 1920s over a 10-year period.<sup>[21]</sup> Other historical records from Asia too support James hypothesis. For example, Jiang et al. claim that the birth sex ratio in China was 116–121 over a 100-year period in the late 18th and early 19th centuries; in the 120–123 range in the early 20th century; falling to 112 in the 1930s.<sup>[22][23]</sup>

### 7.1.3 Data on human sex ratio at birth

Main article: [List of countries by sex ratio](#)

In the United States, the sex ratios at birth over the period 1970–2002 were 105 for the white non-Hispanic population, 104 for Mexican Americans, 103 for African Americans and Native Americans, and 107 for mothers of Chinese or Filipino ethnicity.<sup>[24]</sup> Among Western European countries c. 2001, the ratios ranged from 104 to 107.<sup>[25][26][27]</sup> In the aggregated results of 56 Demographic and Health Surveys<sup>[28]</sup> in African countries, the birth sex ratio was found to be 103, though there is also considerable country-to-country, and year-to-year variation.<sup>[29]</sup>

In a 2005 study, U.S. Department of Health and Human Services reported sex ratio at birth in the United States from 1940 over 62 years.<sup>[30]</sup> This statistical evidence suggested the following: For mothers having their first baby, the total sex ratio at birth was 106 overall, with some years at 107. For mothers having babies after the first, this ratio consistently decreased with each additional baby from 106 towards 103. The age of the mother affected the ratio: the overall ratio was 105 for mothers aged 25 to 35 at the time of birth; while mothers who were below the age of 15 or above 40 had babies with a sex ratio ranging between 94 to 111, and a total sex ratio of 104. This United States study also noted that American mothers of Hawaiian, Filipino, Chinese, Cuban and Japanese ethnicity had the highest sex ratio, with years as high as 114 and average sex ratio of 107 over the 62-year study period. Outside of United States, European nations with extensive birth records, such as Finland, report similar variations in birth sex ratios over a 250-year period, that is from 1751 to 1997 AD.<sup>[17]</sup>

In 2013, according to CIA estimates,<sup>[31]</sup> some countries with high birth sex ratio were Liechtenstein (126), Curacao (115), Azerbaijan (113), Armenia (112), China (112), India (112), Vietnam (112), Georgia (111), Albania (111), Grenada (110), San Marino (109), Taiwan (109), Jersey (108), Kosovo (108), Macedonia (108) and Singapore (108). Low boys to girls birth sex ratios in 2013 were estimated by CIA<sup>[31]</sup> for Haiti (101), Barbados (101), Bermuda (101), Cayman Islands (102), Qatar (102), Kenya (102), Malawi (102), Mozambique (102), South Africa (102) and Aruba (102).

### 7.1.4 Data reliability

The estimates for birth sex ratios, and thus derived sex-selective abortion, are a subject of dispute as well. For example, United States' CIA projects<sup>[31]</sup> the birth sex ratio for Switzerland to be 106, while the Switzerland's Federal Statistical Office that tracks actual live births of boys and girls every year, reports the latest birth sex ratio for Switzerland as 107.<sup>[32]</sup> Other variations are more significant; for example, CIA projects<sup>[31]</sup> the birth sex ratio for Pakistan to be 105, United Nations FPA office claims<sup>[33]</sup> the birth sex ratio for Pakistan to be 110, while the government of Pakistan claims its average birth sex ratio is 111.<sup>[34][35]</sup>

The two most studied nations with high sex ratio and sex-selective abortion are China and India. The CIA estimates<sup>[31]</sup> a birth sex ratio of 112 for both in recent years. However, The World Bank claims the birth sex ratio for China in 2009 was 120 boys for every 100 girls;<sup>[36]</sup> while United Nations FPA estimates China's 2011 birth sex ratio to be 118.<sup>[37]</sup>

For India, the United Nations FPA claims a birth sex ratio of 111 over 2008–10 period,<sup>[37]</sup> while The World Bank and India's official 2011 Census reports a birth sex ratio of 108.<sup>[38][39]</sup> These variations and data reliability is important as a rise from 108 to 109 for India, or 117 to 118 for China, each with large populations, represent a possible sex-selective abortion of about 100,000 girls.

## 7.2 Prenatal sex discernment

Main article: Prenatal sex discernment

The earliest post-implantation test, cell free fetal DNA



Ultrasonography image showing the fetus is a boy.

testing, involves taking a blood sample from the mother and isolating the small amount of fetal DNA that can be found within it. When performed after week seven of pregnancy, this method is about 98% accurate.<sup>[40][41]</sup>

Obstetric ultrasonography, either transvaginally or transabdominally, checks for various markers of fetal sex. It can be performed at or after week 12 of pregnancy. At this point,  $\frac{3}{4}$  of fetal sexes can be correctly determined, according to a 2001 study.<sup>[42]</sup> Accuracy for males is approximately 50% and for females almost 100%. When performed after week 13 of pregnancy, ultrasonography gives an accurate result in almost 100% of cases.<sup>[42]</sup>

The most invasive measures are chorionic villus sampling (CVS) and amniocentesis, which involve testing of the chorionic villus (found in the placenta) and amniotic fluid, respectively. Both techniques typically test for chromosomal disorders but can also reveal the sex of the child and are performed early in the pregnancy. However, they are often more expensive and more dangerous than blood sampling or ultrasonography, so they are seen less frequently than other sex determination techniques.<sup>[43]</sup>

### Availability

China launched its first ultrasonography machine in 1979.<sup>[9]</sup> Chinese health care clinics began introducing ultrasound technologies that could be used to determine prenatal sex in 1982. By 1991, Chinese companies were producing 5,000 ultrasonography machines per year. Almost every rural and urban hospital and family planning clinics in China had a good quality sex discernment equipment by 2001.<sup>[44]</sup>

The launch of ultrasonography technology in India too occurred in 1979, but its expansion was slower than China. Ultrasound sex discernment technologies were first introduced in major cities of India in the 1980s, its use expanded in India's urban regions in the 1990s, and became widespread in the 2000s.<sup>[45]</sup>

## 7.3 Prevalence of sex-selective abortion

### 7.3.1 Caucasus

Before the dissolution of the Soviet Union in the early 1990s, the birth sex ratio in Caucasus countries such as Azerbaijan, Armenia and Georgia was in the 105 to 108 range. After the collapse, the birth sex ratios sharply climbed and have remained high for the last 20 years.<sup>[46]</sup> In Christian Armenia and Islamic Azerbaijan currently more than 115 boys are born for every 100 girls, while in Christian Georgia the birth sex ratio is about 120, a trend *The Economist* claims suggest sex-selective abortion practice in the Caucasus has been similar to those in East Asia and South Asia in recent decades.<sup>[38]</sup>

For 2005–10 birth data, the sex ratio in Armenia is seen to be a function of birth order. Among couples having their first child, Armenia averages 138 boys for every 100 girls every year. If the first child is a son, the sex ratio of

the second child of Armenian couple averages to be 85. If the first child is a daughter, the sex ratio of the second Armenian child averages to be 156 boys for 100 girls. Overall, the birth sex ratio for in Armenia exceeds 115, far higher than India's 108, claim scholars.<sup>[38][47][48]</sup> While these high birth sex ratios suggest sex-selective abortion, there is no direct evidence of observed large-scale sex-selective abortions in Caucasus.<sup>[46]</sup>

### 7.3.2 China

Further information: **Missing women of China, Female infanticide in China and List of Chinese administrative divisions by gender ratio**

When sex ratio began being studied in China in 1960,



*A roadside slogan calls motorists to crack down on medically unnecessary antenatal sex identification and sex-selective pregnancy termination practices. (Daye, Hubei, 2008)*

it was still within the normal range. However, it climbed to 111.9 by 1990<sup>[9]</sup> and to 118 by 2010 per its official census.<sup>[49][50]</sup> Researchers believe that the causes of this sex ratio imbalance are increased female infant mortality, underreporting of female births and sex-selective abortion. According to Zeng et al. (1993), the most prominent cause is probably sex-selective abortion, but this is difficult to prove that in a country with little reliable birth data because of the hiding of “illegal” (under the **One-Child Policy**) births.<sup>[51]</sup>

These illegal births have led to underreporting of female infants. Zeng et al., using a reverse survival method, estimate that underreporting keeps about 2.26% male births and 5.94% female births off the books. Adjusting for unreported illegal births, they conclude that the corrected Chinese sex ratio at birth for 1989 was 111 rather than 115.<sup>[51]</sup> These national averages over time, mask the regional sex ratio data. For example, in some provinces such as Anhui, Jiangxi, Shaanxi, Hunan and Guangdong, sex ratio at birth is more than 130.<sup>[52][53]</sup>

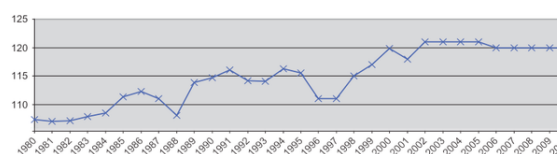
Traditional Chinese techniques have been used to determine sex for hundreds of years, primarily with unknown accuracy. It was not until **ultrasonography** became widely

available in urban and rural China that sex was able to be determined scientifically. In 1986, the Ministry of Health posted the Notice on Forbidding Prenatal Sex Determination, but it was not widely followed.<sup>[54]</sup> Three years later, the Ministry of Health outlawed the use of sex determination techniques, except for in diagnosing hereditary diseases.<sup>[55]</sup>

However, many people have personal connections to medical practitioners and strong **son preference** still dominates culture, leading to the widespread use of sex determination techniques.<sup>[9]</sup> According to Hardy, Gu, and Xie (2000), ultrasound has spread to all areas of China, as evidenced by the spread of the high sex ratio throughout the country.<sup>[56]</sup>

Hardy, Gu, and Xie suggest sex-selective abortion is more prevalent in rural China because son preference is much stronger there.<sup>[56]</sup> Urban areas of China, on average, are moving toward greater equality for both sexes, while rural China tends to follow more traditional views of gender. This is partially due to the belief that, while sons are always part of the family, daughters are only temporary, going to a new family when they marry. Additionally, if a woman's firstborn child is a son, her position in society moves up, while the same is not true of a firstborn daughter.<sup>[9]</sup>

In the past, desire for a son was manifested by large birth rates—many couples would continue to have children until they had a son.<sup>[9]</sup> However, the combination of financial concerns and, more importantly, the **One-child policy** (discussed further below) have led to an increase in gender planning and selection. Even in rural areas, most women know that ultrasonography can be used for gender discernment. For each subsequent birth, Junhong found that women are over 10% more likely to have an ultrasound (39% for firstborn, 55% for second born, 67% for third born). Additionally, he found that the sex of the firstborn child impacts whether a woman will have an ultrasound in her subsequent pregnancies: 40% of women with a firstborn son have an ultrasound for their second born child, versus 70% of women with firstborn daughters. This points to a strong desire to select for a son if one has not been born yet.<sup>[9]</sup>



*Birth sex ratios have dramatically changed in China since the implementation of the **One-Child Policy**.*

Because of the lack of data about childbirth, a number of researchers have worked to learn about abortion statistics in China. One of the earliest studies by Qui (1987) found that according to cultural belief, fetuses are not thought of as human beings until they are born, leading to a cultural preference for abortion over infanticide.<sup>[57]</sup> In

fact, **infanticide** and infant abandonment are rather rare in China today.<sup>[9]</sup> Instead, Junhong found that roughly 27% of women have an abortion. Additionally, he found that if a family's firstborn was a girl, 92% of known female would-be second born fetuses were aborted.<sup>[58]</sup>

In a 2005 study, Zhu, Lu, and Hesketh found that the highest sex ratio was for those ages 1–4, and two provinces, Tibet and Xinjiang, had sex ratios within normal limits. Two other provinces had a ratio over 140, four had ratios between 130–139, and seven had ratios between 120–129, each of which is significantly higher than the natural sex ratio.<sup>[53]</sup>

Variance in the one child policy has led to three types of provinces. Zhu et al. call Type 1, the most restrictive, policy where 40% of couples are permitted to have a second child but generally only if the first is a girl. In Type 2 provinces, any couple is permitted to have a second child if the first born is a girl or if the parents petition “hardship” and the petition is accepted by local officials. Type 3 provinces, typically sparsely populated, allow couples a second child and sometimes a third, irrespective of sex. Zhu et al. find that Type 2 provinces have the highest birth sex ratios, as seen in **Henan**, **Anhui**, **Jiangxi**, **Hunan**, **Guangdong**, and **Hainan**.<sup>[53][59]</sup>

High sex ratio trends in China is projected, by 2020, to create a pool of 55 million excess young adult men than women.<sup>[60]</sup> According to Junhong, many males between the ages of 28 and 49 are unable to find a partner and thus remain unmarried. Families in China are aware of the critical lack of female children and it's implication on marriage prospects in the future; many parents are beginning to work extra when their sons are young so that they will be able to pay for a bride for them.<sup>[9]</sup>

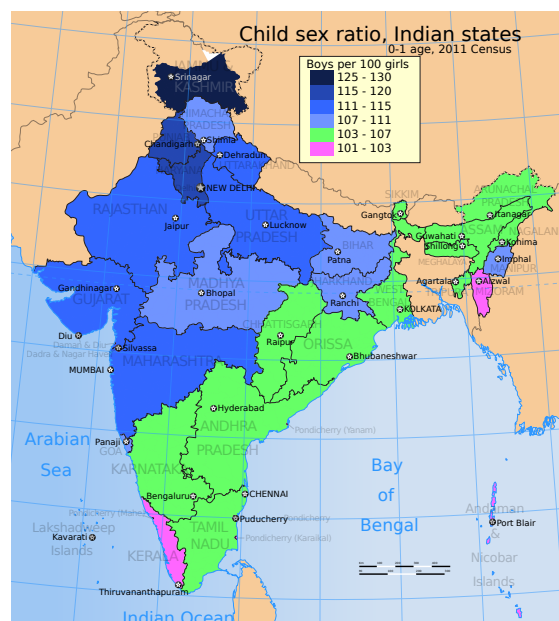
The birth sex ratio in China, according to a 2012 news report, has decreased to 117 males born for every 100 females.<sup>[61]</sup>

### 7.3.3 India

Further information: **Female foeticide in India**

India's 2001 census revealed a national 0–6 age child sex ratio of 108, which increased to 109 according to 2011 census (927 girls per 1000 boys and 919 girls per 1000 boys respectively, compared to expected normal ratio of 943 girls per 1000 boys).<sup>[62]</sup> The national average masks the variations in regional numbers according to 2011 census—Haryana's ratio was 120, Punjab's ratio was 118, Jammu & Kashmir was 116, and Gujarat's ratio was 111.<sup>[63]</sup> The 2011 Census found eastern states of India had birth sex ratios between 103 and 104, lower than normal.<sup>[64]</sup> In contrast to decadal nationwide census data, small non-random sample surveys report higher child sex ratios in India.<sup>[65]</sup>

The child sex ratio in India shows a regional pattern. India's 2011 census found that all eastern and south-



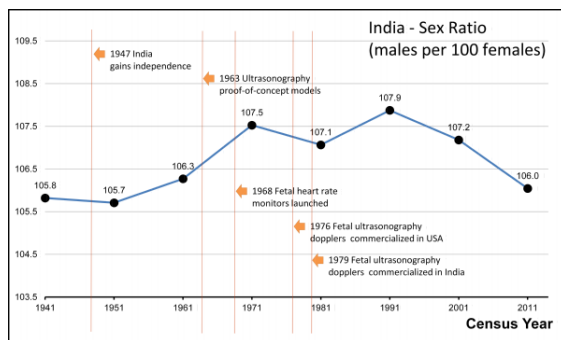
A map of India's child sex ratio, 2011.

ern states of India had a child sex ratio between 103 to 107,<sup>[63]</sup> typically considered as the “natural ratio.” The highest sex ratios were observed in India's northern and northwestern states - **Haryana** (120), **Punjab** (118) and **Jammu & Kashmir** (116).<sup>[66]</sup> The western states of Maharashtra and Rajasthan 2011 census found a child sex ratio of 113, Gujarat at 112 and Uttar Pradesh at 111.<sup>[66]</sup>

The Indian census data suggests there is a positive correlation between abnormal sex ratio and better socioeconomic status and literacy. Urban India has higher child sex ratio than rural India according to 1991, 2001 and 2011 Census data, implying higher prevalence of sex selective abortion in urban India. Similarly, child sex ratio greater than 115 boys per 100 girls is found in regions where the predominant majority is Hindu, Muslim, Sikh or Christian; furthermore “normal” child sex ratio of 104 to 106 boys per 100 girls are also found in regions where the predominant majority is Hindu, Muslim, Sikh or Christian. These data contradict any hypotheses that may suggest that sex selection is an archaic practice which takes place among uneducated, poor sections or particular religion of the Indian society.<sup>[63][67]</sup>

Rutherford and Roy, in their 2003 paper, suggest that techniques for determining sex prenatally that were pioneered in the 1970s, gained popularity in India.<sup>[68]</sup> These techniques, claim Rutherford and Roy, became broadly available in 17 of 29 Indian states by the early 2000s. Such prenatal sex determination techniques, claim Sudha and Rajan in a 1999 report, where available, favored male births.<sup>[69]</sup>

Arnold, Kishor, and Roy, in their 2002 paper, too hypothesize that modern fetal sex screening techniques have skewed child sex ratios in India.<sup>[70]</sup> Ganatra et al., in their 2000 paper, use a small survey sample to estimate that



*The male to female sex ratio for India, based on its official census data from 1941 through to 2011. The data suggests the existence of high sex ratios before and after the arrival of ultrasound-based prenatal care and sex screening technologies in India.*

$\frac{1}{6}$  of reported abortions followed a sex determination test.<sup>[71]</sup>

Mevlude Akbulut-Yuksel and Daniel Rosenblum, in their 2012 paper, find that despite numerous publications and studies, there is limited formal evidence on the effects of the continued spread of ultrasound technology on missing women in India. They conclude, contrary to common belief, that the recent rapid spread of ultrasound in India, from the 1990s through 2000s, did not cause a concomitant rise in sex-selection and prenatal female abortion.<sup>[45]</sup>

The Indian government and various advocacy groups have continued the debate and discussion about ways to prevent sex selection. The immorality of prenatal sex selection has been questioned, with some arguments in favor of prenatal discrimination as more humane than postnatal discrimination by a family that does not want a female child. Others question whether the morality of sex selective abortion is any different over morality of abortion when there is no risk to the mother nor to the fetus, and abortion is used as a means to end an unwanted pregnancy?<sup>[72][73][74]</sup>

India passed its first abortion-related law, the so-called Medical Termination of Pregnancy Act of 1971, making abortion legal in most states, but specified legally acceptable reasons for abortion such as medical risk to mother and rape. The law also established physicians who can legally provide the procedure and the facilities where abortions can be performed, but did not anticipate sex selective abortion based on technology advances.<sup>[75]</sup>

With increasing availability of sex screening technologies in India through the 1980s in urban India, and claims of its misuse, the Government of India passed the **Pre-natal Diagnostic Techniques Act (PNDT)** in 1994. This law was further amended into the **Pre-Conception and Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (PCPNDT) Act** in 2004 to deter and punish prenatal sex screening and sex selective abortion. The impact of the law and its enforcement is unclear. **United Nations Population Fund** and India's National Human Rights Commission, in 2009, asked the Government of

India to assess the impact of the law. The Public Health Foundation of India, an activist NGO in its 2010 report, claimed a lack of awareness about the Act in parts of India, inactive role of the Appropriate Authorities, ambiguity among some clinics that offer prenatal care services, and the role of a few medical practitioners in disregarding the law.<sup>[67]</sup>

The **Ministry of Health and Family Welfare** of India has targeted education and media advertisements to reach clinics and medical professionals to increase awareness. The Indian Medical Association has undertaken efforts to prevent prenatal sex selection by giving its members *Beti Bachao* (save the daughter) badges during its meetings and conferences.<sup>[67]</sup>

MacPherson estimates that 100,000 abortions every year continue to be performed in India solely because the fetus is female.<sup>[76]</sup>

### 7.3.4 Southeast Europe

According to Eurostat and birth record data over 2008–11, the birth sex ratios of **Albania** and **Montenegro** are currently 112 and 110 respectively.<sup>[37]</sup> In recent years, the birth registration data for **Macedonia** and **Kosovo** indicate birth sex ratios above 108; for example, in 2011 the birth sex ratio was 108 in Macedonia, while in 2010 the birth sex ratio for Kosovo was 112.<sup>[77]</sup> Scholars claim this suggests that sex-selective abortions are becoming common in southeast Europe.<sup>[3][78][79]</sup>

### 7.3.5 United States

Like in other countries, sex-selective abortion is difficult to track in the **United States** because of lack of data.

While the majority of parents in United States do not practice sex-selective abortion, there is certainly a trend toward male preference. According to a 2011 **Gallup** poll, if they were only allowed to have one child, 40% of respondents said they would prefer a boy, while only 28% preferred a girl.<sup>[80]</sup> When told about prenatal sex selection techniques such as sperm sorting and in vitro fertilization embryo selection, 40% of Americans surveyed thought that picking embryos by sex was an acceptable manifestation of reproductive rights.<sup>[81]</sup> These selecting techniques are available at about half of American fertility clinics, as of 2006.<sup>[82]</sup>

However, it is notable that minority groups that immigrate into the United States bring their cultural views and mindsets into the country with them. A study carried out at a Massachusetts infertility clinic shows that the majority of couples using these techniques, such as **Preimplantation genetic diagnosis** came from a Chinese or Asian background. This is thought to branch from the social importance of giving birth to male children in China and other Asian countries.<sup>[83]</sup>

Because of this movement toward sex preference and selection, many bans on sex-selective abortion have been proposed at the state and federal level. In 2010 and 2011, sex-selective abortions were banned in **Oklahoma** and **Arizona**, respectively. Legislators in **Georgia**, **West Virginia**, **Michigan**, **Minnesota**, **New Jersey**, and **New York** have also tried to pass acts banning the procedure.<sup>[81]</sup>

### 7.3.6 Other countries

A 2013 study<sup>[48]</sup> by John Bongaarts based on surveys in 61 major countries calculates the sex ratios that would result if parents had the number of sons and daughters they want. In 35 countries, claims Bongaarts, the desired birth sex ratio in respective countries would be more than 110 boys for every 100 girls if parents in these countries actually get a gender what they hope for (higher than India's, which *The Economist* claims is 108).<sup>[38]</sup>

Other countries with large populations but high sex ratios include **Pakistan** and **Vietnam**. United Nations Population Fund, in its 2012 report,<sup>[84]</sup> claims the birth sex ratio of Vietnam at 111 with its densely populated **Red River Delta** region at 116; for Pakistan, the UN estimates the birth sex ratio to be 110. The urban regions of Pakistan, particularly its densely populated region of Punjab, report a sex ratio above 112 (less than 900 females per 1000 males).<sup>[85]</sup> Hudson and Den Boer estimate the resulting deficit to be about 6 million missing girls in Pakistan than what would normally be expected.<sup>[86]</sup> Three different research studies, according to Klausen and Wink, note that Pakistan had the world's highest % of missing girls, relative to its total pre-adult female population.<sup>[87]</sup> **Singapore** has reported a birth sex ratio of 108. **Taiwan** has reported a sex ratio at birth between 1.07 to 1.11 every year, across 4 million births, over the 20-year period from 1991 to 2011, with the highest birth sex ratios in the 2000s.<sup>[88]</sup>

Abnormal sex ratios at birth, possibly explained by growing incidence of sex-selective abortion, have also been noted in some other countries outside South and East Asia. According to the 2011 CIA estimates, countries with more than 110 males per 100 females at birth also include **Albania** and former Soviet republics of **Armenia** and **Azerbaijan**.

