



June 25, 2019

Abortion Criminalization Laws Do Not Prevent Gender Violence

As experts, activists, and advocates for reproductive health, rights, and justice and for ending gender violence (including intimate partner violence and sexual assault), we are writing to challenge false claims linking criminal abortion and related feticide laws with protection of women from violence.

While our organizations and their members may have differing views and values regarding abortion, we share a commitment to public policies founded on evidence-based research, and, more broadly, to gender equality. Recent claims about a supposed connection between the passage of New York's Reproductive Health Act (RHA) and violence are totally unfounded. Together we address those dangerous and unjustified claims.

Background

On January 22, 2019, the 46th anniversary of *Roe v. Wade*, New York Legislators passed, and Governor Andrew Cuomo signed the RHA into law. The RHA ensures that people will not be locked up for having abortions and that maternal and reproductive health care will be regulated through the public health system, not the criminal law. The RHA also clarifies that at no point during pregnancy do people lose their civil rights, including their right to life and health.

Opponents of the RHA, such as Charles Camosy, argued that this law would somehow endanger women and would encourage violence against them (bit.ly/2VDKbzS). When Jennifer Irigoyen, a pregnant woman, was stabbed and killed by her former boyfriend, approximately two weeks after the law went into effect, opponents of the RHA seized on that brutal act as supposed proof of the RHA's harm. For example, a spokesman for the New York Catholic Conference reported, "Thanks to the #RHA, it's open season on pregnant women in New York." Similar accounts wrongly blame the RHA for somehow minimizing the possibility of justice following the murder of Savannah Rivera, a pregnant woman, who was killed by her friend's ex-boyfriend.

The RHA safeguards life and health

No one should fear for their health and life because they cannot access the maternal or reproductive health care they need or because they are being subjected to violence. Freedom from violence and reproductive freedom go hand in hand, and both are essential for gender equality.

Rape and reproductive coercion are forms of intimate partner violence that often lead to unintended pregnancy. People subjected to intimate partner violence may be coerced into becoming pregnant or may risk being forced to bear a child. A survivor needs meaningful access to abortion and other health care services, not laws that may put her at risk of going to jail if she decides to terminate a pregnancy.

In addition, there are clear and dangerous consequences of anti-abortion rhetoric that describes abortion as murder, and that effectively characterizes those who have abortions as people who carry out heinous crimes. So, for example, it is not uncommon for those committing violence against an intimate partner to have done so as retribution for ending a past pregnancy, as a means of stopping someone from having an abortion, or as a mechanism for control, in the name of protecting fetal health.

Laws criminalizing abortion and equating pregnancy loss with crimes do not protect pregnant people from violence

Not a shred of evidence-based research supports the claim that criminal abortion laws or laws that treat fertilized eggs, embryos, and fetuses as separate crime victims protect pregnant people from violence.

Thirty-eight states have specific fetal assault, feticide, or homicide laws that treat fertilized eggs, embryos, or fetuses as separate crime victims. Even though these laws have been in effect for decades, there is no research of any kind that supports the claim that such laws reduce violence against pregnant women. Instead, there is evidence that violence against pregnant women continues at epidemic proportions.

For example, during the 49 years New York's criminal abortion law was in effect, more than 100,000 women in New York City experienced intimate partner violence. Many of these women were murdered, and nearly four percent of those subjected to intimate partner violence were pregnant. And, while New York's criminal abortion law was in effect, a New York City report found that in the years between 2002 and 2003 the rate of hospitalization related to intimate partner violence was nearly three times higher among pregnant women than among non-pregnant women.

Despite the fact that South Carolina has a feticide law and addresses abortion through its criminal law system, violence against women is rampant, and South Carolina continues to be among the nation's deadliest states for women.

Rather than being protected, criminal abortion and feticide laws have instead been used to arrest, detain, and control people with the capacity for pregnancy.

Criminal abortion and feticide laws do not protect pregnant women. Instead, they have been used against them. For example, those laws have been used to arrest women who experienced stillbirths or losses shortly after delivery, who have had or attempted to have an abortion, or even, who simply fell down a flight of stairs while pregnant.

Even when states do not charge women directly under criminal abortion or feticide laws, prosecutors typically cite these laws as authority for subjecting pregnant women to forced medical interventions and for interpreting generally-worded child endangerment laws, drug delivery laws, and other criminal statutes as ones that may be used to arrest pregnant women themselves.

In a decision that is still being challenged, a New York, trial court judge claimed that because New York's (old) abortion law "recognize[d] an interest in the protection of a viable fetus by retaining the

crimes of abortion and self-abortion. . .” a doctor could force a competent pregnant woman to submit to major surgery if the doctor believed her refusal posed a risk to fetal life. In another case, although subsequently overturned, New York’s criminal abortion law was relied on to prosecute and convict a woman for manslaughter after she lost her pregnancy as a result of a car accident she allegedly caused.

Removing laws criminalizing abortion doesn’t remove criminal accountability in cases like the tragic murder in Queens. Ms. Irigoyen’s ex-boyfriend has been arrested on multiple charges and is subject to myriad criminal sanctions. Those truly concerned should work to end gender violence. They should support universal health care and other needed services for everyone, including survivors.

Conclusion

The #MeToo moment has raised awareness of gender violence and how it prevents gender equality when it takes the form of sexual harassment at work. We join together to speak out against gender violence in all its forms. In light of the increase in legislative efforts to enact feticide laws and criminalize abortion, it is particularly important to shed light on the ways those laws threaten, rather than advance, gender equality. To that end, specifically, we oppose false claims about criminal abortion laws that distract attention from the real threats to women’s lives and health.

Signed,

Lynn M. Paltrow (National Advocates for Pregnant Women), **Prof. Julie Goldscheid** (CUNY Law School), and:

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Advocates for Youth	National Abortion Federation
American Medical Women's Association	National Family Planning & Reproductive Health Association, Inc.
BirthNet, Inc	National Organization for Women – New York City (NOW-NYC)
Catholics for Choice	National Organization of Women, Mid-Suffolk
Center for Reproductive Rights	North Brooklyn Coalition Against Family Violence
CONNECT	Reproaction
Crime Victims Treatment Center, Inc.	Sanctuary for Families
Elephant Circle	Sociologists for Women in Society
End Domestic Abuse WI	Violence Intervention Program
Feminist Women's Health Center	Voices of Women (VOW)
Free Hearts	Virginia Sexual and Domestic Violence Action Alliance
Gynuity Health Projects	Women’s Health and Reproductive Rights (WHARR)
Healthy and Free Tennessee	Women & Justice Project
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Individuals listed below have signed this letter in their personal capacities as well as on behalf of their affiliated institutions.

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