

WHY ABORTION CONTROVERSIES ARE SO CENTRAL TO U.S. POLITICS

by Drew Halfmann, University of California, Davis

Over the last forty years, abortion has frequently taken center stage in American politics – as it did once again in 2012. This may seem only natural for an issue that speaks to deep values and the role of women in society. But abortion is at the margin of politics in most other rich countries, including our closest sister nations, Britain and Canada.

Why is U.S. politics different? Journalists and pundits point to the strong role of religion in American life. But Canada also has many Catholics and evangelical Protestants, and both Canada and Britain have strong antiabortion movements. In all three democracies, public opinion favors the right to an abortion in cases of rape or fetal abnormality or to protect a woman's health, and is much less supportive when family size, poverty, or marital status are at issue.

Beyond religiosity and public opinion, national institutions play a crucial role. Abortion has become so politically explosive in the United States in significant part because we have an independently powerful Supreme Court, strong private medical professionals, weak political party elites, and a decentralized political system where controversies can live on and issues can be raised again and again.

A Powerful Supreme Court

During the late 1960s and early 1970s, Britain, Canada, and the United States all enacted reforms that made abortions more available. In the first two countries, national parliaments acted and, being sensitive to ambiguous public opinion, defined abortion narrowly as a “health right” and allowed the procedure only when doctors concluded it was medically necessary. In the United States, a few state legislatures passed modest reforms and then, in 1973, nine Justices of the Supreme Court, appointed for life, issued a sweeping ruling that surprised even the lawyers arguing for expanded abortion rights. Outpacing public opinion, the U.S. Justices defined abortion as a privacy right and opened the door wide to abortions at the request of the pregnant woman. Opponents of abortion reacted strongly, complaining that an “unelected elite” had usurped the power of democratically-elected legislatures.

Medical Professionals and Institutions

As their parliaments considered reform, the medical professions of Britain and Canada fought hard to define abortion as a “medical necessity” – to be decided by doctors for reasons of health or fetal abnormality. American physicians initially took a similar position, but eventually backed off, yielding the issue to feminists, because they were more focused on political fights to preserve the lucrative U.S. system of private, for-profit medicine. The Supreme Court followed the medical profession's lead and defined abortion as a procedure to be elected by women for their own reasons. The vast majority of U.S. abortions are done in single-purpose clinics and the private medical profession holds abortion specialists in low esteem.

After the initial legal changes, British and Canadian medical associations defended abortion services and sought their expansion, while American medicine continued to sidestep the issue. British and Canadian practices liberalized over time and, in 1988, the Canadian Supreme Court ruled out arbitrary restrictions. Canada has always provided public funding for abortions, and public funding has steadily expanded in Britain. The United States initially allowed publicly-funded abortions for the poor, but this has been vulnerable to legislative rollback in part because abortion is judicially defined as an “elective” procedure rather than a medical necessity.

The Locus of Political Leverage

In Britain and Canada, sub-national levels of government are much less important than in the United States and debates about abortion are confined mainly to the national parliaments. In the United States, the federal courts set the broad parameters of abortion law, but state and federal legislatures, and even city governments, work out the details. Courts revisit the issue repeatedly as new laws come into conflict with court rulings, and combatants embrace differing conceptions of federalism. Back and forth disputes about levels of authority within U.S. federalism give movements for and against abortion rights hundreds of opportunities to do battle each year, and no battle ever settles the war because new battlefields always beckon.

Can Party Elites Downplay Abortion Disputes?

Large antiabortion movements in all three countries have tried to move their issue onto the agenda of major political parties, but only the American movement has succeeded. The relative power of political party elites helps to explain why. In Britain and Canada, party leaders maneuvered to avoid abortion fights, because they preferred to focus on economic issues. Many U.S. politicians would like to do the same, but they lack the impressive powers available to national party elites in parliamentary systems. In Britain and Canada, party leaders choose nominees and fund their campaigns, write campaign platforms, initiate most legislation, and tell rank-and-file legislators how to vote. In the United States, by contrast, state-level parties highlight various issues; and individual candidates and legislators march to their own drummers in response to funding and pressures from single-issue groups.

Why U.S. Abortion Controversies Will Continue

Even with the Republican Party now mostly in its thrall, the American anti-abortion movement is swimming against the tide. Women are gaining ground in the U.S. medical profession. President Obama has already appointed two liberal Supreme Court justices, and he or a possible Democratic presidential successor will likely name new justices to replace aging incumbents. The new national health reform law subsidizes contraception and encourages states to expand Medicaid coverage for all aspects of reproductive health care.

Despite such trends favoring abortion rights, the battles will continue. Although most American voters prefer middle-of-the-road compromises, U.S. parties are polarized and U.S. institutions will keep the pot boiling. The medical profession has a long ways to go before abortion services become part of routine care, and well-organized, intensely motivated activists can always pressure wobbly elites. Abortion will thus remain a flashpoint in U.S. national and state politics, as well as in continuing disputes over medical services and judicial appointments. The end of this morally charged political battle is not yet in sight.

Read more in Drew Halfmann, *Doctors and Demonstrators: How Political Institutions Shape Abortion Law in the United States* (University of Chicago Press, 2011).