### Immigrants

A study of the 2000 United States Census suggests possible male bias in families of Chinese, Korean and Indian immigrants, which was getting increasingly stronger in families where first one or two children were female. In those families where the first two children were girls, the birth sex ratio of the third child was 151.<sup>[89]</sup>

### 7.3.7 Estimates of missing women

Estimates of implied missing girls, considering the “normal” birth sex ratio to be the 103–107 range, vary considerably between researchers and underlying assumptions for expected post-birth mortality rates for men and women. For example, a 2005 study estimated that over 90 million females were “missing” from the expected population in **Afghanistan**, **Bangladesh**, **China**, **India**, **Pakistan**, **South Korea** and **Taiwan** alone, and suggested that sex-selective abortion plays a role in this deficit.<sup>[2][86]</sup> For early 1990s, Sen estimated 107 million missing women, Coale estimated 60 million as missing, while Klasen estimated 89 million missing women in China, India, Pakistan, Bangladesh, Nepal, **West Asia** and **Egypt**.<sup>[12]</sup> Guilmoto,<sup>[90]</sup> in his 2010 report, uses recent data (except for Pakistan), and estimates a much lower number of missing girls, but notes that the higher sex ratios in numerous countries have created a gender gap - shortage of girls - in the 0–19 age group.

## 7.4 Reasons for sex-selective abortion

Various theories have been proposed as possible reasons for sex-selective abortion. Culture rather than economic conditions is favored by some researchers because such deviations in sex ratios do not exist in **sub-Saharan Africa**, **Latin America**, and the **Caribbean**.<sup>[2]</sup> Other hypotheses include disparate gender-biased access to resources,<sup>[76]</sup> and attempts to control population growth such as using one child policy.<sup>[53]</sup>

Some demographers question whether sex-selective abortion or infanticide claims are accurate, because under-reporting of female births may also explain high sex ratios.<sup>[91][92]</sup> Natural reasons may also explain some of the abnormal sex ratios.<sup>[6][16]</sup> In contrast to these possible causes of abnormal sex ratio, Klasen and Wink suggest India and China's high sex ratios are primarily the result of sex-selective abortion.<sup>[12]</sup>

### 7.4.1 Cultural preference

The reason for intensifying sex-selection abortion in China and India can be seen through history and cultural background. Generally, before the **information era**, male babies were preferred because they provided manual labor and continuation of the family **lineage**. Labor is still important in developing nations as China and India, but when it comes to family lineage, it is of great importance.

The selective abortion of female fetuses is most common in areas where cultural norms value male children over female children for a variety of social and economic reasons.<sup>[1]</sup> A son is often preferred as an “asset” since he

can earn and support the family; a daughter is a “liability” since she will be married off to another family, and so will not contribute financially to her parents. Sex selective female abortion is a continuation, in a different form, of a practice of **female infanticide** or withholding of postnatal health care for girls in certain households.<sup>[93]</sup> Furthermore, in some cultures sons are expected to take care of their parents in their old age.<sup>[94]</sup> These factors are complicated by the effect of diseases on child sex ratio, where communicable and noncommunicable diseases affect males and females differently.<sup>[93]</sup>

In modern East Asia, a large part of the pattern of preferences leading to this practice can be condensed simply as a desire to have a male heir. Monica Das Gupta (2005) observes, from 1989 birth data for China, there was no evidence of selective abortion of female fetuses among firstborn children. However, there was a strong preference for a boy if the first born was a girl.<sup>[93]</sup>

## 7.4.2 Disparate gendered access to resources

Although there is significant evidence of the prevalence of sex-selective abortions in many nations (especially India and China), there is also evidence to suggest that some of the variation in global sex ratios is due to disparate access to resources. As MacPherson (2007) notes, there can be significant differences in gender violence and access to food, healthcare, immunizations between male and female children. This leads to high infant and childhood mortality among girls, which causes changes in sex ratio.<sup>[76]</sup>

Disparate, gendered access to resources appears to be strongly linked to socioeconomic status. Specifically, poorer families are sometimes forced to ration food, with daughters typically receiving less priority than sons (Klasen and Wink 2003).<sup>[12]</sup> However, Klasen’s 2001 study revealed that this practice is less common in the poorest families, but rises dramatically in the slightly less poor families.<sup>[12]</sup> Klasen and Wink’s 2003 study suggests that this is “related to greater female economic independence and fewer cultural strictures among the poorest sections of the population.” In other words, the poorest families are typically less bound by cultural expectations and norms, and women tend to have more freedom to become family breadwinners out of necessity.<sup>[12]</sup>

Increased sex ratios can be caused by disparities in aspects of life other than vital resources. According to Sen (1990), differences in wages and job advancement also have a dramatic effect on sex ratios. This is why high sex ratios are sometimes seen in nations with little sex-selective abortion.<sup>[13]</sup> Additionally, high female education rates are correlated with lower sex ratios (World Bank 2011).<sup>[95]</sup>

Lopez and Ruzikah (1983) found that, when given the same resources, women tend to outlive men at all stages

of life after infancy. However, globally, resources are not always allocated equitably. Thus, some scholars argue that disparities in access to resources such as healthcare, education, and nutrition play at least a small role in the high sex ratios seen in some parts of the world (Klasen and Wink 2003). For example, Alderman and Gerter (1997) found that unequal access to healthcare is a primary cause of female death in developing nations, especially in Southeast Asia. Moreover, in India, lack of equal access to healthcare has led to increased disease and higher rates of female mortality in every age group until the late thirties (Sen 1990). This is particularly noteworthy because, in regions of the world where women receive equal resources, women tend to outlive men (Sen 1990).

Economic disadvantage alone may not always lead to increased sex ratio, claimed Sen in 1990. For example, in sub-Saharan Africa, one of the most economically disadvantaged regions of the world, there is an excess of women. So, if economic disadvantage is uncorrelated with sex ratio in Africa, some other factor(s) may be at play.<sup>[13]</sup> More detailed analysis of African demographics, in 2002, suggests that Africa too has wide variation in birth sex ratios (from 1.01 in Bantu populations of East Africa to 1.08 in Nigeria and Ethiopia).<sup>[96]</sup> Thus economic disadvantage remains a possible unresolved hypothesis for Africa as well.

## 7.4.3 One-child policy

Following the 1949 creation of the People’s Republic of China, the issue of population control came into the national spotlight. In the early years of the Republic, leaders believed that telling citizens to reduce their fertility was enough, repealing laws banning **contraception** and instead promoting its use. However, the contraceptives were not widely available, both because of lack of supply and because of cultural taboo against discussing sex. Efforts were slowed following the famine of 1959–61 but were resumed shortly thereafter with virtually the same results. Then, in 1964, the Family Planning Office was established to enforce stricter guidelines regarding fertility and it was moderately successful.<sup>[97]</sup>

In 1979, the government adopted the **One-Child Policy**, which limited many families to one child, unless specified by provincial regulations. It was instituted as an attempt to boost the Chinese economy. Under it, families who break rules regarding the number of children they are allowed are given various punishments (primarily monetary), dependent upon the province in which they live.<sup>[98]</sup>

As stated above, the sex ratios of a province are largely determined by the type of restriction placed upon the family, pointing to the conclusion that much of the imbalance in sex ratio in China can be attributed to the policy. Research by Junhong (2001) found that many parents are willing to pay to ensure that their child is male (especially if their first child is female), but will not do

the same to ensure their child is female.<sup>[9]</sup> Likely, fear of the harsh monetary punishments of the One-Child Policy make ensuring a son's birth a smart investment. Therefore, son's cultural and economic importance to families and the large expenses associated with multiple children are primary factors leading to China's disparate sex ratio.

In 2013, China announced plans to formally change the One-Child policy, making it less stringent. The National People's Congress has changed the policy to allow couples to have two children, so long as one of the partners is an only child. This change was not sparked by sex ratios, but rather by an aging population that is causing the workforce to grow increasingly smaller. It is estimated that this new law will lead to two million more births per year and could cause a baby boom in China. Unfortunately, many of China's social problems are based on overpopulation. So, it is unclear if this new law will actually lead to women being more valued in Chinese society as the number of citizens increases.<sup>[99]</sup>

#### 7.4.4 Trivers–Willard hypothesis

The *Trivers–Willard hypothesis* argues that available resources affect male reproductive success more than female and that consequently parents should prefer males when resources are plentiful and females when resources are scarce. This has been applied to resource differences between individuals in a society and also to resource differences between societies. Empirical evidence is mixed with higher support in better studies according to Cronk in a 2007 review. One example, in a 1997 study, of a group with a preference for females was *Romani* in Hungary, a low status group. They “had a female-biased sex ratio at birth, were more likely to abort a fetus after having had one or more daughters, nursed their daughters longer, and sent their daughters to school for longer.”<sup>[100]</sup>

### 7.5 Societal effects

#### 7.5.1 Missing women

The idea of “missing women” was first suggested by Amartya Sen, one of the first scholars to study high sex ratios and their causes globally, in 1990. In order to illustrate the gravity of the situation, he calculated the number of women that were not alive because of sex-selective abortion or discriminatory practices. He found that there were 11 percent fewer women than there “should” have been, if China had the natural sex ratio. This figure, when combined with statistics from around the world, led to a finding of over 100 million missing women. In other words, by the early 1990s, the number of missing women was “larger than the combined casualties of all famines in the twentieth century” (Sen 1990).<sup>[13]</sup>

This has led to particular concern due to a critical short-

age of wives. In some rural areas, there is already a shortage of women, which is tied to migration into urban areas (Park and Cho 1995).<sup>[101]</sup> In South Korea and Taiwan, high male sex ratios and declining birth rates over several decades have led to cross-cultural marriage between local men and foreign women from countries such as mainland China, Vietnam and the Philippines.<sup>[102]</sup> However, sex-selective abortion is not the only cause of this phenomenon; it is also related to migration and declining fertility.<sup>[101]</sup>

#### 7.5.2 Trafficking and sex work

Some scholars argue that as the proportion of women to men decreases globally, there will be an increase in trafficking and sex work (both forced and self-elected), as many people will be willing to do more to obtain a sexual partner (Junhong 2001).<sup>[9]</sup> Already, there are reports of women from Vietnam, Myanmar, and North Korea systematically trafficked to mainland China and Taiwan and sold into forced marriages.<sup>[103]</sup> Moreover, Ullman and Fiddell (1989) suggested that pornography and sex-related crimes of violence (i.e., rape and molestation) would also increase with an increasing sex ratio.<sup>[104]</sup>

#### 7.5.3 Widening of the gender social gap

As Park and Cho (1995) note, families in areas with high sex ratios that have mostly sons tend to be smaller than those with mostly daughters (because the families with mostly sons appear to have used sex-selective techniques to achieve their “ideal” composition).<sup>[101]</sup> Particularly in poor areas, large families tend to have more problems with resource allocation, with daughters often receiving fewer resources than sons.<sup>[101]</sup> Blake (1989) is credited for noting the relationship between family size and childhood “quality.” Therefore, if families with daughters continue to be predominantly large, it is likely that the social gap between genders will widen due to traditional cultural discrimination and lack of resource availability.<sup>[105]</sup>

Guttentag and Secord (1983) hypothesized that when the proportion of males throughout the world is greater, there is likely to be more violence and war.<sup>[106]</sup>

#### 7.5.4 Potential positive effects

Some scholars believe that when sex ratios are high, women actually become valued more because of their relative shortage.<sup>[101]</sup> Park and Cho (1995) suggest that as women become more scarce, they may have “increased value for conjugal and reproductive functions” (75). Eventually, this could lead to better social conditions, followed by the birth of more women and sex ratios moving back to natural levels.<sup>[101]</sup> This claim is supported by the work of demographer Nathan Keifitz.

Keifitz (1983) wrote that as women become fewer, their relative position in society will increase. However, to date, no data has supported this claim.<sup>[107]</sup>

It has been suggested by Belanger (2002) that sex-selective abortion may have positive effects on the mother choosing to abort the female fetus. This is related to the historical duty of mothers to produce a son in order to carry on the family name. As previously mentioned, women gain status in society when they have a male child, but not when they have a female child. Oftentimes, bearing of a son leads to greater legitimacy and agency for the mother. In some regions of the world where son preference is especially strong, sonless women are treated as outcasts. In this way, sex-selective abortion is a way for women to select for male fetuses, helping secure greater family status.<sup>[108]</sup>

Goodkind (1999)<sup>[109]</sup> argues that sex-selective abortion should not be banned purely because of its discriminatory nature. Instead, he argues, we must consider the overall lifetime possibilities of discrimination. In fact, it is possible that sex-selective abortion takes away much of the discrimination women would face later in life. Since families have the option of selecting for the fetal sex they desire, if they choose not to abort a female fetus, she is more likely to be valued later in life. In this way, sex-selective abortion may be a more humane alternative to infanticide, abandonment, or neglect. Goodkind (1999) poses an essential philosophical question, “if a ban were enacted against prenatal sex testing (or the use of abortion for sex-selective purposes), how many excess post-natal deaths would a society be willing to tolerate in lieu of whatever sex-selective abortions were avoided?”

## 7.6 Sex-selective abortion in the context of abortion

MacPherson estimates that 100,000 sex-selective abortions every year continue to be performed in India.<sup>[76]</sup> For a contrasting perspective, in the United States with a population  $\frac{1}{4}$ th of India, over 1.2 million abortions every year were performed between 1990 and 2007.<sup>[110]</sup> In England and Wales with a population  $\frac{1}{20}$ th of India, over 189,000 abortions were performed in 2011, or a yearly rate of 17.5 abortions per 1,000 women aged 15–44.<sup>[111]</sup> The average for the European Union was 30 abortions per year per 1,000 women.<sup>[112]</sup>

Many scholars have noted the difficulty in reconciling the discriminatory nature of sex-selective abortion with the right of women to have control over their own bodies. This conflict manifests itself primarily when discussing laws about sex-selective abortion. Weiss (1995:205) writes: “The most obvious challenge sex-selective abortion represents for pro-choice feminists is the difficulty of reconciling a pro-choice position with moral objections one might have to sex selective abortion (espe-

cially since it has been used primarily on female fetuses), much less the advocacy of a law banning sex-selective abortion.”<sup>[113]</sup> As a result, arguments both for and against sex-selective abortion are typically highly reflective of one’s own personal beliefs about abortion in general. Warren (1985:104) argues that there is a difference between acting within one’s rights and acting upon the most morally sound choice, implying that sex-selective abortion might be within rights but not morally sound. Warren also notes that, if we are to ever reverse the trend of sex-selective abortion and high sex ratios, we must work to change the patriarchy-based society which breeds the strong son preference.<sup>[114]</sup>

## 7.7 Laws and initiatives against sex-selective abortion



A sign in an Indian hospital stating that prenatal sex determination is a crime.

### 7.7.1 Laws

In 1994 over 180 states signed the Programme of Action of the International Conference on Population and Development, agreeing to “eliminate all forms of discrimination against the girl child”.<sup>[115]</sup> In 2011 the resolution of PACE’s Committee on Equal Opportunities for Women and Men condemned the practice of prenatal sex selection.<sup>[116]</sup>

### 7.7.2 Media and policy initiatives

Many nations have attempted to address sex-selective abortion rates through a combination of media campaigns and policy initiatives.

#### Canada

In Canada, a group of MPs led by **Mark Warawa** are working on having the **Parliament** pass a resolution condemning sex-selective pregnancy termination.<sup>[117][118]</sup>

## USA

The **United States Congress** has debated legislation that would outlaw the practice.<sup>[119]</sup> The legislation ultimately failed to pass in the **House of Representatives**.<sup>[120]</sup>

On the state level, laws against sex-selective abortions have been passed in a number of US states;<sup>[121]</sup> the law passed in **Arizona** in 2011 prohibits both sex-selective and race-selective abortion.<sup>[121][122][123]</sup>

## United Kingdom

The law on sex-selective abortion is unresolved in the United Kingdom. In order for an abortion to be legal, doctors need to show that continuing the pregnancy could threaten the physical or mental health of the mother. In a recent case, two doctors were caught on camera offering a sex-selective abortion but the Director of Public Prosecution deemed it not in the public interest to proceed with the prosecution.<sup>[124]</sup> Following this incidence, MPs voted 181 to 1 for a Bill put forward by **Tessa Munt** and 11 other MPs aiming to end confusion about the legality of this practice.<sup>[125][126]</sup> Organisations such as **BPAS** and **Abortion Rights** have been lobbying for the decriminalisation of sex-selective abortions.<sup>[127][128]</sup>

## China

China's government has increasingly recognized its role in a reduction of the national sex ratio. As a result, since 2005, it has sponsored a "boys and girls are equal campaign."<sup>[129]</sup> For example, in 2000, the Chinese government began the "Care for Girls" Initiative.<sup>[130]</sup> Furthermore, several levels of government have been modified to protect the "political, economic, cultural, and social" rights of women.<sup>[129]</sup> Finally, the Chinese government has enacted policies and interventions to help reduce the sex ratio at birth. In 2005, sex-selective abortion was made illegal in China. This came in response to the ever-increasing sex ratio and a desire to try to detract from it and reach a more normal ratio.<sup>[131]</sup> The sex ratio among firstborn children in urban areas from 2000 to 2005 didn't rise at all, so there is hope that this movement is taking hold across the nation.<sup>[9]</sup>

UNICEF and UNFPA have partnered with the Chinese government and grassroots-level women's groups such as All China Women's Federation to promote gender equality in policy and practice, as well engage various social campaigns to help lower birth sex ratio and to reduce excess female child mortality rates.<sup>[132][133]</sup>

## India

In India, according to a 2007 study by MacPherson, Prenatal Diagnostic Techniques Act (PCPNDT Act) was highly publicized by NGOs and the government. Many of the ads used depicted abortion as violent, creating fear of abortion itself within the population. The ads focused on the religious and moral shame associated with abortion. MacPherson claims this media campaign was not effective because some perceived this as an attack on their character, leading to many becoming closed off, rather than opening a dialogue about the issue.<sup>[76]</sup> This emphasis on morality, claims MacPherson, increased fear and shame associated with all abortions, leading to an increase in unsafe abortions in India.<sup>[76]</sup>

The government of India, in a 2011 report, has begun better educating all stakeholders about its MTP and PCPNDT laws. In its communication campaigns, it is clearing up public misconceptions by emphasizing that sex determination is illegal, but abortion is legal for certain medical conditions in India. The government is also supporting implementation of programs and initiatives that seek to reduce gender discrimination, including media campaign to address the underlying social causes of sex selection.<sup>[67][134]</sup>

Other recent policy initiatives adopted by numerous states of India, claims Guilmoto,<sup>[90]</sup> attempt to address the assumed economic disadvantage of girls by offering support to girls and their parents. These policies provide conditional cash transfer and scholarships only available to girls, where payments to a girl and her parents are linked to each stage of her life, such as when she is born, completion of her childhood immunization, her joining school at grade 1, her completing school grades 6, 9 and 12, her marriage past age 21. Some states are offering higher pension benefits to parents who raise one or two girls. Different states of India have been experimenting with various innovations in their girl-driven welfare policies. For example, the state of Delhi adopted a pro-girl policy initiative (locally called *Laadli scheme*), which initial data suggests may be lowering the birth sex ratio in the state.<sup>[90][135]</sup>

## 7.8 See also

## 7.9 References

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## 7.10 External links

- *A conference held in Singapore in December 2005 on female deficit in Asia*
- Sex Selection at Birth; *Statistics Singapore Newsletter*, Vol 17 No.3 January 1995
- MSNBC - No Girls Please - In parts of Asia, sexism is ingrained and gender selection often means murder
- Surplus Males and US/China Relations
- *A Dangerous Surplus of Sons?* - An analysis of various studies of the lopsided sex ratios in Asian countries
- Case study: Female Infanticide in India and China
- Working paper by Emily Oster linking sex ratio imbalances to hepatitis B infection
- S2 China Report - China: The Effects of the One Child Policy
- Notification on Addressing in a Comprehensive Way the Issue of Rising Sex Ratio at Birth a UNESCAP document
- A collection of essays on sex selection in various Asian countries by Attané and Guilmoto
- Five case studies and a video on sex selection in Asia by UNFPA
- NPR, *All Things Considered*, *India Confronts Gender-Selective Abortion*, March 21, 2006
- *Book Review: Unnatural Selection - The War Against Girls* / WSJ.com

## Chapter 8

# Anti-abortion violence

**Anti-abortion violence** is **violence** committed against individuals and organizations that provide **abortion**.<sup>[1]</sup> Incidents of violence have included destruction of property, in the form of **vandalism**; crimes against people, including **kidnapping**, **stalking**, **assault**, **attempted murder**, and **murder**; and crimes affecting both people and property, including **arson** and **bombings**.

Anti-abortion extremists are considered a current domestic terrorist threat by the **US Department of Justice**.<sup>[2]</sup> Most documented incidents have occurred in the United States, though it has also occurred in Australia, Canada, and New Zealand. G. Davidson Smith of **Canadian Security Intelligence Service** defined anti-abortion violence as "single issue terrorism".<sup>[3]</sup> A study of 1982–87 violence considered the incidents "limited political" or "subrevolutionary" terrorism.<sup>[4]</sup>

### 8.1 Definition and characteristics

Anti-abortion violence is specifically directed towards people who or places which provide abortion. Extreme forms are recognized as terrorism. Incidents include vandalism, arson, and bombings of **abortion clinics**, such as those committed by **Eric Rudolph** (1996–98), and murders or **attempted murders** of physicians and clinic staff, as committed by **James Kopp** (1998), **Paul Jennings Hill** (1994), **Scott Roeder** (2009), **Michael F. Griffin** (1993), and **Peter James Knight** (2001). Those who engage in or support such actions defend the **use of force** with claims of **justifiable homicide** or **defense of others** in the interest of protecting the life of the **fetus**.<sup>[5]</sup>

David C. Nice, of the University of Georgia, describes support for anti-abortion violence as a political weapon against women's rights, one that is associated with tolerance for violence toward women.<sup>[6]</sup>

Anti-abortion extremism is recognized as a form of **Christian terrorism**.<sup>[7]</sup>

At least eight murders occurred in the United States since 1990, as well as 41 bombings and 173 arsons at clinics since 1977. At least one murder occurred in Australia, as well several attempted murders in Canada. There were 1,793 abortion providers in the **United States** in

2008,<sup>[8]</sup> as well as 197 abortion providers in **Canada** in 2001.<sup>[9]</sup> The National Abortion Federation reported between 1,356 and 13,415 incidents of picketing at United States providers each year from 1995-2014<sup>[10]</sup>

### 8.2 By country

*This list is **incomplete**; you can help by **expanding it**.*

#### 8.2.1 United States

##### Murders

In the United States, violence directed towards abortion providers has killed at least eight people, including four doctors, two clinic employees, a security guard, and a **clinic escort**.<sup>[1 1][1 2]</sup> Seven murders occurred in the 1990s.<sup>[1 3]</sup>

- **March 10, 1993:** Dr. **David Gunn** of Pensacola, Florida was fatally shot during a protest. He had been the subject of **wanted-style posters** distributed by **Operation Rescue** in the summer of 1992. **Michael F. Griffin** was found guilty of Gunn's murder and was sentenced to life in prison.<sup>[1 4]</sup>
- **July 29, 1994:** Dr. **John Britton** and James Barrett, a clinic escort, were both shot to death outside another facility, the **Ladies Center**, in Pensacola. Rev. **Paul Jennings Hill** was charged with the killings. Hill received a **death sentence** and was executed on September 3, 2003. The clinic in Pensacola had been bombed before in 1984 and was also bombed subsequently in 2012.
- **December 30, 1994:** Two receptionists, Shannon Lowney and Lee Ann Nichols, were killed in two clinic attacks in **Brookline, Massachusetts**. **John Salvi** was arrested and confessed to the killings. He died in prison and guards found his body under his bed with a plastic garbage bag tied around his head.

Salvi had also confessed to a non-lethal attack in **Norfolk, Virginia** days before the Brookline killings.

- **January 29, 1998:** Robert Sanderson, an off-duty police officer who worked as a security guard at an abortion clinic in **Birmingham, Alabama**, was killed when his workplace was bombed. **Eric Robert Rudolph**, who was also responsible for the 1996 **Centennial Olympic Park bombing**, was charged with the crime and received two **life sentences** as a result.
- **October 23, 1998:** Dr. **Barnett Slepian** was shot to death with a high-powered rifle at his home in **Amherst, New York**.<sup>[11]</sup> His was the last in a series of similar shootings against providers in Canada and northern New York state which were all likely committed by **James Kopp**. Kopp was convicted of Slepian's murder after being apprehended in France in 2001.
- **May 31, 2009:** Dr. **George Tiller** was shot and killed by **Scott Roeder** as Tiller served as an usher at a church in **Wichita, Kansas**.<sup>[15]</sup>

### Attempted murder, assault, and kidnapping

According to statistics gathered by the **National Abortion Federation** (NAF), an organization of abortion providers, since 1977 in the United States and Canada, there have been 17 **attempted murders**, 383 **death threats**, 153 incidents of assault or **battery**, 13 wounded,<sup>[12]</sup> 100 **butyric acid attacks**, 373 physical invasions, 41 bombings, 655 **anthrax threats**,<sup>[13]</sup> and 3 kidnappings committed against abortion providers.<sup>[16]</sup> Between 1997 and 1990 77 death threats were made with 250 made between 1991 to 1999.<sup>[12]</sup> Attempted murders in the U.S. included:<sup>[11][7][8]</sup> IN 1985 45% of clinics reported bomb threats, decreasing to 15% in 2000. One fifth of clinics in 2000 experienced some form of extreme activity.<sup>[14]</sup>

- **August 1982:** Three men identifying as the Army of God kidnapped **Hector Zevallos** (a doctor and clinic owner) and his wife, **Rosalee Jean**, holding them for eight days.<sup>[19]</sup>
- **August 19, 1993:** Dr. **George Tiller** was shot outside of an abortion facility in **Wichita, Kansas**. **Shelley Shannon** was charged with the crime and received an 11-year prison sentence (20 years were later added for arson and acid attacks on clinics).
- **July 29, 1994:** **June Barret** was shot in the same attack which claimed the lives of **James Barrett**, her husband, and Dr. **John Britton**.
- **December 30, 1994:** Five individuals were wounded in the shootings which killed **Shannon Lowney** and **Lee Ann Nichols**.

- **December 18, 1996:** Dr. **Calvin Jackson** of **New Orleans, Louisiana** was stabbed 15 times, losing 4 pints of blood. **Donald Cooper** was charged with second degree attempted murder and was sentenced to 20 years. "Donald Cooper's Day of Violence", by **Kara Lowentheil**, *Choice! Magazine*, December 21, 2004.
- **October 28, 1997:** Dr. **David Gandell** of **Rochester, New York** was injured by flying glass when a shot was fired through the window of his home.<sup>[110]</sup>
- **January 29, 1998:** **Emily Lyons**, a nurse, was severely injured, and lost an eye, in the bombing which also killed off-duty police officer **Robert Sanderson**.

### Arson, bombing, and property crime

According to NAF, since 1977 in the United States and Canada, **property crimes** committed against abortion providers have included 41 bombings, 173 arsons, 91 attempted bombings or arsons, 619 **bomb threats**, 1630 incidents of **trespassing**, 1264 incidents of **vandalism**, and 100 attacks with **butyric acid** ("stink bombs").<sup>[16]</sup> The *New York Times* also cites over one hundred clinic bombings and incidents of arson, over three hundred invasions, and over four hundred incidents of vandalism between 1978 and 1993.<sup>[111]</sup> The first clinic arson occurred in **Oregon** in March 1976 and the first bombing occurred in February 1978 in **Ohio**.<sup>[112]</sup> Incidents have included:

- **May 26, 1983:** **Joseph Grace** set the **Hillcrest clinic** in **Norfolk, Virginia** ablaze. He was arrested while sleeping in his van a few blocks from the clinic when an alert patrol officer noticed the smell of kerosene.<sup>[113]</sup>
- **May 12, 1984:** Two men entered a **Birmingham, Alabama** clinic shortly after a lone woman opened the doors at 7:45 am. Forcing their way into the clinic, one of the men threatened the woman if she tried to prevent the attack while the other, wielding a sledgehammer, did between \$7,500 and \$8,000 of damage to suction equipment. The man who damaged the equipment was later identified as **Father Edward Markley**. **Father Markley** is a **Benedictine Monk** who was the **Birmingham diocesan "Coordinator for Pro-Life Activities"**. Markley was convicted of first-degree criminal mischief and second-degree burglary. His accomplice has never been identified. Following the **Birmingham incident**, Markley entered the **Women's Community Health Center** in **Huntsville Alabama**, assaulting at least three clinic workers. One of the workers, **Kathryn Wood** received back injuries and a broken neck vertebrae. Markley was convicted of first-degree crimi-

nal mischief and three counts of third-degree assault and harassment in the Huntsville attack.<sup>[1 14]</sup>

- **December 25, 1984:** An abortion clinic and two physicians' offices in **Pensacola, Florida**, were bombed in the early morning of Christmas Day by a quartet of young people (Matt Goldsby, Jimmy Simmons, Kathy Simmons, Kaye Wiggins) who later called the bombings "a gift to Jesus on his birthday."<sup>[1 15][1 16][1 17]</sup> The clinic, the **Ladies Center**, would later be the site of the murder of Dr. **John Britton** and James Barrett in 1994 and a firebombing in 2012.
- **March 29, 1993:** Blue Mountain Clinic in **Missoula, Montana**; at around 1 a.m., an arsonist snuck onto the premises and firebombed the clinic. The perpetrator, a Washington man, was ultimately caught, convicted and imprisoned. The facility was a near-total loss, but all of the patients' records, though damaged, survived the fire in metal file cabinets.<sup>[1 18][1 19][1 20]</sup>
- **May 21, 1998:** Three people were injured when acid was poured at the entrances of five abortion clinics in Miami, Florida.<sup>[1 21]</sup>
- **October 1999:** Martin Uphoff set fire to a **Planned Parenthood** clinic in **Sioux Falls, South Dakota**, causing US\$100 worth of damage. He was later sentenced to 60 months in prison.<sup>[1 22]</sup>
- **May 28, 2000:** An arson at a clinic in **Concord, New Hampshire**, resulted in several thousand dollars' worth of damage. The case remains unsolved.<sup>[1 23][1 24][1 25]</sup> This was the second arson at the clinic.<sup>[1 26]</sup>
- **September 30, 2000:** John Earl, a Catholic priest, drove his car into the Northern Illinois Health Clinic after learning that the FDA had approved the drug **RU-486**. He pulled out an ax before being forced to the ground by the owner of the building, who fired two warning shots from a shotgun.<sup>[1 27]</sup>
- **June 11, 2001:** An unsolved bombing at a clinic in **Tacoma, Washington**, destroyed a wall, resulting in \$6,000 in damages.<sup>[1 22][1 28]</sup>
- **July 4, 2005:** A clinic **Palm Beach, Florida**, was the target of an arson. The case remains open.<sup>[1 22]</sup>
- **December 12, 2005:** Patricia Hughes and Jeremy Dunahoe threw a **Molotov cocktail** at a clinic in **Shreveport, Louisiana**. The device missed the building and no damage was caused. In August 2006, Hughes was sentenced to six years in prison, and Dunahoe to one year. Hughes claimed the bomb was a "memorial lamp" for an abortion she had had there.<sup>[1 29]</sup>
- **September 11, 2006** David McMenemy of **Rochester Hills, Michigan**, crashed his car into the Edgerton Women's Care Center in **Davenport, Iowa**. He then doused the lobby in gasoline and started a fire. McMenemy committed these acts in the belief that the center was performing abortions; however, Edgerton is not an abortion clinic.<sup>[1 30]</sup> *Time* magazine listed the incident in a "Top 10 Inept Terrorist Plots" list.<sup>[1 31]</sup>
- **April 25, 2007:** A package left at a women's health clinic in **Austin, Texas**, contained an explosive device capable of inflicting serious injury or death. A bomb squad detonated the device after evacuating the building. Paul Ross Evans (who had a criminal record for armed robbery and theft) was found guilty of the crime.<sup>[1 32]</sup>
- **May 9, 2007:** An unidentified person deliberately set fire to a **Planned Parenthood** clinic in **Virginia Beach, Virginia**.<sup>[1 33]</sup>
- **December 6, 2007:** Chad Altman and Sergio Baca were arrested for the arson of Dr. Curtis Boyd's clinic in Albuquerque. Baca's girlfriend had scheduled an appointment for an abortion at the clinic.<sup>[1 34][1 35]</sup>
- **January 22, 2009** Matthew L. Derosia, 32, who was reported to have had a history of mental illness<sup>[1 36]</sup> rammed an SUV into the front entrance of a **Planned Parenthood** clinic in **St. Paul, Minnesota**.<sup>[1 37]</sup>
- **January 1, 2012** Bobby Joe Rogers, 41, firebombed the **American Family Planning Clinic** in Pensacola, Florida, with a **Molotov cocktail**; the fire gutted the building. Rogers told investigators that he was motivated to commit the crime by his opposition to abortion, and that what more directly prompted the act was seeing a patient enter the clinic during one of the frequent anti-abortion protests there. The clinic had previously been bombed at Christmas in 1984 and was the site of the murder of Dr. **John Britton** and James Barrett in 1994.<sup>[1 38]</sup>
- **April 1, 2012** A bomb exploded on the windowsill of a **Planned Parenthood** clinic in **Grand Chute, Wisconsin**, resulting in a fire that damaged one of the clinic's examination rooms. No injuries were reported.
- **April 11, 2013** A **Planned Parenthood** clinic in **Bloomington, Indiana**, was vandalized with an axe.<sup>[1 39]</sup>
- **September 4, 2015** A **Planned Parenthood** clinic in Pullman, Washington was intentionally set on fire. No injuries were reported due to the time of day, but the FBI was involved because of a history of domestic terrorism against the clinic.<sup>[1 40]</sup>

- **October 22, 2015** A Planned Parenthood clinic in Claremont, New Hampshire was vandalized by a juvenile intruder. Damaged in the attack were computers, furniture, plumbing fixtures, office equipment, medical equipment, phone lines, windows, and walls. The flooding that resulted from the vandalism also damaged an adjacent business.<sup>[1 41] [1 42]</sup>

### Anthrax threats

The first **hoax** letters claiming to contain **anthrax** were mailed to U.S. clinics in October 1998, a few days after the Slepian shooting; since then, there have been 655 such **bioterror** threats made against abortion providers. None of the “anthrax” in these cases was real.<sup>[1 7] [1 43]</sup>

- **November 2001:** After the genuine 2001 **anthrax attacks**, Clayton Waagner mailed hoax letters containing a white powder to 554 clinics. On December 3, 2003, Waagner was convicted of 51 charges relating to the anthrax scare.

## 8.2.2 Australia

- **July 16, 2001:** Steven Rogers, a security guard at a clinic in **Melbourne, Australia** was shot in the chest and killed by **Peter James Knight**. Knight brought ropes and gags into the clinic along with 16 litres of kerosene, intending to burn all 15 staff and 26 patients to death.<sup>[1 44] [1 45]</sup> Knight was charged and was sentenced to life in prison on November 19, 2002.<sup>[1 46]</sup>
- **January 6, 2009:** A firebombing using **Molotov cocktails** was attempted at a medical clinic in **Mosman Park**, Western Australia. Faulty construction of the bombs limited damage to a single external burnt area, though if successful damage would have been severe. It is believed that the individuals who made the attack were responsible for graffiti “baby killers” on the site, indicating an anti-abortion reason for the attack. The site turned out to in fact not be an abortion clinic, though the attackers most likely were not aware of this.<sup>[1 47]</sup>

## 8.2.3 Canada

### Attempted murder

Violence has also occurred in Canada, where at least three doctors have been attacked to date. There is speculation that the timing of the shootings is related to the Canadian observance of **Remembrance Day**. The physicians were part of a pattern of attacks, which targeted providers in Canada and upstate **New York**, including Dr. **Barnett Slepian**. All victims were shot, or shot at, in their homes

with a rifle, at dusk or in the morning, in late October or early November.

A joint Canadian-F.B.I. task force investigating the shootings was not formed until December 1997—three years after the first attack. A task force coordinator, Inspector David Bowen of the Hamilton-Wentworth Regional Police, complained that the Canadian Government was not adequately financing the investigation. Inspector Bowen said the task force, largely financed by the communities where the shootings occurred, has “operated on a shoestring” with a budget of \$100,000. He said he requested more funds in July that would raise its budget to \$250,000. Federal officials rejected the request on Oct 15, a week before Dr. Slepian was killed. Inspector Bowen said that there hadn't been funding to follow up potential leads.<sup>[1 48]</sup>

**James Kopp**, an American citizen and resident was charged with the murder of Dr. Slepian and the **attempted murder** of Dr. Short; he is suspected of having committed the other shootings as well.<sup>[1 7] [1 8]</sup>

- **November 8, 1994:** In 1994, a sniper fired two bullets into the home of Dr. **Garson Romalis**, 57, of **Vancouver, British Columbia** who was eating breakfast. One hit his thigh, destroyed some of his muscles, broke his femur and damaged his femoral artery. Dr. Romalis saved his own life by using his bathrobe belt as a tourniquet. Dr. Romalis had become more outspoken about abortion rights since he was shot, citing the harm done to women by illegal abortion and the thousands of cases of septic abortion that came to his hospital in residency.<sup>[1 48] [1 49]</sup>
- **November 10, 1995:** Dr. **Hugh Short**, 62, of **Ancaster, Ontario** was shot. A sniper's bullet fired into his home shattered his elbow and ended his surgical career. Dr. Short was not a high-profile target: it was not widely known that he did abortions.<sup>[1 48]</sup>
- **November 11, 1997:** Dr. **Jack Fainman**, 66, of **Winnipeg, Manitoba** was shot. A gunman fired through the back window of Fainman's riverbank home in Winnipeg about 9 pm and struck him in the right shoulder, inches from his heart. The police would not comment on whether Dr. Fainman, who has declined interview requests since the attack, is still performing abortions.<sup>[1 48]</sup>
- **July 11, 2000:** Dr. **Romalis** was **stabbed** by an unidentified assailant in the lobby of his clinic.<sup>[1 50]</sup>

### Bombing and property damage

- **February 25, 1990:** Two men broke into a clinic in **Vancouver** and destroyed \$C30,000 worth of medical equipment with **crowbars**.<sup>[1 51]</sup>
- **May 18, 1992:** A **Toronto** clinic operated by **Henry Morgentaler** was firebombed, causing the entire

front wall of the building to collapse.<sup>[152]</sup> The Morgentaler Clinic on Harbord Street in Toronto was firebombed during the night by two people (caught on security camera) using gasoline and a firework to set off the explosion.<sup>[153]</sup> The next day, clinic management announced that the firebombing failed to prevent any abortions, since all scheduled abortions were carried out in alternative locations. A portion of the Toronto Women's Bookstore, next door, was damaged. No one was hurt but the building had to be demolished. On the day after the firebombing, Morgentaler came to inspect the damage and a crowd of abortion-rights supporters appeared at the clinic with signs that read, "Just Say No to Bombs." As a result of the arson, the Ontario government decided to spend \$420,000 on improved security for abortion clinics. At the time, all four free-standing clinics in Ontario were in Toronto. The government wanted to gather information about activities by anti-abortion sympathizers; at the time, law enforcement agencies in Canada did not collect statistics about harassment and violence against abortion providers, their clinics, or their clients.<sup>[15]</sup>

## 8.2.4 New Zealand

In the late 1990s, Graeme White was found guilty and sent to prison for tunneling into an abortion clinic<sup>[154][155]</sup> with what the police described as "incendiary devices".<sup>[156]</sup>

## 8.3 Specific incidents

### 8.3.1 Violence by Army of God

Main article: *Army of God*

According to the Department of Justice and Department of Homeland Security's joint Terrorism Knowledge Base, the *Army of God* is an underground terrorist organization active in the United States formed in 1982, which has been responsible for a substantial amount of anti-abortion violence. In addition to numerous property crimes, the group has committed acts of kidnapping, attempted murder, and murder. While sharing a common ideology and tactics, members claim to rarely communicate;<sup>[16]</sup> the organization forbids those who wish to "take action against baby killing abortionists" from discussing their plans with anyone in advance.<sup>[17]</sup>

In August 1982, three men identifying as the Army of God kidnapped Hector Zevallos (a doctor and clinic owner) and his wife, Rosalee Jean, holding them for eight days.<sup>[18]</sup> In 1993, Shelly Shannon, a very active member of the Army of God, was found guilty of the attempted murder of Dr. George Tiller.<sup>[19]</sup> That same year, law en-

forcement officials found the *Army of God Manual*, a tactical guide to arson, chemical attacks, invasions, and bombings buried in Shelly Shannon's backyard.<sup>[18]</sup> Paul Jennings Hill was found guilty of the murder of both Dr. John Britton and clinic escort James Barrett.

The Army of God published a "Defensive Action Statement" signed by more than two dozen supporters of Hill, saying that "whatever force is legitimate to defend the life of a born child is legitimate to defend the life of an unborn child... if in fact Paul Hill did kill or wound abortionist John Britton, and accomplices James Barrett and Mrs. Barrett, his actions are morally justified if they were necessary for the purpose of defending innocent human life".<sup>[20][17]</sup> The AOG claimed responsibility for Eric Robert Rudolph's 1997 shrapnel bombing of abortion clinics in Atlanta and Birmingham.<sup>[21]</sup> The organization embraces its description as terrorist.<sup>[22]</sup>

### 8.3.2 Physician "wanted" posters

In the late 1990s, an organization called *American Coalition of Life Activists (ACLA)* was accused of implicitly advocating violence by its publication on its "Nuremberg Files" website of wanted-style posters, which featured a photograph of a physician who performed abortions along with a monetary reward for any information that would lead to his "arrest, conviction, and revocation of license to practice medicine".<sup>[23]</sup> The ACLA's website described these physicians as war criminals<sup>[24]</sup> and accused them of committing "crimes against humanity". The web site also published names, home addresses, telephone numbers, and other personal information regarding abortion providers—highlighting the names of those who had been wounded and striking out those of who had been killed. Dr. George Tiller's name was included on this list along with many others. The site was accused of being a thinly-veiled hit list intended to incite violence; others claimed that it was protected under the First Amendment of the United States Constitution.<sup>[25]</sup> In 2002, after a prolonged debate, the 9th Circuit Court of Appeals ruled that the "posters" constituted an illegal threat.<sup>[26]</sup>

## 8.4 Reactions

### 8.4.1 Anti-abortion reactions

The *American Life League* issued a "Pro-life Proclamation Against Violence" in 2006.<sup>[27]</sup> Other anti-abortion groups to state their opposition to violence include the *Center for Bio-Ethical Reform* and *Pro-Lifers Against Clinic Violence*. The anti-abortion organization *National Coalition for Life and Peace* has also issued a statement rejecting violence as a form of opposition to abortion.<sup>[28]</sup>

Many anti-abortion organizations—including *Family Research Council*, *Americans United for Life*, *Concerned*

Women for America, Susan B. Anthony List, American Life League, Students for Life of America, Pro-Life Action League and 40 Days For Life—issued statements condemning the 2009 murder of Kansas late-term abortion doctor George Tiller.<sup>[29][30]</sup>

In a 2009 press release, Operation Rescue founder Randall Terry issued a statement calling for peaceful protests to expose abortionists. According to *Media Matters* and the *Colorado Independent*, however, Terry has also lead apparently contradictory public prayers that an abortion provider would “[convert] to God” or that “calamity [would] strike him”.<sup>[31][32]</sup> Terry added that he hoped the “baby killer would be tried and executed for crimes against humanity”.<sup>[32]</sup> The doctor targeted by Terry’s prayers said to the press, “He’s clearly inciting someone, anyone, to kill me.”; a spokesman responded that Terry only meant that “God would deal the [the doctor]”.<sup>[32]</sup>

The Rev. Flip Benham, director of Operation Rescue, accused “those in the abortion-providing industry” of committing most of the violence in an attempt to discredit the antiabortion movement. He defended his organization’s use of inflammatory rhetoric, saying: “This whole thing isn’t about violence. It’s all about silence – silencing the Christian message. That’s what they want.” He also stated, “Our inflammatory rhetoric is only revealing a far more inflammatory truth.”<sup>[33]</sup>

## 8.4.2 Abortion rights supporters’ reactions

Organizations that support abortion rights have responded to anti-abortion violence by lobbying to protect access to abortion clinics. The National Abortion Federation and the *Feminist Majority Foundation* collect statistics on incidents of anti-abortion violence.

The Federal Freedom of Access to Clinic Entrances Act was passed in 1994 to protect reproductive health service facilities and their staff and patients from violent threats, assault, vandalism, and blockade. The law (18 U.S.C. sec. 248) also provides the same level of legal protection to all pregnancy-related medical clinics, including pro-life counseling centers; it also applies to use of such tactics directed towards churches and places of worship.<sup>[34]</sup> State, provincial, and local governments have also passed similar laws designed to afford legal protection of access to abortion in the United States and Canada.

## 8.5 Media depictions of Anti-abortion violence

### Literature

- *The Fourth Procedure*, a 1995 novel by Stanley Pottinger, is a medical thriller and murder mystery that

depicts anti-abortion violence in its plot. Two men responsible for the bombing of an abortion clinic turn up dead with baby dolls surgically implanted inside of them.<sup>[media 1]</sup>

- *Insomnia* (1994), by Stephen King, has much of the plot focusing around violent anti-abortion campaigners and their opposition to a pro-choice speech due to be held in their town. The group murders several women they believe to be seeking abortions and attempts to assassinate the speaker. They are motivated by a conspiracy theory that the speaker is part of a secret society that was a continuation of Herod’s Massacre of the Innocents.
- “Killing Babies” (1996), by T. C. Boyle,<sup>[35]</sup> a highly controversial short story written in response to attacks on abortion providers. The story first appeared in *The New Yorker* and was included in *The Best American Short Stories 1997*.
- *Gideon’s Torch*, a 1995 novel by Charles Colson and Ellen Santilli Vaughn, begins with the murder of a doctor who provides abortions and chronicles political fallout from the murder and a resulting government crackdown on right-to-lifers.<sup>[media 2]</sup>

### Film

- *Palindromes*, a 2004 film directed by Todd Solondz, depicts the murder of an abortion doctor in his home, similar to the Barnett Slepian case.
- In *If These Walls Could Talk*, a 1996 film directed by Nancy Savoca and Cher, the third time period involves the shooting of a doctor performing an abortion.

### Television

- “Dignity”, a 2009 episode of the crime drama *Law & Order*, was inspired by the killing of George Tiller and focused on the killing of an abortion provider by an activist. Pro-choice activists criticized the episode for making use of mainstream anti-abortion arguments. The National Organization for Women (NOW) listed the episode in their *Media Hall of Shame*, saying it “was loaded with anti-abortion sentiment and propaganda” and that it “outrageously implied that physicians like Dr. Tiller may be culpable in their own murders because they themselves are baby killers”.<sup>[media 3]</sup> Meanwhile, anti-abortion activists had condemned the killing of Tiller that inspired the episode, but praised the episode for being “outright pro-life”, with Dave Andrusko of the National Right to Life Committee saying, “[I]t occurred to me as I listened in utter astonishment that each of these observations could have been presented in a way that was artificial, forced, or (as

so often is the case with network portraits of pro-lifers) something that you would expect from an idiot. None of that was the case. These were real flesh-and-blood people, not caricatures.”<sup>[media 4]</sup>

- “Hammered”, a 2009 episode of *Law and Order: Special Victims Unit* showed the possible motive of a murder as anti-abortion violence. The Nuremberg Files site is mentioned in the episode when detectives tell the doctor’s ex-husband about the murder. The abortion clinic they visit has bulletproof glass, because it had been the target of a sniper who shot and wounded a receptionist. When the detectives go to the clinic, they experience an egging of the clinic as they look into collecting several boxes of hate mail that the clinic received.<sup>[36]</sup>
- “Thou Shalt Not Kill”, the 2002 premiere episode of the BBC series *Spooks* is about a fictional anti-abortion terrorist leader visiting the UK to establish a series of terror cells.
- “Pro-Life”, a 2007 episode of the *Showtime Masters of Horror* TV series, tells the tale of a Christian man whose daughter is raped by a demon. When she tries to have her unnatural child aborted, her Christian father starts hearing messages from a voice he thinks is “God”. He and her brothers storm the abortion clinic and kill any in their way.
- “Bored of the Rings”, a 2007 episode from *The Sarah Silverman Program* a radical anti-abortion group attempts to bomb an abortion clinic, but are stopped by Sarah.
- On *Orange Is The New Black* (2013 – present as of 2015), the character Tiffany “Pennsatucky” Doggett has been imprisoned for shooting an abortion clinic nurse, after the nurse made comments on the number of abortions she had. The character is portrayed as being a self-proclaimed evangelical Christian after the incident and is funded by pro-life groups.<sup>[media 5]</sup>

## Music

- The song “Get Your Gunn” from Marilyn Manson’s 1994 album *Portrait of an American Family* is about the killing of David Gunn.<sup>[media 6]</sup>
- The song “Hello Birmingham” from the 1999 album *To the Teeth* by Ani DiFranco was written in response to the bombing in Birmingham, Alabama, as well as the murder of Dr. Slepian in Amherst, New York (near DiFranco’s hometown of Buffalo).<sup>[media 7]</sup>
- The song “F.D.K. (Fearless Doctor Killers)” from Mudhoney’s 1995 album *My Brother the Cow* tells a story about a Baptist minister rapist who refuses to

pay for an abortion but will not support the child after it is born. It includes the repeated refrain, “Save the baby/Kill the doctor”.

- The song “I Need a Grip” by Maggie Estep on her 1994 album *No More Mr. Nice Girl* is a response to anti-abortion violence.
- The song “The Army of God” by hardcore punk band *Behind Enemy Lines* on their 2003 album “*The Global Cannibal*” deals with the acts of terrorism and murder performed on abortion clinics and their staff.
- The 1987 song “I Blew Up The Clinic Real Good” by Contemporary Christian music singer-songwriter Steve Taylor, criticizing anyone who claims to be a pro-life activist who would blow up abortion clinics or kill doctors.<sup>[37]</sup>

## 8.6 See also

## 8.7 References

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## 8.8 External links

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- MSNBC: Abortion Clinic Violence
- Feminist Majority Foundation: Clinic Violence (pro-choice)
- National Abortion Federation: Clinic Violence (pro-choice)
- American Right To Life’s Abortion Vigilante Worksheet

## Chapter 9

# Abortion-rights movements

“Abortion rights” redirects here. For the UK advocacy organization, see [Abortion Rights \(organisation\)](#).

**Abortion-rights movements** advocate for legal access



*Abortion-rights activists in Sao Paulo, Brazil.*

to induced abortion services. The issue of induced abortion remains divisive in public life, with recurring arguments to liberalize or to restrict access to legal abortion services. Abortion-rights supporters themselves are frequently divided as to the types of abortion services that should be available and to the circumstances, for example different periods in the pregnancy such as late term abortions, in which access may be restricted.

### 9.1 Terminology

Many of the terms used in the debate are seen as **political framing**: terms used to validate one's own stance while invalidating the opposition's. For example, the labels "*pro-choice*" and "*pro-life*" imply endorsement of widely held values such as **liberty** and **freedom**, while suggesting that the opposition must be "*anti-choice*" or "*anti-life*" (alternatively "*pro-coercion*" or "*pro-death*").<sup>[1]</sup> These views do not always fall along a binary; in one **Public Religion Research Institute** poll, seven in ten Americans described themselves as "*pro-choice*" while almost two-thirds described themselves as "*pro-life*."<sup>[2]</sup> The **Associated Press** favors the more neutral terms "abortion rights" and "anti-abortion" instead.<sup>[3]</sup>

### 9.2 Early history

Feminists of the late 19th century were often opposed to the legalization of abortion.<sup>[4][5]</sup> In the *The Revolution*, operated by **Elizabeth Cady Stanton** and **Susan B. Anthony**, an anonymous contributor signing "A" wrote in 1869 about the subject, arguing that instead of merely attempting to pass a law against abortion, the root cause must also be addressed.

Simply passing an anti-abortion law would, the writer stated, "be only mowing off the top of the noxious weed, while the root remains. [...] No matter what the motive, love of ease, or a desire to save from suffering the unborn innocent, the woman is awfully guilty who commits the deed. It will burden her conscience in life, it will burden her soul in death; But oh! thrice guilty is he who drove her to the desperation which impelled her to the crime."<sup>[5][6][7][8]</sup>

#### 9.2.1 Britain

The movement towards the liberalization of abortion law emerged in the 1920s and '30s in the context of the victories that had been recently won in the area of **birth control**. Campaigners including **Marie Stopes** in England and **Margaret Sanger** in the US had succeeded in bringing the issue into the open, and birth control clinics were established which offered family planning advice and contraceptive methods to women in need.

In 1929, the **Infant Life Preservation Act** was passed in Britain, which amended the law (**Offences against the Person Act 1861**) so that an abortion carried out in good faith, for the sole purpose of preserving the life of the mother, would not be an offence.<sup>[9]</sup>

**Stella Browne** was a leading birth control campaigner, who increasingly began to venture into the more contentious issue of abortion in the 1930s. Browne's beliefs were heavily influenced by the work of **Havelock Ellis**, **Edward Carpenter** and other **sexologists**.<sup>[10]</sup> She came to strongly believe that working women should have the choice to become pregnant and to terminate their pregnancy while they worked in the horrible circumstances surrounding a pregnant woman who was still required to



*Stella Browne* was a pioneering feminist who campaigned for the liberalization of abortion law.

do hard labour during her pregnancy.<sup>[11]</sup> In this case she argued that doctors should give free information about birth control to women that wanted to know about it. This would give women agency over their own circumstances and allow them to decide whether they wanted to be mothers or not.<sup>[12]</sup>

In the late 1920s Browne began a speaking tour around England, providing information about her beliefs on the need for accessibility of information about birth control for women, women's health problems, problems related to puberty and sex education and high maternal morbidity rates among other topics.<sup>[10]</sup> These talks urged women to take matters of their sexuality and their health into their own hands. She became increasingly interested in her view of the woman's right to terminate their pregnancies, and in 1929 she brought forward her lecture "The Right to Abortion" in front of the **World Sexual Reform Congress** in London.<sup>[10]</sup> In 1931 Browne began to develop her argument for women's right to decide to have an **abortion**.<sup>[10]</sup> She again began touring, giving lectures on abortion and the negative consequences that followed if women were unable to terminate pregnancies of their own choosing such as: suicide, injury, permanent invalidism, madness and blood-poisoning.<sup>[10]</sup>

Other prominent feminists, including **Frida Laski**, **Dora Russell**, **Joan Malleson** and **Janet Chance** began to champion this cause - the cause broke dramatically into the mainstream in July 1932 when the **British Medical Association** council formed a committee to discuss making changes to the laws on abortion.<sup>[10]</sup> On 17 Febru-



*Aleck Bourne* was acquitted for performing an abortion on a rape victim in 1938, a landmark case in the movement for abortion rights.

ary 1936, **Janet Chance**, **Alice Jenkins** and **Joan Malleson** established the **Abortion Law Reform Association** as the first **advocacy** organisation for abortion liberalization. The association promoted access to **abortion in the United Kingdom** and campaigned for the elimination of legal obstacles.<sup>[13]</sup> In its first year ALRA recruited 35 members, and by 1939 had almost 400 members.<sup>[13]</sup>

The ALRA was very active between 1936 and 1939 sending speakers around the country to talk about Labour and Equal Citizenship and attempted, though most often unsuccessfully, to have letters and articles published in newspapers. They became the most popular when a member of the ALRA's Medico-Legal Committee received the case of a fourteen-year-old girl who had been raped, and received a termination of this pregnancy from Dr. **Joan Malleson**, a progenitor of the ALRA.<sup>[13]</sup> This case gained a lot of publicity, however once the war began, the case was tucked away and the cause again lost its importance to the public.

In 1938, **Joan Malleson** precipitated one of the most influential cases in British abortion law when she referred a pregnant fourteen-year old **rape** victim to gynaecologist **Aleck Bourne**. He performed an abortion, then illegal, and was put on trial on charges of procuring abortion. Bourne was eventually acquitted in *Rex v. Bourne* as his actions were "...an example of disinterested conduct in consonance with the highest traditions of the profession".<sup>[14]</sup> This court case set a precedent that doc-

tors could not be prosecuted for performing an abortion in cases where pregnancy would probably cause “mental and physical wreck”.

The **Abortion Law Reform Association** continued its campaigning after the War, and this, combined with broad social changes brought the issue of abortion back into the political arena in the 1960s. President of the **Royal College of Obstetricians and Gynaecologists** **John Peel** chaired the committee advising the **British Government** on what became the **1967 Abortion Act**, which allowed for legal abortion on a number of grounds, including to avoid injury to the physical or mental health of the woman or her existing child(ren) if the pregnancy was still under 28 weeks.<sup>[15]</sup>

### 9.2.2 United States

Main article: **Abortion in the United States**

In America an abortion reform movement emerged in



*The United States Supreme Court membership in 1973 at the time of **Roe v. Wade**.*

the 1960s. In 1964 **Gerri Santoro** of Connecticut died trying to obtain an illegal abortion and her photo became the symbol of the pro-choice movement. Some women's rights activist groups developed their own skills to provide abortions to women who could not obtain them elsewhere. As an example, in Chicago, a group known as "**Jane**" operated a floating abortion clinic throughout much of the 1960s. Women seeking the procedure would call a designated number and be given instructions on how to find "**Jane**".<sup>[16]</sup>

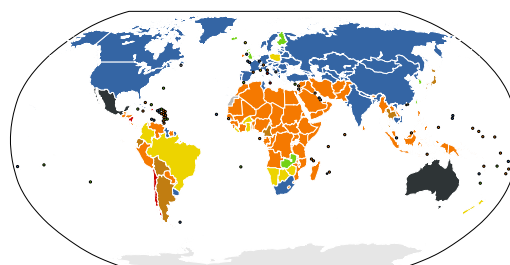
In the late 1960s, a number of organizations were formed to mobilize opinion both against and for the legalization of abortion. The forerunner of the **NARAL Pro-Choice America** was formed in 1969 to oppose restrictions on abortion and expand access to abortion.<sup>[17]</sup> In late 1973 **NARAL** became the **National Abortion Rights Action League**.

The landmark judicial ruling of the **Supreme Court** in **Roe v. Wade** ruled that a **Texas** statute forbidding abortion except when necessary to save the life of the mother was unconstitutional. The Court arrived at its decision by concluding that the issue of abortion and abortion rights falls

under the **right to privacy**. The Court held that a right to privacy existed and included the right to have an abortion. The court found that a mother had a right to abortion until viability, a point to be determined by the abortion doctor. After viability a woman can obtain an abortion for health reasons, which the Court defined broadly to include psychological well-being in the decision **Doe v. Bolton**, delivered concurrently.

From the 1970s, and the spread of **second-wave feminism**, abortion and **reproductive rights** became unifying issues among various **women's rights** groups in Canada, the United States, the Netherlands, Britain, Norway, France, Germany, and Italy.<sup>[18]</sup>

## 9.3 Around the world



*International status of abortion law*

*UN 2013 report on abortion law.<sup>[19]</sup>*

*Legal on request*

*Legal for maternal life, health, mental health, rape, fetal defects, and/or socioeconomic factors*

*Illegal with exception for maternal life, health, mental health, rape, and/or fetal defects*

*Illegal with exception for maternal life, health, mental health, and/or rape*

*Illegal with exception for maternal life, health, and/or mental health*

*Illegal with no exceptions*

*Varies*

*No information<sup>[20]</sup>*

### 9.3.1 Africa

See also: **Abortion in Namibia**, **Abortion in South Africa** and **Abortion in Zimbabwe**

**South Africa** allows abortion on demand under its **Choice on Termination of Pregnancy Act**. Most African nations, however, have abortion bans except in cases where the woman's life or health is at risk. A number of abortion-rights international organizations have made altering abortion laws and expanding family planning services in **sub-Saharan Africa** and the **developing world** a top priority.

### 9.3.2 Ireland

Main article: [Abortion in the Republic of Ireland](#)

Abortion is illegal in the [Republic of Ireland](#) except when the woman's life is threatened by a medical condition or a suicide risk, since a [1983 referendum](#) amended the constitution. Subsequent amendments – the [thirteenth](#) and [fourteenth](#) – guaranteed the right to travel abroad (for abortions) and to distribute and obtain information of “services” not available in the country, such as abortion, which are lawful in other countries. A proposal to remove suicide risk as a ground for abortion was [struck down in a 2002 referendum](#). Thousands of women get around the ban by privately traveling to the other European countries (typically Britain and the Netherlands) to undergo terminations.<sup>[21]</sup>

The [Labour Party](#), [Communist Party](#), [Socialist Party](#) and [Irish Republican Socialist Party](#) are in favor of liberalizing the laws. For many other parties (such as the [Green Party](#)), it is a 'matter of conscience' and they have no official line on the issue.<sup>[22]</sup>

Abortion is also illegal in Northern Ireland, except in cases when the woman is threatened by a medical condition, physical or mental.<sup>[23][24]</sup>

### 9.3.3 United Kingdom

Main article: [Abortion in the United Kingdom](#)

In the United Kingdom, the [Abortion Act 1967](#) legalized abortion, except in [Northern Ireland](#). In Great Britain, the law states that pregnancy may be terminated up to 24 weeks<sup>[25]</sup> if it:

1. puts the life of the pregnant woman at risk
2. poses a risk to the mental and physical health of the pregnant woman
3. poses a risk to the mental and physical health of the fetus
4. shows there is evidence of extreme fetal abnormality i.e. the child would be seriously physically or mentally handicapped after birth and during life.<sup>[26]</sup>

However, the criterion of risk to mental and physical health is applied broadly, and *de facto* makes abortion available on demand,<sup>[27]</sup> though this still requires the consent of two [National Health Service](#) doctors. Abortions in Great Britain are provided at no out-of-pocket cost to the patient by the NHS.

The [Labour Party](#) and the [Liberal Democrats](#) are predominantly pro-abortion-rights parties, though with significant minorities in each either holding more restrictive

definitions of the right to choose, or subscribing to an anti-abortion analysis. The [Conservative Party](#) is more evenly split between both camps and its leader, [David Cameron](#), supports abortion on demand in the early stages of pregnancy.<sup>[28]</sup>

### 9.3.4 Iran

Main article: [Abortion in Iran](#)

Abortion was first legalized in 1978.<sup>[29]</sup> In April 2005, the [Iranian Parliament](#) approved a new bill easing the conditions by also allowing abortion in certain cases when the fetus shows signs of handicap,<sup>[30][31][32]</sup> and the [Council of Guardians](#) accepted the bill in 15/June/2005.<sup>[31]</sup> Legal abortion is now allowed if the mother's life is in danger, and also in cases of fetal abnormalities that makes it not viable after birth (such as anencephaly) or produce difficulties for mother to take care of it after birth, such as major [thalassemia](#) or bilateral polycystic kidney disease.

### 9.3.5 United States

Main article: [Abortion in the United States](#)

Abortion-rights advocacy in the United States is centered in the [United States pro-choice movement](#).

### 9.3.6 Japan

Main article: [Abortion in Japan](#)

Chapter XXIX of the [Penal Code of Japan](#) makes abortion illegal in Japan. However, the [Maternal Health Protection Law](#) allows approved doctors to practice abortion with the consent of the mother and her spouse, if the pregnancy has [resulted from rape](#), or if the continuation of the pregnancy may severely endanger the maternal health because of physical reasons or economic reasons. Other people, including the mother herself, trying to abort the [fetus](#) can be punished by the law. People trying to practice abortion without the consent of the woman can also be punished, including the doctors.

## 9.4 See also

- [Anti-abortion movements](#)

## 9.5 References

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## 9.6 External links

- [Guttmacher Institute](#)
- [Ipas](#)
- [Abortion Access and Information](#)
- [Australia’s Women’s Abortion Action Campaign](#)
- [Abortion Rights Campaign](#)

# Chapter 10

## Anti-abortion movements

“Pro-life” redirects here. For other uses, see [Pro-life \(disambiguation\)](#).

**Anti-abortion movements** are involved in the [abortion debate](#) advocating against the practice of [abortion](#) and its legality. Many anti-abortion movements began as [countermovements](#) in response to legalization of elective abortions.

### 10.1 Terminology

By some, especially in the media, the terms used in the debate are seen as [political framing](#): they are terms used to validate one’s own stance while invalidating the opposition’s. For example, the labels “[pro-choice](#)” and “[pro-life](#)” imply endorsement of widely held values such as [liberty](#) and [freedom](#), while suggesting that the opposition must be “[anti-choice](#)” or “[anti-life](#)” (alternatively “[pro-coercion](#)” or “[pro-death](#)”).<sup>[1]</sup> The *Associated Press* favors the terms “[abortion rights](#)” and “[anti-abortion](#)” instead.<sup>[2]</sup>

However, some in the “[pro-life](#)” movement view the term “[anti-abortion](#)” as an inaccurate media label as well. <sup>[3]</sup> For example, not all who would describe themselves as “[pro-life](#)” are opposed to abortion if the life of the mother is in certain danger. Also for many in the “[Pro-life](#)” movement, the word “[life](#)” reflects the core value and truth for which they sincerely believe their causes represents.<sup>[4]</sup> An argument can be made that human life begins before birth (i.e. at conception, when the genetic material which will develop into a fetus first assumes [zygote](#) form and acquires unique DNA) and that human life is valuable and worthy of protection at all stages. <sup>[5]</sup> This view is heavily influenced by religious belief in most cases, and there is significant philosophical dispute regarding whether human DNA acquires humanity and human rights upon first development, or upon fetal viability.

### 10.2 Philosophical and legal arguments

Main article: [Abortion debate](#)

Anti-abortion advocates cite numerous [moral and philosophical](#) arguments against both the acceptability or legality of abortion. Many advocates also hold [religious](#) objections to abortion.

### 10.3 Movements by country

#### 10.3.1 Europe



Each Life Matters *demonstration in Madrid, Spain, on 17 October 2009.*

In [Europe](#), abortion has been legalized through parliamentary acts. In Western Europe this has had the effect at once of both more closely regulating the use of abortion, and at the same time mediating and reducing the impact anti-abortion campaigns have had on the law.<sup>[6]</sup>

#### France

The first specifically pro-life organization in France, Laissez-les-vivre-SOS futures mères, was created in 1971 during the debate that was to lead to the [Veil Law](#) in 1975.

Its main spokesman was the geneticist **Jérôme Lejeune**. Since 2005, the French pro-life movement has organized an annual **March for Life**.<sup>[7]</sup>

### Ireland

There are two major pro-life groups in the Republic of Ireland, **Pro Life Campaign** and **Youth Defence**.

### Liechtenstein

In **Liechtenstein** an application to legalize abortions was rejected by a slim majority in a **referendum in 2011**. The opponents, which included Prince Alois, got 500 votes more and eventually settle at 52.3 percent compared with 47.7 percent.<sup>[8]</sup>

Prince Alois had announced the use of his veto in advance if necessary to prevent the introduction of abortion.<sup>[9]</sup>

### Spain

In **Spain**, over one million demonstrators took part in a march in **Madrid** in October 2009 to protest plans by the government of **José Luis Zapatero** to legalize elective abortions and eliminate parental consent restrictions.<sup>[10]</sup>

In 2010 1,067,315 Spaniards signed a petition against the liberal abortion policy of the socialist government. The petition was launched by the organizations “Derecho a vivir” (right to life) and “Hazteoir” (Let your voice be heard).<sup>[11]</sup>

### United Kingdom

In the **United Kingdom**, the most prominent pro-life organization is the **Society for the Protection of Unborn Children**. It was formed to “uphold the principle of respect for human life, in particular the life of the unborn child” at the time of the passage of the **1967 Abortion Act** which liberalized abortion law. It was the first such organization in the world.<sup>[12]</sup>

### 10.3.2 Israel

In Israel, the major pro-life organization is **Efrat**.<sup>[13]</sup> Efrat activists primarily raise funds to relieve the “financial and social pressures” on pregnant women so that they will not terminate their pregnancies.<sup>[14]</sup> Efrat is not known to do any other kind of activism.<sup>[13]</sup>

### 10.3.3 North and South America

#### Canada

The Canadian organization **Canada Silent No More** advocates legislation prohibiting late-term and partial birth abortions.<sup>[15]</sup>

### Chile

The Chilean movement it's called **Siempre por la Vida** (always for the life)

### United States

Main article: **United States pro-life movement**

The **United States pro-life movement** formed as a response to the landmark 1973 **Roe v. Wade** Supreme Court decision. A smaller movement is the **consistent life ethic** which started in 1983 and opposes all forms of killing including abortion.

## 10.4 See also

- **History of abortion law debate**
- **Philosophical aspects of the abortion debate**
- **Anti-abortion violence**
- **Crisis pregnancy center**
- **Pregnancy from rape#Opposition to legal abortion**
- **Fetal rights**

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## 10.6 External links

- List of international pro-life organizations

# Chapter 11

## Beginning of human personhood

For origins of humans as a species, see [Human evolution](#). The **beginning of human personhood** is the moment



*Human embryo at 8-cell stage*

when a **human** is first recognized as a **person**. There are differences of opinion as to the precise time when human **personhood** begins and the nature of that status. The issue arises in a number of fields including science, religion, philosophy, and law, and is most acute in debates relating to **abortion**, **stem cell research**, **reproductive rights**, and **fetal rights**.

### 11.1 Scope

Traditionally, the concept of **personhood** has entailed the concept of **soul**, a **metaphysical** concept referring to a non-corporeal or extra-corporeal dimension of **human being**. However, in **modernity**, the concepts of **subjectivity** and **intersubjectivity**, **personhood**, **mind**, and **self** have come to encompass a number of aspects of human being previously considered to be characteristics of the **soul**.<sup>[1][2]</sup> With regards to the beginning of human personhood, one historical question has been: when does the **soul enter the body**? In modern terms, the question could be put instead: at what point does the developing individual develop personhood or selfhood?<sup>[3]</sup>

Related issues attached to the question of the beginning of human personhood include both the legal status, bod-

ily integrity, and subjectivity of mothers<sup>[4]</sup> and the philosophical concept of “natality” (i.e. “the distinctively human capacity to initiate a new beginning”, which a new human life embodies).<sup>[5]</sup>

### 11.2 Philosophical and religious perspectives

Answers to the question of when human life begins and when personhood begins have varied among social contexts, and have changed with shifts in ethical and religious beliefs, sometimes as a result of advances in scientific knowledge; in general they have developed in parallel with attitudes to **abortion**<sup>[6]</sup> and to the use of **infanticide** as a means of reproductive control.

Neil Postman has written that in pre-modern societies, the lives of children were not regarded as unique or valuable in the same way they are in modern societies, in part as a result of high **infant mortality**. However, when childhood began to develop its own distinctive features (including graded schools to teach reading, children’s stories, games, etc.) this view changed. According to Postman, “the custom of celebrating a child’s birthday did not exist in America throughout most of the eighteenth century, and, in fact, the precise marking of a child’s age in any way is a relatively recent cultural habit, no more than two hundred years old.”<sup>[7]</sup>

Ancient writers held diverse views on the subject of the beginning of personhood, understood as the soul’s entry or development in the human body. In *Panpsychism in the West*, David Skrbina noted the various kinds of soul envisioned by the early Greeks.

Generally, the question of the ensoulment of the fetus revolved around the question of when the rational soul entered the body, whether it was an integral part of the bodily form and substance, or whether it was pre-existent and subject to **reincarnation** or **pre-existence**.

The Stoics, holding a belief in the **pneuma**, held that the soul enters the body when the newborn takes its first breath.

**Aristotle** developed a theory of progressive ensoulment.

In *On the Generation of Animals*, he declared that the soul develops first a vegetative soul, then animal, and finally human, adding that abortions were permissible early in pregnancy, before certain biological processes began. He believed that the female substance was passive, the male active, and that it required time for the male substance to “animate” the whole.

Hippocrates and the Pythagoreans stated that fertilization marked the beginning of a human life, and that the human soul was created at the time of fertilization.

According to *Hinduism Today*, Vedic literature states that the soul enters the body at conception.

Concepts of pre-existence is found in various forms in Plato, Judaism, and Islam.

The Jewish Talmud holds that all life is precious but that a fetus is not a person, in the sense of termination of pregnancy being considered murder. If a woman’s life is endangered by a pregnancy, an abortion is permitted. However, if the “greater part” of the fetus has emerged from the womb, then its life may not be taken even to save the woman’s, “because you cannot choose between one human life and another”.<sup>[8]</sup>

Some medieval Christian theologians, such as Marsilio Ficino, held that ensoulment occurs when an infant takes its first breath of air. They cite, among other passages, Genesis 2:7, which reads: “And the Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living soul.”<sup>[9]</sup>

The Early Church held various views on the subject, primarily either the ensoulment at conception or delayed hominization. Tertullian held a view, traducianism, which was later condemned as heresy. This view held that the soul was derived from the parents and generated in parallel with the generation of the physical body. This viewpoint was deemed unsatisfactory by St. Augustine, as it did not account for original sin. Basing himself on the Septuagint version of Exodus 21:22, he affirmed the Aristotelian view of delayed hominization.

St. Thomas Aquinas and St. Augustine of Hippo held the view that fetuses were “animated” (using Aristotle’s term for ensoulment) near the 40th day after conception.<sup>[6]</sup> However, both held that abortion was always gravely wrong.<sup>[10][11][12]</sup>

In general, the soul was viewed as some kind of animating principle; and the human variety was referred to as the “rational soul”.

## 11.3 Fetal personhood in law

### 11.3.1 Ecclesiastical courts

Following the decline of the Roman Empire, ecclesiastical courts held wide jurisdiction through-

out Europe. According to Donald DeMarco, PhD,<sup>[13]</sup> the Church treated the killing of an unformed or “unanimated” fetus as a matter of “anticipated homicide”, with a corresponding lesser penance required. In the *Catechism of the Catholic Church*, the following statement regarding the beginning of human life and personhood is provided:

Human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person - among which is the inviolable right of every innocent being to life.<sup>[14]</sup>

### 11.3.2 Common law

Although abortion in the United Kingdom was traditionally dealt with in the ecclesiastical courts, English common law addressed the issue from 1115 on, beginning with first mention in *Leges Henrici Primi*. In this treatise, abortion, even of a “formed” fetus, was a “quasi-homicide”, carrying a penalty of 10 years’ penance. This was a much lesser penalty than would accrue to full homicide. With the exception of Bracton, later writers insisted that killing a fetus was “great misprision, and no murder”, as formulated by Sir Edward Coke in his *Institutes of the Lawes of England*. Coke noted that the murder victim must have been “a reasonable creature in *rerum natura*”, in accordance with the standards of murder in English law. This formulation was repeated by Sir William Blackstone in England and in *Bouvier’s Law Dictionary* in the United States.

The reasonableness of the creature is of some considerable weight in the legal conception of personhood. Children are not considered full persons under the law until they reach the age of majority.

Nonetheless, children have been treated as persons with respect to bodily offences, beginning with *Offences against the Person Act 1828*, although this protection did not prevent children from being sold by their parents, as in the *Eliza Armstrong case*, long after the slave trade had been abolished in England.

## 11.4 Biological markers

One of the possible basic requirements for personhood is individuality, which entails differentiation between the person and its parents. Biology offers a number of stages in the life cycle that have been seen as candidates for personhood:

- fertilization, the fusing of the gametes to form a zygote

- implantation, occurring about a week after fertilization
- segmentation, after twinning is no longer possible.
- when the heart begins to beat
- neuromaturation, when the central nervous system of fetus is neurobiologically “mature”<sup>[15]</sup>
  - “brain birth” concepts (compare with brain death):
    - at the first appearance of brain waves in lower brain (brain stem) - 6–8 weeks of gestation (paralleling “whole brain death”)
    - at the first appearance of brain waves in higher brain (cerebral cortex) - 22–24 weeks of gestation (paralleling “higher brain death”)<sup>[16][17]</sup>
- the time of fetal movement, or “quickening”
- when the fetus is first capable of feeling pain
- when it can be established that the fetus is capable of cognition, or neonatal perception
- fetal viability
- birth
- post-birth development stages

### 11.4.1 Fertilization

Fertilization is the fusing of the gametes, that is a sperm cell and an ovum (egg cell), to form a zygote. At this point, the zygote is genetically distinct from either of its parents. Many members of the medical community accept fertilization as the point at which life begins. Dr. Bradley M. Patten from the University of Michigan wrote in *Human Embryology* that the union of the sperm and the ovum “initiates the life of a new individual” beginning “a new individual life history.” In the standard college text book *Psychology and Life*, Dr. Floyd L. Ruch wrote “At the time of conception, two living germ cells—the sperm from the father and the egg, or ovum, from the mother—unite to produce a new individual.” Dr. Herbert Ratner wrote that “It is now of unquestionable certainty that a human being comes into existence precisely at the moment when the sperm combines with the egg.” This certain knowledge, Ratner says, comes from the study of genetics. At fertilization, all of the genetic characteristics, such as the color of the eyes, “are laid down determinatively.” James C. G. Conniff noted the prevalence of the above views in a study published by *The New York Times Magazine* in which he wrote, “At that moment conception takes place and, scientists generally agree, a new life begins—silent, secret, unknown.”<sup>[18]</sup>

The view that life begins at fertilization reached acceptance from mainstream sources at one point. In 1967, New York City school officials launched a large sex education program. The fifth grade text book stated “Human life begins when the sperm cells of the father and the egg cells of the mother unite. This union is referred to as fertilization. For fertilization to take place and a baby to begin growing, the sperm cell must come in direct contact with the egg cell.” Similarly, a text book used in Evanston, Illinois stated: “Life begins when a sperm cell and an ovum (egg cell) unite.”<sup>[19]</sup> Catholic philosopher Peter Kreeft goes so far as to say:<sup>[20]</sup>

Well, every biology textbook in the world, before *Roe v. Wade*, was not in doubt in answering the question, “When does an individual life of any mammalian species begin?” The answer is, “When the genetic code is complete.” When instead of the haploid ovum and the haploid sperm, you get the diploid embryo. And at that point, something happens that is totally different, because the thing that’s there seems totally different.

One objection raised to the fertilization view is that not all of the objects created by the union of a sperm and an egg are human beings. Objects such as hydatidiform moles, choriocarcinomas, and blighted ovums are clearly not. Neither will every normal zygote develop into an adult. There are many fertilized eggs that never implant and are “simply washed away” after conception,<sup>[21]</sup> though this can be answered by the fact that not every child becomes an adult; organisms die at various developmental stages. Therefore, within the fertilization view, these objects may be recognized as malformations of the fertilized sperm and egg. The indication of these objects itself seems to evidence the fact that they are aberrations from nature, rather than the norm.

The unique genetic identity of the zygote is also challenged. In fertilization, chromosomes from each parent are combined in the same cell nucleus but remain independent; every chromosome in a diploid cell can be traced to one parent and not the other. Only during meiosis, in which gametes are formed, do these chromosomes cross over, exchanging bits of DNA to form unique genes not found in either parent, though this objection would also apply to the genome of an adult. However, gametes are not commonly considered to have personhood, perhaps because most of them are never involved in fertilization.

Biopsychologist Michael Gazzaniga has stated that an embryo or early fetus may be compared to a not-yet-constructed house:

You don't walk into a Home Depot and see thirty houses. You see materials that need architects, carpenters, electricians, and plumbers to create a house. An egg and a sperm are not a

human. A fertilized embryo is not a human—it needs a uterus, and at least six months of gestation and development, growth and neuron formation, and cell duplication to become a human. To give an embryo created for biomedical research the same status even as one created for in vitro fertilization (IVF), let alone one created naturally, is patently absurd. When a Home Depot burns down, the headline in the paper is not “30 Houses Burn Down.” It is “Home Depot Burned Down.”<sup>[22]</sup>

Others have disputed this view. Law professor and ethicist Richard Stith has written that the proper word for the growth of a fetus is not construction, as of a house or car, but development, as of a (pre-digital-era) photograph or a tree sapling:

Human beings do develop. To think they are constructed is flatly erroneous.... We know with certainty that quickening is an illusion, that the child is developing from the beginning, not being made from the outside, for its form lies within it, in its active potency, in its activated DNA.<sup>[23]</sup>

That a human individual’s existence begins at conception is the accepted position of the **Roman Catholic Church**, whose **Pontifical Academy for Life** declared: “The moment that marks the beginning of the existence of a new ‘human being’ is constituted by the penetration of sperm into the **oocyte**. Fertilization promotes a series of linked events and transforms the egg cell into a ‘zygote’.”<sup>[24]</sup> The more authoritative **Congregation for the Doctrine of the Faith** also has stated and reaffirmed: “From the time that the ovum is fertilized, a new life is begun which is neither that of the father nor of the mother; it is rather the life of a new human being with his own growth.”<sup>[25]</sup> Eastern Orthodox churches and most of the more conservative Protestant denominations also teach this view of life.

## 11.4.2 Implantation

In his book *Aborting America*, Bernard Nathanson argued that implantation should be considered the point at which life begins.<sup>[26]</sup>

Biochemically, this is when alpha announces its presence as part of the human community by means of its hormonal messages, which we now have the technology to receive. We also know biochemically that it is an independent organism distinct from the mother. [Note: in writing the book, “alpha” was Nathanson’s term for any human before birth.]

## 11.4.3 Segmentation

For fourteen to twenty-one days after fertilization, an embryo may segment and form twins, triplets, etc. Some argue that an early embryo cannot be a person because “If every person is an individual, one cannot be divided from oneself.”<sup>[27]</sup>

However, Fr. Norman Ford stated that “the evidence would seem to indicate *not* that there is *no* individual at conception, but that there is at least one and possibly more.” He went on to support the idea that, similar to processes found in other species, one twin could be the parent of the other **asexually**. Theodore Hall agreed with the plausibility of this explanation saying, “We wonder if the biological process in twinning isn’t simply another example of how nature reproduces from other individuals without destroying that person’s or persons’ individuality.”<sup>[28]</sup>

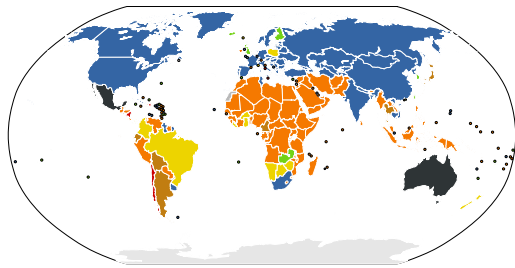
## 11.4.4 Brain function (brain birth)

In the years since the designation of brain death as a new criterion for death, attention has been directed towards the central role of the nervous system in a number of areas of ethical decision-making. The notion that there exists a neurological end-point to human life has led to efforts at defining a corresponding neurological starting-point. This latter quest has led to the concept of brain birth (or brain life), signifying the converse of **brain death**. The quest for a neurological marker of the beginning of human personhood owes its impetus to the perceived symmetry between processes at the beginning and end of life, thus if brain function is a criterion used to determine the medical death of a person, it should also be the criterion for its beginning.

Just as there are two types of brain death - whole brain death (which refers to the irreversible cessation of function of both the **brain stem** and higher parts of the brain) and higher brain death (destruction of the cerebral hemispheres alone, with possible retention of brain stem function), there are two types of brain birth (based on their reversal) - brain stem birth at the first appearance of brain waves in lower brain (brain stem) at 6–8 weeks of gestation, and higher brain birth, at the first appearance of brain waves in higher brain (**cerebral cortex**) at 22–24 weeks of gestation.<sup>[17]</sup>

## 11.4.5 Fetal viability

Until the fetus is viable, any rights granted to it may come at the expense of the pregnant woman, simply because the fetus cannot survive except within the woman’s body. Upon viability, the pregnancy can be terminated, as by a **c-section** or **induced labor**, with the fetus surviving to become a newborn infant. Several groups believe that abortion before viability is acceptable, but is unacceptable after.<sup>[31]</sup> In some countries, early abortions are legal



*International status of abortion law*  
*UN 2013 report on abortion law.*<sup>[29]</sup>

*Legal on request*

*Legal for maternal life, health, mental health, rape, fetal defects, and/or socioeconomic factors*

*Illegal with exception for maternal life, health, mental health, rape, and/or fetal defects*

*Illegal with exception for maternal life, health, mental health, and/or rape*

*Illegal with exception for maternal life, health, and/or mental health*

*Illegal with no exceptions*

*Varies*

*No information*<sup>[30]</sup>

in all circumstances, but late-term abortions are limited to circumstances where there is a clear medical need.

## 11.5 Other markers

There are also other ideas of when personhood is achieved:

- at ensoulment
- at “formation” – an early concept of bodily development (see Preformationism).
- at the emergence of consciousness
- at the emergence of rationality (see Kant)

Human personhood may also be seen as a work-in-progress, with the beginning being a continuum rather than a strict point in time.<sup>[32]</sup>

### 11.5.1 Individuation

Philosophers such as Aquinas use the concept of individuation. In regard to the abortion debate, they argue that abortion is not permissible from the point at which individual human identity is realised. Anthony Kenny argues that this can be derived from everyday beliefs and language and one can legitimately say “if my mother had had an abortion six months into her pregnancy, she would have killed me” then one can reasonably infer that at six months the “me” in question would have

been an existing person with a valid claim to life. Since division of the zygote into twins through the process of monozygotic twinning can occur until the fourteenth day of pregnancy, Kenny argues that individual identity is obtained at this point and thus abortion is not permissible after two weeks.<sup>[33]</sup>

## 11.6 Ethical perspectives

The distinction in ethical value between existing persons and potential future persons has been questioned.<sup>[34]</sup> Subsequently, it has been argued that contraception and even the decision not to procreate at all could be regarded as immoral on a similar basis as abortion.<sup>[35]</sup> Subsequently, any marker of the beginning of human personhood doesn't necessarily mark where it is ethically right or wrong to assist or intervene. In a consequentialistic point of view, an assisting or intervening action may be regarded as basically equivalent whether it is performed before, during or after the creation of a human being, because the end result would basically be the same, that is, the existence or non-existence of that human being. In a view holding value in bringing potential persons into existence, it has been argued to be justified to perform abortion of an unintended pregnancy in favor for conceiving a new child later in better conditions.<sup>[36]</sup>

## 11.7 Legal perspectives

### 11.7.1 United States

In 1973, Harry Blackmun wrote the court opinion for *Roe v. Wade*, saying “We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate.”

In 2003, the Partial-Birth Abortion Ban Act was enacted, which prohibits an abortion if “either the entire baby's head is outside the body of the mother, or any part of the baby's trunk past the navel is outside the body of the mother.”<sup>[37]</sup>

In 2004, President George W. Bush signed the Unborn Victims of Violence Act into law.<sup>[38]</sup> The law effectively extends personhood status<sup>[39]</sup> to a “child in utero at any stage of development, who is carried in the womb”<sup>[40]</sup> if they are targeted, injured or killed during the commission of any of over 60 listed violent crimes. The law also prohibits the prosecutions of “any person for conduct relating” to a legally consented to abortion.

Today, 38 U.S. States legally recognize a human fetus or “unborn child” as a crime victim, at least for the purpose of homicide or feticide laws.<sup>[41]</sup> Giving a fetus the status

of person could lead to many more legal issues and complications than most people realize. “Further, a prenatal personhood measure might subject a woman who suffers a pregnancy-related complication or a miscarriage to criminal investigations and possibly jail time for homicide, manslaughter or reckless endangerment. And because so many laws use the terms “persons” or “people,” a prenatal personhood measure could affect large numbers of a state’s laws, changing the application of thousands of laws and resulting in unforeseeable, unintended, and absurd consequences.” [42]

Some U.S. States have enacted laws specifically defining human life to begin at fertilization. Kansas enacted such a law in 2013.<sup>[43]</sup> Other states have enacted laws prohibiting the killing of a fetus with a heartbeat.<sup>[44]</sup>

## 11.8 See also

- Beginning of pregnancy controversy
- Human
- Human life
- Fetal rights
- Abortion debate
  - Philosophical aspects of the abortion debate
- Reincarnation
- Traducianism
- Sorites paradox

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# Chapter 12

## Fetal rights

**Fetal rights** are moral or legal rights of human fetuses. Laws and topics related to fetal rights include abortion and assault.

### 12.1 Fetal protection in law

Some laws seek to protect or otherwise recognize the fetus. Some of these grant recognition under specific conditions: the fetus can legally be a victim of a crime such as feticide, a beneficiary of insurance or social assistance, or an inheritor of property.

- The American Convention on Human Rights is a treaty signed by 24 Latin American countries in 1969, which states that from the moment of conception, human beings have rights. It came into force in 1978.
- The *Unborn Victims of Violence Act* is a United States law introduced into Congress in 1999 which defines violent assault committed against pregnant women as being a crime against two victims: the woman and the fetus she carries.<sup>[1]</sup> This law was passed in 2004 after the murder of Laci Peterson and the fetus she was carrying.
- In 2002, U.S. President George W. Bush announced a plan to ensure health care coverage for fetuses under the State Children's Health Insurance Program (SCHIP).<sup>[2]</sup>
- Iranian law holds that anyone who brings about a miscarriage must pay a monetary fine, which varies depending upon the stage of development and/or sex of the fetus, in compensation.<sup>[3]</sup>
- The Hungarian constitution enacted in 2011 states that the human life will be protected from the moment of conception.

#### 12.1.1 Right-to-life and legal personhood

Legislative measures sometimes seek to establish a right to life of the fetus from the moment of fertilization. These



*United States President George W. Bush signs the Unborn Victims of Violence Act of 2004*

laws protect the fetus as another member of society.

- The 1978 American Convention on Human Rights states, in Article 4.1, "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception." The Convention is considered binding only for the 24 of 35 member nations of the Organization of American States who ratified it.
- In 1983, the Eighth Amendment of the Constitution of Ireland, also known as the "Pro-Life Amendment", was added to the Constitution of the Ireland by popular referendum. The new Article 40.3.3° read "The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right."
- In 1993, the Federal Constitutional Court of Germany held that the constitution guaranteed a right to life from conception, but that it is within the discretion of parliament not to punish abortion in the first trimester, providing that women agreed to undergo special counselling designed to discourage termination and "protect unborn life". The intermediate decision was the result of an attempt to join

East Germany's abortion law to that of West Germany after reunification in 1990.

Other governments have laws in place that state that fetuses are not legally recognized persons:

- In Canadian law, under section 223 of the *Criminal Code*, a fetus is a “human being ... when it has completely proceeded, in a living state, from the body of its mother whether or not it has completely breathed, it has an independent circulation or the navel string is severed.”<sup>[4]</sup>

Much opposition to legal abortion in the West is based on a concern for fetal rights. Similarly many pro-choice groups oppose fetal rights, even when they do not impinge directly on the abortion issue, because they perceive this as a slippery slope strategy to restricting abortions.<sup>[5]</sup>

Most recently, as of November 5th, 2014 two personhood amendments have been struck down in North Dakota and Colorado. “In Colorado, Amendment 67—which sought to update the state’s criminal code to define fetuses as children—failed by a large 64 percent to 36 percent margin. It marks the third time that Colorado voters have rejected personhood. Reproductive rights advocates are celebrating the defeat of both measures as an important victory against personhood.”<sup>[6]</sup>

## 12.2 Behavioral intervention

Various initiatives, prompted by concern for the ill effects which might be posed to the health or development of a fetus, seek to restrict or discourage women from engaging in certain behaviors while pregnant. Also, in some countries, laws have been passed to restrict the practice of abortion based upon the gender of the fetus.

- Many jurisdictions actively warn against the consumption of alcoholic beverages by pregnant women, recommending a maximum intake or total abstinence, due to its association with Fetal alcohol syndrome. Countries that encourage those who are pregnant to avoid alcohol either entirely or partially include Australia, Canada, France, Iceland, Israel, the Netherlands, Norway, New Zealand, Spain, the United Kingdom, and the United States.
- Many national and international agencies recommend dietary guidelines for pregnant women due to the health risks posed by the consumption of fish contaminated with methylmercury through industrial pollution. Studies have linked exposure to various levels of methylmercury in utero to neurological disorders in children.

- The use of tobacco products or exposure to secondhand smoke during pregnancy has been linked to low birth weight.<sup>[7]</sup> Governor Mike Huckabee of Arkansas, citing studies which attribute 10% of infant deaths to tobacco-smoking mothers, considered adopting a smoking ban for pregnant women in 2006 with the aim of reducing infant mortality.<sup>[8]</sup>

• *See also: Smoking and pregnancy*

- No U.S. state has enacted a law which criminalizes specific behavior during pregnancy, but, nonetheless, it has been estimated that at least 200 American women have been criminally prosecuted or arrested under existing child abuse statutes for allegedly bringing about harm in-utero through their conduct during pregnancy.<sup>[9]</sup> Reasons for pressing charges included use of illicit drugs, consumption of alcohol, and failure to comply with a doctor’s order of bedrest or caesarean section.<sup>[9]</sup> Drug addicts have been accused of “supplying drugs to a minor” through unintentional chemical subjection via the umbilical cord.<sup>[9]</sup> Others have been charged with assault with a deadly weapon with the “deadly weapon” in question being an illegal drug.<sup>[9]</sup> Minnesota, Wisconsin and South Dakota allow women who continue to use substances while pregnant to be civilly committed.<sup>[9]</sup> Some states require that medical providers report any infant who is born with a physical dependency, or who tests positive for residual traces of alcohol or drugs, to child welfare authorities.

- Cultural preferences for male children in some parts of Asia, such as Mainland China, India, South Korea, and Taiwan, have sometimes led to sex-selective abortion of female fetuses, leading to the disparity between male-to-female birth rates which is observed in some places. India banned the practice of abortion for reasons of fetal sex in 1994.<sup>[10]</sup>

### 12.2.1 Example cases

- Jennifer Johnson of Seminole County, Florida was convicted under a drug trafficking law in 1989. It was alleged that, in consuming cocaine during her pregnancy, she had delivered a controlled substance to a minor via the umbilical cord. She was sentenced to one-year in a drug treatment program, 14 years probation, and 200 hours of community service. Johnson appealed and Supreme Court of Florida overturned its decision to convict her in 1992.<sup>[11]</sup>
- Cornelia Whitner of Central, South Carolina pled guilty in 1992 to a charge of criminal child neglect after she was discovered to have used cocaine while pregnant. Sentenced to eight years in prison, she petitioned the Court of Appeals 16 months later,

claiming that she had been given ineffective counsel because her lawyer had failed to inform her that the charges laid against her might not be applicable given the legal status of a fetus. However, in the 1997 case *Whitner v. South Carolina*, the Supreme Court of South Carolina upheld its prosecution of Whitner.<sup>[12][13][14]</sup>

- A woman from Winnipeg, Manitoba who had an inhalant addiction in 1996. She had three previous children, and, when she became pregnant a fourth time, Winnipeg Child and Family Services sought a court order permitting her to be committed to a drug rehabilitation facility for the remaining duration of her pregnancy. A judge agreed that the woman should be taken into custody. However, the decision was overturned by the Manitoba Court of Appeal.<sup>[15]</sup>
- Brenda Drummond, 29, of Carleton Place, Ontario tried to abort at 9 months on 28 May 1996 by introducing a pellet gun in her vagina and shooting her fetus in the head. Attempted murder charges against her were dropped since the definition of “human being” in the Canadian Criminal Code doesn't include fetuses. She was later sentenced to 30 months probation for “failing to provide the necessities of life” for having failed to report the injury immediately after her son’s birth.<sup>[16][17]</sup>
- Melissa Ann Rowland of Salt Lake City, Utah was charged with murder in 2004 after her refusal to undergo a caesarean section resulted in one of the two in her twin pregnancy being stillborn.<sup>[18]</sup> Rowland was later sentenced to 18 months probation as a result of secondary charge of child endangerment.<sup>[19]</sup>
- Gov. Jeb Bush sought appointment of a legal guardian to protect the fetus of a developmentally-disabled rape victim in 2003. The woman, who could not assist police in identifying her assailant, was raped while living in a group home in Orlando, Florida.<sup>[20]</sup> She gave birth to a child in September 2003.<sup>[21]</sup>

## 12.3 See also

- Born alive rule
- Children’s rights
- Embryo adoption
- Nutrition and pregnancy
- Prenatal care
- Reproductive justice
- Stem cell controversy
- Women’s reproductive rights

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## Chapter 13

# Philosophical aspects of the abortion debate

The **philosophical aspects of the abortion debate** are presented in the form of a number of **logical arguments** which can be made in support of or opposition to **abortion**.

### 13.1 Overview

The **philosophical arguments** in the **abortion debate** are **deontological** or rights-based. The view that all or almost all abortion should be illegal generally rests on the claims: (1) that the existence and moral right to life of human beings (human organisms) begins at or near conception-fertilization; (2) that induced abortion is the deliberate and unjust killing of the **embryo** in violation of its right to life; and (3) that the law should prohibit unjust violations of the right to life. The view that abortion should in most or all circumstances be legal generally rests on the claims: (1) that women have a right to control what happens in and to their own bodies; (2) that abortion is a just exercise of this right; and (3) that the law should not criminalize just exercises of the right to control one's own body and its life-support functions.

Although both sides are likely to see the rights-based considerations as paramount, some popular arguments appeal to **consequentialist** or **utilitarian** considerations. For example, pro-life advocacy groups (see the list below) sometimes claim the existence of **post-abortion syndrome** or a **link between abortion and breast cancer**, alleged medical and psychological risks of abortion. On the other side, pro-choice groups (see the list below) say that criminalizing abortion will lead to the deaths of many women through "**back-alley abortions**"; that unwanted children have a negative social impact (or conversely that **abortion lowers the crime rate**); and that **reproductive rights** are necessary to achieve the full and equal participation of women in society and the workforce. Consequentialist arguments on both sides tend to be vigorously disputed, though are not widely discussed in the philosophical literature.

### 13.2 Philosophical argumentation on the moral issue

Contemporary philosophical literature contains two kinds of arguments concerning the morality of abortion. One family of arguments (see the following three sections) relates to the moral status of the embryo—the question of whether the embryo has a right to life, is the sort of being it would be seriously wrong to kill, or in other words is a “person” in the moral sense. An affirmative answer would support claim (1) in the central pro-life argument, while a negative answer would support claim (2) in the central pro-choice argument.

Another family of arguments (see the section on Thomson, below) relates to bodily rights—the question of whether the woman's bodily rights justify abortion *even if* the embryo has a right to life. A negative answer would support claim (2) in the central pro-life argument, while an affirmative answer would support claim (2) in the central pro-choice argument.

#### 13.2.1 Arguments based on criteria for personhood

Further information: **Beginning of human personhood**

Mary Anne Warren, in her article arguing for the permissibility of abortion,<sup>[1]</sup> holds that moral opposition to abortion is based on the following argument:

1. It is wrong to kill innocent human beings.
2. The embryo is an innocent human being.
3. Hence it is wrong to kill the embryo.

Warren, however, thinks that “human being” is used in different senses in (1) and (2). In (1), “human being” is used in a moral sense to mean a “person”, a “full-fledged member of the moral community”. In (2), “human being” means “biological **human**”. That the embryo is a biologically human organism or animal is uncontroversial,

Warren holds. But it does not follow that the embryo is a person, and it is persons that have rights, such as the right to life.<sup>[2]</sup>

To help make a distinction between “person” and “biological human”, Warren notes that we should respect the lives of highly intelligent *aliens*, even if they are not biological humans. She thinks there is a cluster of properties that characterize persons:<sup>[3]</sup>

1. *consciousness* (of objects and events external and/or internal to the being), and in particular the capacity to feel pain
2. *reasoning* (the *developed* capacity to solve new and relatively complex problems)
3. self-motivated *activity* (activity which is relatively independent of either genetic or direct external control)
4. the capacity to *communicate*, by whatever means, messages of an indefinite variety of types, that is, not just with an indefinite number of possible contents, but on indefinitely many possible topics
5. the presence of self-concepts, and *self-awareness*, either individual or racial, or both

A person does not have to have each of these, but if something has all five then it definitely is a person whether it is biologically human or not, while if it has none or perhaps only one then it is not a person, again whether it is biologically human or not. The fetus has at most one, *consciousness* (and this only after it becomes *susceptible to pain*—the timing of which is disputed), and hence is not a person.<sup>[4]</sup>

Other writers apply similar criteria, concluding that the embryo lacks a right to life because it lacks self-consciousness,<sup>[5]</sup> or rationality and self-consciousness,<sup>[6]</sup> or “certain higher psychological capacities” including “autonomy”.<sup>[7]</sup>

Others conclude that personhood should be based on “brain birth” concept, which is in essence the reversal of the *brain death* used as a modern definition of medical *death*. Under this proposal, presence of brain waves would be enough to grant personhood, even with other features lacking. Based on whether brain activity in the *brain stem*, or just in the *cerebral cortex*, is relevant for personhood, two concepts of “brain birth” emerge:<sup>[8]</sup>

- at the first appearance of brain waves in lower brain (brain stem) - 6–8 weeks of gestation (paralleling “whole brain death”)
- at the first appearance of brain waves in higher brain (cerebral cortex) - 22–24 weeks of gestation (paralleling “higher brain death”)<sup>[9]</sup>

These writers disagree on precisely *which* features confer a right to life,<sup>[10]</sup> but agree those features must be certain *developed* psychological or physiological features which the embryo lacks.

Warren’s arguments face two main objections. The **comatose patient** objection claims that as patients in a reversible *coma* do not satisfy Warren’s (or some other) criteria—they are not conscious, do not communicate, and so on—therefore they would lack a right to life on her view.<sup>[11]</sup> One response is that “although the reversibly comatose lack any *conscious* mental states, they do retain all their *unconscious* [or *dispositional*] mental states, since the appropriate neurological configurations are preserved in the brain.”<sup>[12]</sup> This may allow them to satisfy some of Warren’s criteria. The comatose also still possess brain activity (*brain waves*), so this objection does not apply to “brain birth” theories. Finally, there are some post-natal humans who are unable to feel pain due to genetic disorders and thus do not satisfy all of Warren’s criteria.<sup>[13]</sup>

The **infanticide** objection points out that infants (indeed up to about one year of age, since it is only around then that they begin to outstrip the *abilities* of non-human animals) have only one of Warren’s characteristics—*consciousness*—and hence would have to be accounted non-persons on her view; thus her view would permit not only abortion but *infanticide*. Warren agrees that infants are non-persons (and so killing them is not strictly murder), but denies that infanticide is generally permissible.<sup>[14]</sup> For, Warren claims, once a human being is born, there is no longer a conflict between it and the woman’s rights, since the human being can be given up for *adoption*. Killing such a human being would be wrong, not because it is a person, but because it would go against the desires of people willing to adopt the infant and to pay to keep the infant alive.

Nonetheless, Warren grants that her argument *entails* that infanticide would be morally acceptable under some circumstances, such as those of a desert island. Philosopher **Peter Singer** similarly concludes that infanticide, particularly of severely *disabled* infants, is justifiable under certain conditions.<sup>[15]</sup> And Jeff McMahan grants that under very limited circumstances it may be permissible to kill one infant to save the lives of several others.<sup>[16]</sup> Opponents may see these concessions as a *reductio ad absurdum* of these writers’ views; while supporters may see them merely as examples of unpleasant acts being justified in unusual cases.

Since brain waves appear in the lower brain (brain stem) in 6–8 weeks of gestation, and in the higher brain (cerebral cortex) in 22–24 weeks of gestation, both “whole brain” and “higher brain” brain birth personhood concepts based on the presence of brain waves do not permit infanticide.<sup>[8]</sup>

### 13.2.2 The natural capacities view

Some opponents of Warren's view believe that what matters morally is not that one be *actually exhibiting* complex mental qualities of the sort she identifies, but rather that one have in oneself a self-directed genetic propensity or **natural capacity** to develop such qualities. In other words, what is crucial is that one be the *kind* of entity or **substance** that, under the right conditions, actively develops itself to the point of exhibiting Warren's qualities at some point in its life, even if it does not *actually* exhibit them because of not having developed them yet (embryo, infant) or having lost them (severe **Alzheimer's**). Because human beings do have this natural capacity—and indeed have it *essentially*—therefore (on this view) they *essentially* have a right to life: they could not possibly *fail* to have a right to life.<sup>[17]</sup> Further, since modern **embryology** shows that the embryo begins to exist at conception and has a natural capacity for complex mental qualities, therefore the right to life begins at conception.

Grounding the right to life in essential *natural* capacities rather than accidental *developed* capacities is said to have several advantages.<sup>[18]</sup> As developed capacities are on a continuum, admitting of greater and lesser degrees—some, for example, are more rational and self-conscious than others—therefore: (1) the “developed capacities” view must *arbitrarily* select some particular degree of development as the cut-off point for the right to life—whereas the “natural capacities” view is non-arbitrary; (2) those whose capacities are *more* developed would have *more* of a right to life on the ‘developed capacities’ view—whereas the “natural capacities” view entails we all have an *equal* right to life; and (3) the continuum of developed capacities makes the exact point at which personhood ensues vague, and human beings around that point, say between one and two years of age, will have a shadowy or **indeterminate** moral status—whereas there is no such indeterminacy on the “natural capacities” view.<sup>[19]</sup>

Some defenders of Warren-style arguments grant that these problems have not yet been fully solved,<sup>[20]</sup> but reply that the “natural capacities” view fares no better. It is argued, for example, that as human beings vary significantly in their natural cognitive capacities (some are **naturally** more intelligent than others), and as one can imagine a series or spectrum of species with gradually diminishing natural capacities (for example, a series from humans down to **amoebae** with only the slightest differences in natural capacities between each successive species), therefore the problems of arbitrariness and inequality will apply equally to the “natural capacities” view.<sup>[21]</sup> In other words, there is a continuum not only of developed but of *natural* capacities, and so the “natural capacities” view will inevitably face these problems as well.

Some critics reject the “natural capacities” view on the basis that it takes mere species membership or genetic potential as a basis for respect (in essence a charge of

**speciesism**),<sup>[22]</sup> or because it entails that **anencephalic** infants and the **irreversibly comatose** have a full right to life.<sup>[23]</sup> Moreover, as with Marquis's argument (see below), some theories of **personal identity** would support the view that the embryo will never *itself* develop complex mental qualities (rather, it will simply give rise to a distinct substance or entity that *will* have these qualities), in which case the “natural capacities” argument would fail. Respondents to this criticism argue that the noted human cases in fact would not be classified as persons as they do not have a natural capacity to develop any psychological features.<sup>[24][25][26]</sup>

### 13.2.3 The deprivation argument

A seminal essay by **Don Marquis** argues that abortion is wrong because it deprives the embryo of a valuable future.<sup>[27]</sup> Marquis begins by arguing that what makes it wrong to kill a normal adult human being is the fact that the killing inflicts a terrible harm on the victim. The harm consists in the fact that “when I die, I am deprived of all of the value of my future”.<sup>[28]</sup> I am deprived of all the valuable “experiences, activities, projects, and enjoyments” that I would otherwise have had.<sup>[29]</sup> Thus, if a being has a highly valuable future ahead of it—a “future like ours”—then killing that being would be seriously harmful and hence seriously wrong.<sup>[30]</sup> But then, as a standard embryo *does* have a highly valuable future, killing it *is* seriously wrong.<sup>[31]</sup> And so “the overwhelming majority of deliberate abortions are seriously immoral”, “in the same moral category as killing an innocent adult human being”.<sup>[32]</sup>

A consequence of this argument is that abortion is wrong in all the cases where killing a child or adult with the same sort of future as the embryo would be wrong. So for example, *if* involuntary **euthanasia** of patients with a future filled with intense physical pain is morally acceptable, aborting embryos whose future is filled with intense physical pain will also be morally acceptable. But it would not do, for example, to invoke the fact that some embryo's future would involve such things as being raised by an unloving family, since we do not take it to be acceptable to kill a five-year-old just because her future involves being raised by an unloving family. Similarly, killing a child or adult may be permissible in exceptional circumstances such as self-defense or (perhaps) **capital punishment**; but these are irrelevant to standard abortions.

Marquis's argument has prompted several objections. The contraception objection claims that if Marquis's argument is correct, then, since sperm and ova (or perhaps a sperm and ovum jointly) have a future like ours, **contraception** would be as wrong as murder; but as this conclusion is (it is said) absurd—even those who believe contraception is wrong do not believe it is as wrong as murder—the argument must be unsound. One response<sup>[33]</sup> is that neither the sperm, nor the egg, nor any particular sperm-egg combination, will ever *itself* live out a valuable future: what will later have valuable experi-

ences, activities, projects, and enjoyments is a *new entity*, a *new organism*, that will come into existence at or near conception; and it is *this* entity, not the sperm or egg or any sperm-egg combination, that has a future like ours.

As this response makes clear, Marquis's argument requires that what will later have valuable experiences and activities is the *same entity*, the same biological organism, as the embryo.<sup>[34]</sup> The identity objection rejects this assumption. On certain theories of personal identity (generally motivated by *thought experiments* involving *brain* or *cerebrum* transplants), each of us is *not* a biological organism but rather an *embodied mind* or a *person* (in *John Locke's* sense) that comes into existence when the brain gives rise to certain developed psychological capacities.<sup>[35]</sup> If either of these views is correct, Marquis's argument will fail; for the embryo (even the early *fetus*, lacking the relevant psychological capacities) would not *itself* have a future of value, but would merely have the potential to give rise to a *different* entity, an embodied mind or a person, that *would* have a future of value. The success of Marquis's argument thus depends on one's favored account of personal identity.

The interests objection claims that what makes murder wrong is not just the deprivation of a valuable future, but the deprivation of a future that one has an interest in. The embryo has no conscious interest in its future, and so (the objection concludes) to kill it is not wrong. The defender of Marquis-style arguments may, however, give the counterexample of the suicidal teenager who takes no interest in his or her future, but killing whom is nonetheless wrong and murder.<sup>[36]</sup> If the opponent responds that one can *have* an interest in one's future without *taking* an interest in it, then the defender of the Marquis-style argument can claim that this applies to the embryo.<sup>[37]</sup> Similarly, if an opponent claims that what is crucial is having a valuable future which one would, under ideal conditions, desire to preserve (whether or not one does *in fact* desire to preserve it),<sup>[38]</sup> then the defender may ask why the embryo would not, under ideal conditions, desire to preserve its future.

The equality objection claims that Marquis's argument leads to unacceptable inequalities.<sup>[39]</sup> If, as Marquis claims, killing is wrong because it deprives the victim of a valuable future, then, since some futures appear to contain much more value than others—a 9-year-old has a much longer future than a 90-year-old, a *middle class* person's future has much less gratuitous pain and suffering than someone in extreme *poverty*—some killings would turn out to be much more *wrong* than others. But as this is strongly counterintuitive (most people believe all killings are *equally* wrong, other things being equal), Marquis's argument must be mistaken. Some writers have concluded that the wrongness of killing arises not from the harm it causes the victim (since this varies greatly among killings), but from the killing's violation of the intrinsic worth or personhood of the victim.<sup>[40]</sup> However, such accounts may themselves face problems of equality,<sup>[41]</sup> and

so the equality objection may not be decisive against Marquis's argument.

The psychological connectedness objection claims that a being can be seriously harmed by being deprived of a valuable future only if there are sufficient psychological connections—sufficient correlations or continuations of memory, belief, desire and the like—between the being as it is now and the being as it will be when it lives out the valuable future.<sup>[42]</sup> As there are few psychological connections between the embryo and its later self, it is concluded that depriving it of its future does not seriously harm it (and hence is not seriously wrong). A defence of this objection is likely to rest, as with certain views of *personal identity*, on thought experiments involving *brain* or *cerebrum* swaps; and this may render it implausible to some readers.

### 13.2.4 The bodily rights argument

See also: *Artificial womb*

In her well-known article "*A Defense of Abortion*", *Judith Jarvis Thomson* argues that abortion is in some circumstances permissible *even if* the embryo is a person and has a right to life, because the embryo's right to life is overtrumped by the woman's right to control her body and its life-support functions. Her central argument involves a *thought experiment*. Imagine, Thomson says, that you wake up in bed next to a famous violinist. He is unconscious with a fatal kidney ailment; and because only you happen to have the right blood type to help, the Society of Music Lovers has kidnapped you and plugged your circulatory system into his so that your kidneys can filter poisons from his blood as well as your own. If he is disconnected from you now, he will die; but in nine months he will recover and can be safely disconnected. Thomson takes it that you may permissibly unplug yourself from the violinist even though this will kill him. The right to life, Thomson says, does not entail the right to use another person's body, and so in disconnecting the violinist you do not violate his right to life but merely deprive him of something—the use of your body—to which he has no right. Similarly, even if the fetus has a right to life, it does not have a right to use the pregnant woman's body and life-support functions against her will; and so aborting the pregnancy is permissible in at least some circumstances. However, Thomson notes that the woman's right to abortion does not include the right to directly insist upon the death of the child, should the fetus happen to be viable, that is, capable of surviving outside the womb.<sup>[43]</sup>

Critics of this argument generally agree that unplugging the violinist is permissible, but claim there are morally relevant disanalogies between the violinist scenario and typical cases of abortion. The most common objection is that the violinist scenario, involving a *kidnapping*, is analogous only to abortion after rape. In most cases of

abortion, it is said, the pregnant woman was *not* raped but had intercourse voluntarily, and thus has either tacitly consented to allowing the embryo to use her body (the **tacit consent** objection<sup>[44]</sup>), or else has a duty to sustain the embryo because the woman herself caused it to stand in need of her body (the **responsibility** objection<sup>[45]</sup>). Other common objections turn on the claim that the embryo is the pregnant woman's child whereas the violinist is a stranger (the **stranger versus offspring** objection<sup>[46]</sup>); that abortion kills the embryo whereas unplugging the violinist merely lets him die (the **killing versus letting die** objection<sup>[46]</sup>); or, similarly, that abortion intentionally causes the embryo's death whereas unplugging the violinist merely causes death as a foreseen but unintended side-effect (the **intending versus foreseeing** objection;<sup>[47]</sup> cf the **doctrine of double effect**).

Defenders of Thomson's argument—most notably David Boonin<sup>[48]</sup>—reply that the alleged disanalogies between the violinist scenario and typical cases of abortion do not hold, either because the factors that critics appeal to are not genuinely morally relevant, or because those factors are morally relevant but do not apply to abortion in the way that critics have claimed. Critics have in turn responded to Boonin's arguments.<sup>[49]</sup>

Alternative scenarios have been put forth as more accurate and realistic representations of the moral issues present in abortion. John Noonan proposes the scenario of a family who was found to be liable for frostbite finger loss suffered by a dinner guest whom they refused to allow to stay overnight, although it was very cold outside and the guest showed signs of being sick. It is argued that just as it would not be permissible to refuse temporary accommodation for the guest to protect them from physical harm, it would not be permissible to refuse temporary accommodation of a fetus.<sup>[50]</sup>

Other critics claim that there is a difference between artificial and extraordinary means of preservation, such as medical treatment, kidney dialysis, and blood transfusions, and normal and natural means of preservation, such as gestation, childbirth, and breastfeeding. They argue that if a baby was born into an environment in which there was no replacement available for her mother's breast milk, and the baby would either breastfeed or starve, the mother would have to allow the baby to breastfeed. But the mother would never have to give the baby a blood transfusion, no matter what the circumstances were. The difference between breastfeeding in that scenario and blood transfusions is the difference between gestation and childbirth on the one hand, and using your body as a kidney dialysis machine on the other.<sup>[51][52][53][54][55][56]</sup>

### 13.3 See also

- **Abortion debate**
- **Beginning of human personhood**

- **Human rights**
- **Fetal pain**
- **Fetal rights**
- **Unborn Victims of Violence Act**
- **Libertarian perspectives on abortion**
- **Paternal rights and abortion**
- **Person** - for a discussion of personhood
- **Religion and abortion**
- **Societal attitudes towards abortion**

### 13.4 Notes

- [1] Warren 1973
- [2] Warren 1973: 457. The same point is made in Tooley 1972: 40-43; Singer 2000: 126-28 and 155-156; Pojman 1994: 280; and elsewhere. Note that "person" can also be used in two senses. In John Locke's sense (often employed in discussions of personal identity), "person" is a *descriptive* term that tells us about a being's *psychological* properties. In Warren's sense, "person" is a *moral* or *evaluative* term that tells us about a being's *moral* properties. Warren and others hold, however, that being a person in the moral sense actually requires being a person in the psychological sense.
- [3] Warren 1973: 458. Glover 1977:127 and English 1975: 316-317 also refer to a 'cluster' of properties as constituting personhood.
- [4] Warren 1973: 458-459
- [5] Michael Tooley argues that the bearer of a right to life must conceive of itself "as a continuing subject of experiences and other mental states" (Tooley 1972: 44), or must at some time possess "the concept of a continuing self or mental substance" (Tooley 1984: 218)
- [6] Singer 2000: 128 and 156-157; Pojman 1994: 281-2
- [7] McMahan 2002: 260
- [8] <http://jme.bmj.com/content/24/4/237.full.pdf>
- [9] <http://www.cirp.org/library/pain/anand/>
- [10] On the pro-life side (see below), it is similarly unclear *which* features one must have a natural capacity for, in order to have a right to life (cf Schwarz 1990: 105-109), or *which* features constitute a "future like ours".
- [11] Marquis 1989: 197; Schwarz 1990: 89; Rogers 1992; Beckwith 1993: 108; Larmer 1995: 245-248; Lee 2005: 263
- [12] Stretton 2004: 267, original emphasis; see Glover 1977: 98-99; Singer 2000: 137; Boonin 2003: 64-70
- [13]

- [14] Warren 1982
- [15] Singer 2000: 186-193
- [16] McMahan 2002: 359-360
- [17] Grisez 1970: 277-287; Lee 1996 and 2004; Lee and George 2005: 16-20; Schwarz 1990: 91-93; Beckwith 1993: 108-10; Reichlin 1997: 22-23; and many others. Note that on Marquis's view (see below), by contrast, one *could* fail to have a right to life—for example by becoming *irreversibly comatose*, since one's future would then lack valuable experiences and activities.
- [18] See Lee 2004: 254-255; Lee and George 2005: 18-19; Schwarz 1990: 108-109
- [19] This third point is discussed in McMahan 2002: 261-265
- [20] McMahan 2002: 261-265; Stretton 2004: 281-282
- [21] Stretton 2004: 270-274 (both responses); McMahan 2002: 217 (spectrum argument only)
- [22] McMahan 2002: 209-217; Stretton 2004: 275-276
- [23] Stretton 2004: 276 (both points); Boonin 2003: 55 (irreversibly comatose only)
- [24] Schwarz 1990: 52.
- [25] Beckwith, Francis J. (1991). "Christian Research Journal, Summer 1991, page 28 - When Does a Human Become a Person?". Retrieved 2010-02-18.
- [26] Sullivan, Dennis M (2003). "Ethics & Medicine, volume 19:1 - The conception view of personhood: a review" (PDF). Retrieved 2010-02-18.
- [27] Marquis 1989. For a similar argument (published earlier), see Stone 1987 and 1994.
- [28] Marquis 1989: 190
- [29] Marquis 1989: 189
- [30] Marquis 1989: 190. The type of wrongness appealed to here is presumptive or *prima facie* wrongness: as noted below, it may be overridden in exceptional circumstances.
- [31] Marquis 1989: 192
- [32] Marquis 1989: 183. Although Marquis views the killing of an embryo or normal human adult as seriously wrong, he avoids any reference to "rights" or the "right to life", and so is apparently not committed to *deontological* ethics.
- [33] Stone 1987: 816-817; cf Marquis 1989: 201-202
- [34] This view, known as 'Animalism' (since it takes you and I to be essentially animals rather than Lockean persons or embodied minds or souls), is defended in Olson 1997
- [35] Supporters of the embodied mind view include Tooley 1984: 218-219 (using the term "subject of consciousness"); McMahan 2002: ch 1; and Hasker 1999: ch 7. Supporters of the personhood view include Warren 1978: 18; McInerney 1990 (though there is some ambiguity); Doecke 1996: ch 9; and Baker 2000.
- [36] Marquis 1989: 198
- [37] Cf Stone 1994: 282 n 4
- [38] Boonin 2003: 70-85
- [39] Paske 1998: 365; Stretton 2004: 250-260; see also McMahan 2002: 234-235 and 271
- [40] For example, McMahan 2002: 240-265
- [41] McMahan 2002: 247-248
- [42] McInerney 1990; McMahan 2002: 271; Stretton 2004: 171-179
- [43] "All the same, I agree that the desire for the child's death is not one which anybody may gratify, should it turn out to be possible to detach the child alive." in Thomson's *A Defense of Abortion*.
- [44] e.g. Warren 1973; Steinbock 1992
- [45] e.g. Beckwith 1993; McMahan 2002
- [46] e.g. Schwarz 1990; Beckwith 1993; McMahan 2002
- [47] e.g. Finnis 1973; Schwarz 1990; Lee 1996; Lee and George 2005
- [48] Boonin 2003: ch 4
- [49] e.g., Beckwith 2006
- [50] "The Morality of abortion: legal and historical perspectives" John T. Noonan, Harvard University Press, 1970 ISBN 0-674-58725-1
- [51] Poupard, Dr Richard J (2007). "Christian Research Journal, volume 30, number 4 - Suffer the violinist: Why the pro-abortion argument from bodily autonomy fails" (PDF). Retrieved 2009-10-25.
- [52] G Koukl & S Klusendorf, "Making Abortion Unthinkable: The Art of Pro-Life Persuasion" STR Press, California (2001) p. 86.
- [53] Bernard Nathanson & Richard Ostling "Aborting America". Double Day & Company, Inc.: Garden City, 1979 (ISBN 0-385-14461-X)
- [54] Peter Kreeft, David Boonin (2005). "*Is Abortion Morally Justifiable in a Free Society?*" *Public debate at Yale University* (Audio). <http://www.isi.org/lectures/lectures.aspx?SBY=search&SSub=title&SFor=Is%20Abortion%20Morally%20Justifiable%20in%20a%20Free%20Society?>: Intercollegiate Studies Institute.
- [55] John Arthur 'The Unfinished Constitution: Philosophy and Constitutional Practice', Wadsworth, 1989, p198-200.
- [56] Beckwith, Francis (March 1992). "International Philosophical Quarterly Vol 32 Issue 1 - Personal Bodily Rights, Abortion, and Unplugging the Violinist" (PDF). Retrieved 2009-10-10.

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# Chapter 14

## Ethics

For other uses, see [Ethics \(disambiguation\)](#).

**Ethics** or **moral philosophy** is the branch of [philosophy](#) that involves systematizing, defending, and recommending concepts of right and wrong conduct.<sup>[1]</sup> The term *ethics* derives from the [Ancient Greek](#) word ἠθικός *ethikos*, which is derived from the word ἦθος *ethos* (habit, “custom”). The branch of philosophy [axiology](#) comprises the sub-branches of [Ethics](#) and [aesthetics](#), each concerned with concepts of value.<sup>[2]</sup>

As a branch of philosophy, ethics investigates the questions “What is the best way for people to live?” and “What [actions](#) are right or wrong in particular circumstances?” In practice, ethics seeks to resolve questions of human morality, by defining concepts such as [good and evil](#), right and [wrong](#), [virtue](#) and [vice](#), [justice](#) and [crime](#). As a field of intellectual enquiry, moral philosophy also is related to the fields of [moral psychology](#), [descriptive ethics](#), and [value theory](#).

The three major areas of study within ethics are:<sup>[1]</sup>

1. [Meta-ethics](#), concerning the theoretical meaning and reference of moral propositions, and how their [truth values](#) (if any) can be determined
2. [Normative ethics](#), concerning the practical means of determining a moral course of action
3. [Applied ethics](#), concerning what a person is obligated (or permitted) to do in a specific situation or a particular domain of action<sup>[1]</sup>

### 14.1 Defining ethics

Dino Lobaton states that “standard definitions of *ethics* have typically included such phrases as ‘the science of the ideal human character’ or ‘the science of moral duty’ ”.<sup>[3]</sup> Richard William Paul and [Linda Elder](#) define ethics as “a set of concepts and principles that guide us in determining what behavior helps or harms sentient creatures”.<sup>[4]</sup> The *Cambridge Dictionary of Philosophy* states that the word *ethics* is “commonly used interchangeably with ‘morality’ ... and sometimes it is used more narrowly to mean

the moral principles of a particular tradition, group or individual.”<sup>[5]</sup> Paul and Elder state that most people confuse ethics with behaving in accordance with social conventions, religious beliefs and the law and don't treat ethics as a stand-alone concept.<sup>[4]</sup>

The word “ethics” in English refers to several things.<sup>[6]</sup> It can refer to philosophical ethics—a project that attempts to use reason in order to answer various kinds of ethical questions. It can also be used to describe a particular person's own, idiosyncratic principles or habits.<sup>[7]</sup> For example: “Joe has good ethics.” It may also be used to characterize the questions of right-conduct in some specific sphere, even when such right-conduct is not examined philosophically: “business ethics,” or “the ethics of child-rearing” may refer, but need not refer, to a philosophical examination of such issues. Philosophical ethics, or “ethical theory,” is not the exclusive use of the term “ethics” in English.

### 14.2 Meta-ethics

Main article: [Meta-ethics](#)

Meta-ethics asks how we understand, know about, and what we mean when we talk about what is right and what is wrong.<sup>[8]</sup> An ethical question fixed on some particular practical question—such as, “Should I eat this particular piece of chocolate cake?”—cannot be a meta-ethical question. A meta-ethical question is abstract and relates to a wide range of more specific practical questions. For example, “Is it ever possible to have secure knowledge of what is right and wrong?” would be a meta-ethical question.

Meta-ethics has always accompanied philosophical ethics. For example, Aristotle implies that less precise knowledge is possible in ethics than in other spheres of inquiry, and he regards ethical knowledge as depending upon habit and acculturation in a way that makes it distinctive from other kinds of knowledge. Meta-ethics is also important in [G.E. Moore's](#) *Principia Ethica* from 1903. In it he first wrote about what he called *the naturalistic fallacy*. Moore was seen to reject [naturalism](#)

in ethics, in his **Open Question Argument**. This made thinkers look again at second order questions about ethics. Earlier, the Scottish philosopher **David Hume** had put forward a similar view on the difference between **facts and values**.

Studies of how we know in ethics divide into **cognitivism** and **non-cognitivism**; this is similar to the contrast between descriptivists and non-descriptivists. Non-cognitivism is the claim that when we judge something as right or wrong, this is neither true nor false. We may for example be only expressing our emotional feelings about these things.<sup>[9]</sup> Cognitivism can then be seen as the claim that when we talk about right and wrong, we are talking about matters of fact.

The **ontology** of ethics is about value-bearing things or properties, i.e. the kind of things or stuff referred to by ethical propositions. Non-descriptivists and non-cognitivists believe that ethics does not need a specific ontology, since ethical propositions do not refer. This is known as an anti-realist position. Realists on the other hand must explain what kind of entities, properties or states are relevant for ethics, how they have value, and why they guide and motivate our actions.<sup>[10]</sup>

## 14.3 Normative ethics

Main article: **Normative ethics**

Normative ethics is the study of ethical action. It is the branch of ethics that investigates the set of questions that arise when considering how one ought to act, morally speaking. Normative ethics is distinct from **meta-ethics** because it examines standards for the rightness and wrongness of actions, while meta-ethics studies the meaning of moral language and the metaphysics of moral facts.<sup>[8]</sup> Normative ethics is also distinct from **descriptive ethics**, as the latter is an empirical investigation of people's moral beliefs. To put it another way, descriptive ethics would be concerned with determining what proportion of people believe that killing is always wrong, while normative ethics is concerned with whether it is correct to hold such a belief. Hence, normative ethics is sometimes called prescriptive, rather than descriptive. However, on certain versions of the meta-ethical view called **moral realism**, moral facts are both descriptive and prescriptive at the same time.<sup>[11]</sup>

Traditionally, normative ethics (also known as moral theory) was the study of what makes actions right and wrong. These theories offered an overarching moral principle one could appeal to in resolving difficult moral decisions.

At the turn of the 20th century, moral theories became more complex and are no longer concerned solely with rightness and wrongness, but are interested in many different kinds of moral status. During the middle of the century, the study of normative ethics declined as meta-

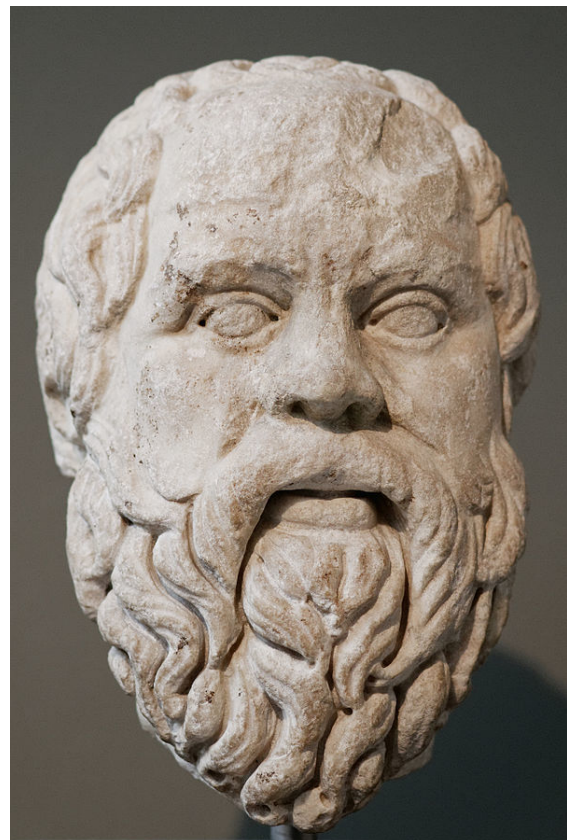
ethics grew in prominence. This focus on meta-ethics was in part caused by an intense linguistic focus in **analytic philosophy** and by the popularity of **logical positivism**.

In 1971 **John Rawls** published *A Theory of Justice*, noteworthy in its pursuit of moral arguments and eschewing of meta-ethics. This publication set the trend for renewed interest in normative ethics.

### 14.3.1 Virtue ethics

Main article: **Virtue ethics**

Virtue ethics describes the character of a moral agent



*Socrates*

as a driving force for ethical behavior, and is used to describe the ethics of **Socrates**, **Aristotle**, and other early Greek philosophers. **Socrates** (469–399 BC) was one of the first **Greek philosophers** to encourage both scholars and the common citizen to turn their attention from the outside world to the condition of humankind. In this view, **knowledge** bearing on human life was placed highest, while all other knowledge were secondary. **Self-knowledge** was considered necessary for success and inherently an essential good. A self-aware person will act completely within his capabilities to his pinnacle, while an ignorant person will flounder and encounter difficulty. To Socrates, a person must become aware of every fact (and its context) relevant to his existence, if he wishes to attain self-knowledge. He posited that people will natu-

rally do what is good, if they know what is right. Evil or bad actions are the result of ignorance. If a criminal was truly aware of the intellectual and spiritual consequences of his actions, he would neither commit nor even consider committing those actions. Any person who knows what is truly right will automatically do it, according to Socrates. While he correlated knowledge with **virtue**, he similarly equated virtue with **joy**. The truly wise man will know what is right, do what is good, and therefore be happy.<sup>[12]:32–33</sup>

Aristotle (384–323 BC) posited an ethical system that may be termed “self-realizationism.” In Aristotle’s view, when a person acts in accordance with his nature and realizes his full potential, he will do good and be content. At birth, a baby is not a person, but a potential person. To become a “real” person, the child’s inherent potential must be realized. Unhappiness and frustration are caused by the unrealized potential of a person, leading to failed goals and a poor life. Aristotle said, “**Nature** does nothing in vain.” Therefore, it is imperative for people to act in accordance with their nature and develop their latent talents in order to be content and complete. Happiness was held to be the ultimate goal. All other things, such as civic life or **wealth**, are merely means to the end. Self-realization, the awareness of one’s nature and the development of one’s talents, is the surest path to happiness.<sup>[12]:33–35</sup>

Aristotle asserted that man had three natures: vegetable (physical/metabolism), animal (emotional/appetite) and rational (mental/conceptual). Physical nature can be assuaged through exercise and care, emotional nature through indulgence of instinct and urges, and mental through human reason and developed potential. Rational development was considered the most important, as essential to philosophical self-awareness and as uniquely human. **Moderation** was encouraged, with the extremes seen as degraded and immoral. For example, **courage** is the moderate virtue between the extremes of **cowardice** and **recklessness**. Man should not simply live, but live well with conduct governed by moderate virtue. This is regarded as difficult, as virtue denotes doing the right thing, to the right person, at the right time, to the proper extent, in the correct fashion, for the right reason.<sup>[12]:35–37</sup>

## Stoicism

The Stoic philosopher Epictetus posited that the greatest good was contentment and serenity. Peace of mind, or **Apatheia**, was of the highest value; self-mastery over one’s desires and emotions leads to spiritual peace. The “unconquerable will” is central to this philosophy. The individual’s will should be independent and inviolate. Allowing a person to disturb the mental equilibrium is in essence offering yourself in slavery. If a person is free to anger you at will, you have no control over your internal world, and therefore no freedom. Freedom from material attachments is also necessary. If a thing breaks, the person should not be upset, but realize it was a thing that

could break. Similarly, if someone should die, those close to them should hold to their serenity because the loved one was made of flesh and blood destined to death. Stoic philosophy says to accept things that cannot be changed, resigning oneself to existence and enduring in a rational fashion. Death is not feared. People do not “lose” their life, but instead “return”, for they are returning to God (who initially gave what the person is as a person). Epictetus said difficult problems in life should not be avoided, but rather embraced. They are spiritual exercises needed for the health of the spirit, just as physical exercise is required for the health of the body. He also stated that sex and sexual desire are to be avoided as the greatest threat to the integrity and equilibrium of a man’s mind. Abstinence is highly desirable. Epictetus said remaining abstinent in the face of temptation was a victory for which a man could be proud.<sup>[12]:38–41</sup>

## Contemporary virtue ethics

Main article: **Virtue ethics**

Modern virtue ethics was popularized during the late 20th century in large part as a response to G. E. M. Anscombe’s “**Modern Moral Philosophy**”. Anscombe argues that consequentialist and deontological ethics are only feasible as universal theories if the two schools ground themselves in divine law. As a deeply devoted Christian herself, Anscombe proposed that either those who do not give ethical credence to notions of divine law take up virtue ethics, which does not necessitate universal laws as agents themselves are investigated for virtue or vice and held up to “universal standards,” or that those who wish to be utilitarian or consequentialist ground their theories in religious conviction.<sup>[13]</sup> Alasdair MacIntyre, who wrote the book *After Virtue*, was a key contributor and proponent of modern virtue ethics, although MacIntyre supports a relativistic account of virtue based on **cultural norms**, not objective standards.<sup>[13]</sup> Martha Nussbaum, a contemporary virtue ethicist, objects to MacIntyre’s relativism, among that of others, and responds to relativist objections to form an objective account in her work “Non-Relative Virtues: An Aristotelian Approach.”<sup>[14]</sup> *Complete Conduct Principles for the 21st Century*<sup>[15]</sup> blended the Eastern virtue ethics and the Western virtue ethics, with some modifications to suit the 21st Century, and formed a part of contemporary virtue ethics.<sup>[15]</sup>

## 14.3.2 Hedonism

Main article: **Hedonism**

Hedonism posits that the principal ethic is maximizing **pleasure** and minimizing **pain**. There are several schools of Hedonist thought ranging from those advocating the indulgence of even momentary desires to those teach-

ing a pursuit of spiritual bliss. In their consideration of consequences, they range from those advocating self-gratification regardless of the pain and expense to others, to those stating that the most ethical pursuit maximizes pleasure and happiness for the most people.<sup>[12]:37</sup>

### Cyrenaic hedonism

Founded by Aristippus of Cyrene, Cyrenaics supported immediate gratification or pleasure. “Eat, drink and be merry, for tomorrow we die.” Even fleeting desires should be indulged, for fear the opportunity should be forever lost. There was little to no concern with the future, the present dominating in the pursuit for immediate pleasure. Cyrenaic hedonism encouraged the pursuit of enjoyment and indulgence without hesitation, believing pleasure to be the only good.<sup>[12]:37</sup>

### Epicureanism

Main article: [Epicureanism](#)

Epicurean ethics is a hedonist form of virtue ethics. Epicurus “presented a sustained argument that pleasure, correctly understood, will coincide with virtue”.<sup>[16]</sup> He rejected the extremism of the Cyrenaics, believing some pleasures and indulgences to be detrimental to human beings. Epicureans observed that indiscriminate indulgence sometimes resulted in negative consequences. Some experiences were therefore rejected out of hand, and some unpleasant experiences endured in the present to ensure a better life in the future. To Epicurus the *summum bonum*, or greatest good, was prudence, exercised through moderation and caution. Excessive indulgence can be destructive to pleasure and can even lead to pain. For example, eating one food too often will cause a person to lose taste for it. Eating too much food at once will lead to discomfort and ill-health. Pain and fear were to be avoided. Living was essentially good, barring pain and illness. Death was not to be feared. Fear was considered the source of most unhappiness. Conquering the fear of death would naturally lead to a happier life. Epicurus reasoned if there was an afterlife and immortality, the fear of death was irrational. If there was no life after death, then the person would not be alive to suffer, fear or worry; he would be non-existent in death. It is irrational to fret over circumstances that do not exist, such as one’s state in death in the absence of an afterlife.<sup>[12]:37–38</sup>

### 14.3.3 State consequentialism

Main article: [State consequentialism](#)

State consequentialism, also known as Mohist consequentialism,<sup>[17]</sup> is an ethical theory that evalu-

ates the moral worth of an action based on how much it contributes to the basic goods of a state.<sup>[17]</sup> The *Stanford Encyclopedia of Philosophy* describes Mohist consequentialism, dating back to the 5th century BC, as “a remarkably sophisticated version based on a plurality of intrinsic goods taken as constitutive of human welfare.”<sup>[18]</sup> Unlike utilitarianism, which views pleasure as a moral good, “the basic goods in Mohist consequentialist thinking are ... order, material wealth, and increase in population”.<sup>[19]</sup> During Mozi’s era, war and famines were common, and population growth was seen as a moral necessity for a harmonious society. The “material wealth” of Mohist consequentialism refers to basic needs like shelter and clothing, and the “order” of Mohist consequentialism refers to Mozi’s stance against warfare and violence, which he viewed as pointless and a threat to social stability.<sup>[20]</sup>

Stanford sinologist David Shepherd Nivison, in *The Cambridge History of Ancient China*, writes that the moral goods of Mohism “are interrelated: more basic wealth, then more reproduction; more people, then more production and wealth ... if people have plenty, they would be good, filial, kind, and so on unproblematically.”<sup>[19]</sup> The Mohists believed that morality is based on “promoting the benefit of all under heaven and eliminating harm to all under heaven.” In contrast to Bentham’s views, state consequentialism is not utilitarian because it is not hedonistic or individualistic. The importance of outcomes that are good for the community outweigh the importance of individual pleasure and pain.<sup>[21]</sup>

### 14.3.4 Consequentialism/Teleology

Main article: [Consequentialism](#)

See also: [Ethical egoism](#)

Consequentialism refers to moral theories that hold that the consequences of a particular action form the basis for any valid moral judgment about that action (or create a structure for judgment, see [rule consequentialism](#)). Thus, from a consequentialist standpoint, a morally right action is one that produces a good outcome, or consequence. This view is often expressed as the aphorism “*The ends justify the means*”.

The term “consequentialism” was coined by G.E.M. Anscombe in her essay “*Modern Moral Philosophy*” in 1958, to describe what she saw as the central error of certain moral theories, such as those propounded by Mill and Sidgwick.<sup>[22]</sup> Since then, the term has become common in English-language ethical theory.

The defining feature of consequentialist moral theories is the weight given to the consequences in evaluating the rightness and wrongness of actions.<sup>[23]</sup> In consequentialist theories, the consequences of an action or rule generally outweigh other considerations. Apart from this basic outline, there is little else that can be unequivocally said

about consequentialism as such. However, there are some questions that many consequentialist theories address:

- What sort of consequences count as good consequences?
- Who is the primary beneficiary of moral action?
- How are the consequences judged and who judges them?

One way to divide various consequentialisms is by the types of consequences that are taken to matter most, that is, which consequences count as good states of affairs. According to **utilitarianism**, a good action is one that results in an increase in a positive effect, and the best action is one that results in that effect for the greatest number. Closely related is **eudaimonic** consequentialism, according to which a full, flourishing life, which may or may not be the same as enjoying a great deal of pleasure, is the ultimate aim. Similarly, one might adopt an aesthetic consequentialism, in which the ultimate aim is to produce beauty. However, one might fix on non-psychological goods as the relevant effect. Thus, one might pursue an increase in **material equality** or **political liberty** instead of something like the more ephemeral “pleasure”. Other theories adopt a package of several goods, all to be promoted equally. Whether a particular consequentialist theory focuses on a single good or many, conflicts and tensions between different good states of affairs are to be expected and must be adjudicated.

## Utilitarianism

Main article: **Utilitarianism**

Utilitarianism is an ethical theory that argues the proper course of action is one that maximizes a positive effect, such as “happiness”, “welfare”, or the ability to live according to personal preferences.<sup>[24]</sup> **Jeremy Bentham** and **John Stuart Mill** are influential proponents of this school of thought. In *A Fragment on Government* Bentham says ‘it is the greatest happiness of the greatest number that is the measure of right and wrong’ and describes this as a fundamental **axiom**. In *An Introduction to the Principles of Morals and Legislation* he talks of ‘the principle of utility’ but later prefers “the greatest happiness principle”.<sup>[25][26]</sup>

Utilitarianism is the paradigmatic example of a consequentialist moral theory. This form of utilitarianism holds that what matters is the aggregate positive effect of everyone and not only of any one person. **John Stuart Mill**, in his exposition of utilitarianism, proposed a hierarchy of pleasures, meaning that the pursuit of certain kinds of pleasure is more highly valued than the pursuit of other pleasures.<sup>[27]</sup> Other noteworthy proponents of utilitarianism are neuroscientist **Sam Harris**, author of *The*

*Moral Landscape*, and moral philosopher **Peter Singer**, author of, amongst other works, *Practical Ethics*.

There are two types of utilitarianism, **act utilitarianism** and **rule utilitarianism**. In act utilitarianism the principle of utility is applied directly to each alternative act in a situation of choice. The right act is then defined as the one which brings about the best results (or the least amount of bad results). In rule utilitarianism the principle of utility is used to determine the validity of rules of conduct (moral principles). A rule like promise-keeping is established by looking at the consequences of a world in which people broke promises at will and a world in which promises were binding. Right and wrong are then defined as following or breaking those rules.<sup>[28]</sup>

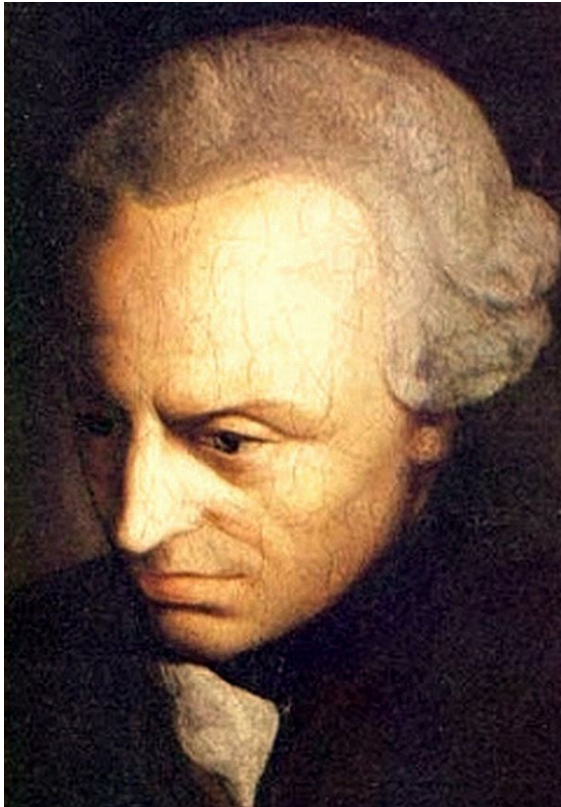
## 14.3.5 Deontology

Main article: **Deontological ethics**

Deontological ethics or deontology (from **Greek** δέον, *deon*, “obligation, duty”; and -λογία, *-logia*) is an approach to ethics that determines goodness or rightness from examining **acts**, or the rules and duties that the person doing the act strove to fulfill.<sup>[29]</sup> This is in contrast to **consequentialism**, in which rightness is based on the consequences of an act, and not the act by itself. In deontology, an act may be considered right even if the act produces a bad consequence,<sup>[30]</sup> if it follows the **rule** that “one should do unto others as they would have done unto them”,<sup>[29]</sup> and even if the person who does the act lacks virtue and had a bad intention in doing the act. According to deontology, we have a **duty** to act in a way that does those things that are **inherently** good as acts (“truth-telling” for example), or follow an objectively obligatory rule (as in **rule utilitarianism**). For deontologists, the ends or consequences of our actions are not important in and of themselves, and our intentions are not important in and of themselves.

Immanuel Kant’s theory of ethics is considered deontological for several different reasons.<sup>[31][32]</sup> First, Kant argues that to act in the morally right way, people must act from duty (*deon*).<sup>[33]</sup> Second, Kant argued that it was not the consequences of actions that make them right or wrong but the motives (*maxime*) of the person who carries out the action.

Kant’s argument that to act in the morally right way, one must act from duty, begins with an argument that the highest good must be both good in itself, and good without qualification.<sup>[34]</sup> Something is ‘good in itself’ when it is **intrinsically good**, and ‘good without qualification’ when the addition of that thing never makes a situation ethically worse. Kant then argues that those things that are usually thought to be good, such as **intelligence**, **perseverance** and **pleasure**, fail to be either intrinsically good or good without qualification. Pleasure, for example, appears to not be good without qualification, because when



Immanuel Kant

people take pleasure in watching someone suffer, they make the situation ethically worse. He concludes that there is only one thing that is truly good:

Nothing in the world—indeed nothing even beyond the world—can possibly be conceived which could be called good without qualification except a *good will*.<sup>[34]</sup>

### 14.3.6 Pragmatic ethics

Main article: [Pragmatic ethics](#)

Associated with the [pragmatists](#), [Charles Sanders Peirce](#), [William James](#), and especially [John Dewey](#), pragmatic ethics holds that moral correctness evolves similarly to scientific knowledge: socially over the course of many lifetimes. Thus, we should prioritize social reform over attempts to account for consequences, individual virtue or duty (although these may be worthwhile attempts, provided social reform is provided for).<sup>[35]</sup>

### 14.3.7 Role ethics

Main article: [Role ethics](#)

Role ethics is an ethical theory based on family roles.<sup>[36]</sup>

Unlike [virtue ethics](#), role ethics is not individualistic. Morality is derived from a person's relationship with their community.<sup>[37]</sup> [Confucian ethics](#) is an example of role ethics.<sup>[36]</sup> Confucian roles center around the concept of [filial piety](#) or *xiao*, a respect for family members.<sup>[38]</sup> According to [Roger Ames](#) and [Henry Rosemont](#), “Confucian normativity is defined by living one's family roles to maximum effect.” Morality is determined through a person's fulfillment of a role, such as that of a parent or a child. Confucian roles are not [rational](#), and originate through the *xin*, or human emotions.<sup>[37]</sup>

### 14.3.8 Anarchist ethics

Main article: [Anarchism](#)

[Anarchist ethics](#) is an ethical theory based on the studies of anarchist thinkers. The biggest contributor to the anarchist ethics is the Russian zoologist, geographer, economist and political activist [Peter Kropotkin](#). The anarchist ethics is a big and vague field which can depend upon different historical situations and different anarchist thinkers, but as Peter Kropotkin explains, “any “bourgeois” or “proletarian” ethics rests, after all, on the common basis, on the common ethnological foundation, which at times exerts a very strong influence on the principles of the class or group morality.” Still, most of the anarchist ethics schools are based on three fundamental ideas, which are: “solidarity, equality and justice”. Kropotkin argues that Ethics is evolutionary and is inherited as a sort of a social instinct through History, and by so, he rejects any religious and transcendental explanation of ethics.<sup>[39]</sup>

### 14.3.9 Postmodern ethics

Main article: [Postmodernism](#)

The 20th century saw a remarkable expansion and evolution of critical theory, following on earlier [Marxist Theory](#) efforts to locate individuals within larger structural frameworks of ideology and action.

[Antihumanists](#) such as [Louis Althusser](#) and [Michel Foucault](#) and [structuralists](#) such as [Roland Barthes](#) challenged the possibilities of individual agency and the coherence of the notion of the 'individual' itself. As critical theory developed in the later 20th century, [post-structuralism](#) sought to problematize human relationships to knowledge and 'objective' reality. [Jacques Derrida](#) argued that access to meaning and the 'real' was always deferred, and sought to demonstrate via recourse to the linguistic realm that “there is nothing outside context” (“*il n'y a pas de hors-texte*” is often mistranslated as “there is nothing outside the text”); at the same time, [Jean Baudrillard](#) theorised that signs and symbols or simulacra mask reality

(and eventually the absence of reality itself), particularly in the consumer world.

Post-structuralism and **postmodernism** argue that ethics must study the complex and relational conditions of actions. A simple alignment of ideas of right and particular acts is not possible. There will always be an ethical remainder that cannot be taken into account or often even recognized. Such theorists find narrative (or, following Nietzsche and Foucault, **genealogy**) to be a helpful tool for understanding ethics because narrative is always about particular lived experiences in all their complexity rather than the assignment of an idea or norm to separate and individuated actions.

Zygmunt Bauman says **Postmodernity** is best described as Modernity without illusion, the illusion being the belief that humanity can be repaired by some ethic principle. Postmodernity can be seen in this light as accepting the messy nature of humanity as unchangeable.

David Couzens Hoy states that Emmanuel Levinas's writings on the face of the Other and Derrida's meditations on the relevance of death to ethics are signs of the "ethical turn" in Continental philosophy that occurred in the 1980s and 1990s. Hoy describes post-critique ethics as the "obligations that present themselves as necessarily to be fulfilled but are neither forced on one or are enforceable" (2004, p. 103).

Hoy's post-critique model uses the term *ethical resistance*. Examples of this would be an individual's resistance to consumerism in a retreat to a simpler but perhaps harder lifestyle, or an individual's resistance to a terminal illness. Hoy describes Levinas's account as "not the attempt to use power against itself, or to mobilize sectors of the population to exert their political power; the ethical resistance is instead the resistance of the powerless" (2004, p. 8).

Hoy concludes that

The ethical resistance of the powerless others to our capacity to exert power over them is therefore what imposes unenforceable obligations on us. The obligations are unenforceable precisely because of the other's lack of power. That actions are at once obligatory and at the same time unenforceable is what put them in the category of the ethical. Obligations that were enforced would, by the virtue of the force behind them, not be freely undertaken and would not be in the realm of the ethical. (2004, p.184)

In present-day terms the powerless may include the unborn, the terminally sick, the aged, the insane, and non-human animals. It is in these areas that ethical action in Hoy's sense will apply. Until legislation or the state apparatus enforces a moral order that addresses the causes of resistance these issues will remain in the ethical realm. For example, should animal experimentation become il-

legal in a society, it will no longer be an ethical issue on Hoy's definition. Likewise one hundred and fifty years ago, not having a black slave in America would have been an ethical choice. This later issue has been absorbed into the fabric of an enforceable social order and is therefore no longer an ethical issue in Hoy's sense.

## 14.4 Applied ethics

Main article: **Applied ethics**

Applied ethics is a discipline of philosophy that attempts to apply ethical theory to real-life situations. The discipline has many specialized fields, such as **engineering ethics**, **bioethics**, **geoethics**, public service ethics and **business ethics**.

### 14.4.1 Specific questions

Applied ethics is used in some aspects of determining public policy, as well as by individuals facing difficult decisions. The sort of questions addressed by applied ethics include: "Is getting an abortion immoral?" "Is euthanasia immoral?" "Is affirmative action right or wrong?" "What are human rights, and how do we determine them?" "Do animals have rights as well?" and "Do individuals have the right of self determination?"<sup>[8]</sup>

A more specific question could be: "If someone else can make better out of his/her life than I can, is it then moral to sacrifice myself for them if needed?" Without these questions there is no clear fulcrum on which to balance law, politics, and the practice of arbitration — in fact, no common assumptions of all participants—so the ability to formulate the questions are prior to rights balancing. But not all questions studied in applied ethics concern public policy. For example, making ethical judgments regarding questions such as, "Is lying always wrong?" and, "If not, when is it permissible?" is prior to any etiquette.

People in-general are more comfortable with dichotomies (two opposites). However, in ethics the issues are most often multifaceted and the best proposed actions address many different areas concurrently. In ethical decisions the answer is almost never a "yes or no", "right or wrong" statement. Many buttons are pushed so that the overall condition is improved and not to the benefit of any particular faction.

### 14.4.2 Particular fields of application

#### Bioethics

Main article: **Bioethics**

Bioethics is the study of controversial ethics brought about by advances in **biology** and **medicine**. Bioethicists are concerned with the ethical questions that arise in the relationships among **life sciences**, **biotechnology**, **medicine**, **politics**, **law**, and **philosophy**. It also includes the study of the more commonplace questions of values (“the **ethics of the ordinary**”) that arise in primary care and other branches of medicine.

Bioethics also needs to address emerging biotechnologies that affect basic biology and future humans. These developments include **cloning**, **gene therapy**, **human genetic engineering**, astroethics and life in space,<sup>[40]</sup> and manipulation of basic biology through altered DNA, XNA and proteins, e.g., “three parent baby, where baby is born from genetically modified embryos, would have DNA from a mother, a father and from a female donor.”<sup>[41]</sup> Correspondingly, new bioethics also need to address life at its core. For example, **biotic ethics** value organic gene/protein life itself and seek to propagate it.<sup>[42]</sup> With such life-centered principles, ethics may secure a cosmological future for life.<sup>[43]</sup>

### Business ethics

Main article: **Business ethics**

Business ethics (also corporate ethics) is a form of **applied ethics** or **professional ethics** that examines ethical principles and moral or ethical problems that arise in a business environment, including fields like **Medical ethics**. It applies to all aspects of business conduct and is relevant to the conduct of individuals and entire organizations.

Business ethics has both **normative** and descriptive dimensions. As a corporate practice and a career specialization, the field is primarily normative. Academics attempting to understand business behavior employ descriptive methods. The range and quantity of business ethical issues reflects the interaction of profit-maximizing behavior with non-economic concerns. Interest in business ethics accelerated dramatically during the 1980s and 1990s, both within major corporations and within academia. For example, today most major corporations promote their commitment to non-economic values under headings such as ethics codes and social responsibility charters. Adam Smith said, “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.”<sup>[44]</sup> Governments use laws and regulations to point business behavior in what they perceive to be beneficial directions. Ethics implicitly regulates areas and details of behavior that lie beyond governmental control.<sup>[45]</sup> The emergence of large corporations with limited relationships and sensitivity to the communities in which they operate accelerated the development of formal ethics regimes.<sup>[46]</sup>

### Relational ethics

Relational ethics are related to an **ethics of care**.<sup>[47]:62–63</sup> They are used in qualitative research, especially ethnography and autoethnography. Researchers who employ relational ethics value and respect the connection between themselves and the people they study, and “between researchers and the communities in which they live and work” (Ellis, 2007, p. 4).<sup>[48]</sup> Relational ethics also help researchers understand difficult issues such as conducting research on intimate others that have died and developing friendships with their participants.<sup>[49][50]</sup> Relational ethics in close personal relationships form a central concept of **contextual therapy**.

### Machine ethics

Main article: **Machine ethics**

In *Moral Machines: Teaching Robots Right from Wrong*, Wendell Wallach and Colin Allen conclude that issues in **machine ethics** will likely drive advancement in understanding of human ethics by forcing us to address gaps in modern normative theory and by providing a platform for experimental investigation.<sup>[51]</sup> The effort to actually program a machine or artificial agent to behave as though instilled with a sense of ethics requires new specificity in our normative theories, especially regarding aspects customarily considered common-sense. For example, machines, unlike humans, can support a wide selection of **learning algorithms**, and controversy has arisen over the relative ethical merits of these options. This may reopen classic debates of normative ethics framed in new (highly technical) terms.

### Military ethics

See also: **Geneva Conventions** and **Nuremberg Principles**

Military ethics are concerned with questions regarding the application of force and the ethos of the soldier and are often understood as applied professional ethics.<sup>[52]</sup> **Just war theory** is generally seen to set the background terms of military ethics. However individual countries and traditions have different fields of attention.<sup>[53]</sup>

Military ethics involves multiple subareas, including the following among others:

1. what, if any, should be the laws of war
2. justification for the initiation of military force
3. decisions about who may be targeted in warfare
4. decisions on choice of weaponry, and what collateral effects such weaponry may have

5. standards for handling military prisoners
6. methods of dealing with violations of the laws of war

### Political ethics

**Political ethics** (also known as political morality or public ethics) is the practice of making moral judgements about political action and political agents.<sup>[54]</sup>

### Public sector ethics

**Public sector ethics** is a set of principles that guide public officials in their service to their constituents, including their decision-making on behalf of their constituents. Fundamental to the concept of public sector ethics is the notion that decisions and actions are based on what best serves the public's interests, as opposed to the official's personal interests (including financial interests) or self-serving political interests.<sup>[55]</sup>

### Publication ethics

Publication ethics is the set of principles that guide the writing and publishing process for all professional publications. In order to follow the set of principles, authors should verify that the publication does not contain **plagiarism** or **publication bias**.<sup>[56]</sup> As a way to avoid misconduct in research these principles can also be applied to experiments which are referenced or analyzed in publications by ensuring the data is recorded, honestly and accurately.<sup>[57]</sup>

Plagiarism is the failure to give credit to another author's work or ideas, when it is used in the publication.<sup>[58]</sup> It is the obligation of the editor of the journal to ensure the article does not contain any plagiarism before it is published.<sup>[59]</sup> If a publication which has already been published is proven to contain plagiarism, then the editor of the journal can proceed to have the article retracted.<sup>[60]</sup>

Publication bias occurs when the publication is one-sided or "**prejudiced** against results".<sup>[61]</sup> In best practice, an author should try to include information from all parties involved, or affected by the topic. If an author is prejudiced against certain results, then it can "lead to erroneous conclusions being drawn."<sup>[62]</sup>

Misconduct in research can occur when information from an experiment is falsely recorded or altered.<sup>[63]</sup> Falsely recorded information occurs when the researcher "fakes" information or data, which was not used when conducting the actual experiment.<sup>[63]</sup> By faking the data, the researcher can alter the results from the experiment to better fit the hypothesis they originally predicted. When conducting medical research, it is important to honor the healthcare rights of a patient by protecting their **anonymity** in the publication.<sup>[56]</sup>

## 14.5 Moral psychology

Main article: **Moral psychology**

**Moral psychology** is a field of study that began as an issue in **philosophy** and that is now properly considered part of the discipline of **psychology**. Some use the term "moral psychology" relatively narrowly to refer to the study of **moral development**.<sup>[64]</sup> However, others tend to use the term more broadly to include any topics at the intersection of ethics and psychology (and **philosophy of mind**).<sup>[65]</sup> Such topics are ones that involve the mind and are relevant to moral issues. Some of the main topics of the field are **moral responsibility**, **moral development**, **moral character** (especially as related to **virtue ethics**), **altruism**, **psychological egoism**, **moral luck**, and **moral disagreement**.<sup>[66]</sup>

### 14.5.1 Evolutionary ethics

Main article: **Evolutionary ethics**

See also: **Evolution of morality**

Evolutionary ethics concerns approaches to ethics (morality) based on the role of evolution in shaping human psychology and behavior. Such approaches may be based in scientific fields such as **evolutionary psychology** or **sociobiology**, with a focus on understanding and explaining observed ethical preferences and choices.<sup>[67]</sup>

## 14.6 Descriptive ethics

Main article: **Descriptive ethics**

Descriptive ethics is on the less philosophical end of the spectrum, since it seeks to gather particular information about how people live and draw general conclusions based on observed patterns. Abstract and theoretical questions that are more clearly philosophical—such as, "Is ethical knowledge possible?"—are not central to descriptive ethics. Descriptive ethics offers a **value-free** approach to ethics, which defines it as a social science rather than a **humanity**. Its examination of ethics doesn't start with a preconceived theory, but rather investigates **observations of actual choices** made by moral agents in practice. Some philosophers rely on descriptive ethics and choices made and unchallenged by a **society** or **culture** to derive categories, which typically vary by context. This can lead to **situational ethics** and **situated ethics**. These philosophers often view **aesthetics**, **etiquette**, and **arbitration** as more fundamental, percolating "bottom up" to imply the existence of, rather than explicitly prescribe, theories of value or of conduct. The study of descriptive ethics may include examinations of the following:

- **Ethical codes** applied by various groups. Some consider aesthetics itself the basis of ethics— and a personal **moral core** developed through art and storytelling as very influential in one's later ethical choices.
- Informal theories of etiquette that tend to be less rigorous and more situational. Some consider etiquette a simple negative ethics, i.e., where can one evade an uncomfortable truth without doing wrong? One notable advocate of this view is **Judith Martin** ("Miss Manners"). According to this view, ethics is more a summary of **common sense** social decisions.
- Practices in arbitration and law, e.g., the claim that ethics itself is a matter of balancing "right versus right," i.e., putting priorities on two things that are both right, but that must be traded off carefully in each situation.
- **Observed choices** made by ordinary people, without expert aid or advice, who vote, buy, and decide what is worth valuing. This is a major concern of sociology, political science, and economics.

## 14.7 See also

- Contemporary ethics
- Corporate social responsibility
- Deductive reasoning
- Descriptive ethics
- Dharma
- Ethical movement
- Index of ethics articles (*alphabetical list of ethics-related articles*)
- Moral psychology
- Outline of ethics (*list of ethics-related articles, arranged by sub-topic*)
- Practical philosophy
- Science of morality
- Theory of justification

## 14.8 Notes

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## 14.10 Further reading

- Aristotle, *Nicomachean Ethics*
- The London Philosophy Study Guide offers many suggestions on what to read, depending on the student's familiarity with the subject: *Ethics*
- *Encyclopedia of Ethics*. Lawrence C. Becker and Charlotte B. Becker, editors. Second edition in three volumes. New York: Routledge, 2002. A scholarly encyclopedia with over 500 signed, peer-reviewed articles, mostly on topics and figures of, or of special interest in, *Western philosophy*.
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## 14.11 External links

- [Ethics at PhilPapers](#)
- [Ethics at PhilPapers](#)
- [Ethics at PhilPapers](#)
- [Ethics at the Indiana Philosophy Ontology Project](#)
- [Ethics entry in the \*Internet Encyclopedia of Philosophy\*](#)
- [An Introduction to Ethics by Paul Newall](#), aimed at beginners.
- *Ethics*, 2d ed., 1973. by *William Frankena*
- [Ethics Bites](#), Open University podcast series podcast exploring ethical dilemmas in everyday life.
- [National Reference Center for Bioethics Literature](#)  
World's largest library for ethical issues in medicine and biomedical research
- [Ethics entry in Encyclopædia Britannica](#) by *Peter Singer*
- [The Philosophy of Ethics on Philosophy Archive](#)
- [Kirby Laing Institute for Christian Ethics](#) Resources, events, and research on a range of ethical subjects from a Christian perspective.
- [International Association for Geoethics \(IAGETH\)](#)
- [International Association for Promoting Geoethics \(IAPG\)](#)
- [Markkula Center for Applied Ethics at Santa Clara University](#) Resources for analyzing real-world ethical issues and tools to address them.

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- Abortion-rights movements** *Source:* [https://en.wikipedia.org/wiki/Abortion-rights\\_movements?oldid=686381171](https://en.wikipedia.org/wiki/Abortion-rights_movements?oldid=686381171) *Contributors:* DVdm, Wavelength, Cattus, Roscelese, Gogo Dodo, The Transhumanist, Connor Behan, CFCF, Chaos5023, StAnselm, Into The Fray, Summer-WithMorons, Niceguyedc, Addbot, Beleg Strongbow, FreeRangeFrog, Tiller54, Cannolis, MastiBot, Noodleki, ClueBot NG, Widr, North Atlanticist Usonian, Pratyga Ghosh, Skipp411, Ramisahassan, Ranchahal., ConanFan, Mutallyediting, Liz, Kebabpizza, TheProtoss98, Monkbot, Leegrc, Ambassador312, MarieWarren, SocraticOath, Pierce18228288, User90543, LnrwhiIRE and Anonymous: 12
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