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"A daily reminder of an ugly incident..." Examination of Discussions of Rape and Incest
Exceptions in Personhood Abortion Bans

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B.A. Gender, Women's, and Sexuality Studies and Psychology
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2015

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An abstract of
A thesis submitted to the Faculty of the
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2021

Abstract

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By: Liesl M. Schnabel

Introduction: Research has begun to examine legislative hearings and decision-making within "heartbeat" bills in the U.S. A divisive area within legislative hearings are rape and incest exceptions. This study examines arguments made by proponents and opponents of rape and incest exceptions within "heartbeat" ban legislation in the South.

Methods: Data included publicly available video archives from House, Senate, and committee meetings in six Southern states. Narrative analysis was conducted with testimony proponents and opponents to rape and incest exceptions during 2018 - 2019 legislative sessions. Data were open-coded and analyzed using a constant-comparative method for emergent theme identification.

Results: Themes emerged in arguments made by legislators to support or oppose rape and incest exceptions across multiple states, with extended discussions in South Carolina and Georgia. Opponents and proponents of exceptions differed in opinion about the involvement of medical and legal systems, and used beliefs and myths about women's reporting of rape and incest to support their arguments. Arguments focused on trauma resulting from sexual violence, balancing the protection of women's mental and physical health against protection of a fetus. Proponents used examples of familial relationships and calls for bipartisan action to draw upon colleagues' morality and empathy. Support and opposition for rape and incest exceptions did not follow party lines.

Conclusions: This study seeks to deepen understanding of the strategies used by legislators to oppose rape and incest exceptions in abortion legislation, while providing greater opportunity for tailored reproductive rights advocacy and policy.

Keywords: Abortion, policy, advocacy, legislation, human rights, sexual and reproductive health and rights

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The concept for this research was developed by Dr. Evans and Dr. Narasimhan, and I am deeply grateful for their mentorship throughout this project. I am also incredibly thankful to the legislators, advocates, community members, and survivors who work tirelessly towards legal access to abortion for all people in the U.S.

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Literature Review

Abortion

Abortion has been a divisive topic for both policymakers and the public for decades, but recent years have exhibited an escalation in legislative efforts to prevent access to comprehensive abortion services. After the Supreme Court ruling on *Roe v. Wade* ("*Roe v. Wade*," 1973) and *Doe v. Bolton* ("*Doe v. Bolton*," 1973) in 1973, abortion law and regulation has become a state-level issue (Guttmacher, 2021b). Under the Trump Administration, the United States witnessed renewed efforts from both Democratic and Republican state leadership in designing an abortion-related policy agenda (Wilson, 2020). For the GOP, Trump's presidency provided a window of opportunity to shift the balance of the federal Supreme Court by appointing judges who share the goal of reversing *Roe v. Wade*. In line with these efforts, in the spring of 2019, long-term efforts on behalf of anti-abortion advocates came into the spotlight as Southern states began to introduce legislation restricting access to abortion (Ryman & Wynn, 2019); specifically, 25 Southern and Midwestern states across the U.S. proposed bills that would ban abortion early in a pregnancy, after the detection of a fetal heartbeat, often referred to as early abortion bans (Guttmacher, 2019). For most women, a "flicker" of a fetal heartbeat can be detected after approximately six weeks of pregnancy via transvaginal ultrasound, which is often much earlier than when most women become aware of pregnancy status (North & Kim, 2019). Therefore, these state-level bans have been heavily contested as unconstitutional, as the United States Supreme Court has ruled against the ability of states to ban abortion prior to the viability of a pregnancy (typically 24 - 28 weeks of gestation) (Ravitz, 2019).

In 2017 in the United States, 18 percent of pregnancies were terminated via abortion (Guttmacher, 2019). In the same year, the lowest number of abortions were performed since the

Roe v. Wade Supreme Court ruling in 1973; the rate of abortions declined by 7 percent between 2014 and 2017 across the United States, likely due to increased contraception use and “self-managed” abortions (Jones, Witwer, & Jerman, 2019). While trends in recent years may be attributable to multiple influences, restrictive policies have a marked impact on abortion rates, and in many areas across the United States, safe and legal abortion is becoming increasingly difficult to access (Rewire, 2019). According to a study conducted by Brown, Hebert, Gilliam, and Kaestner (2020) found a significant association between “highly restrictive legislative climates” and a decreased in abortion rates, even when controlling for distance to a health facility.

As of March 2021, 384 antiabortion provisions had been introduced across 43 states, ranging from provider regulations to medication abortion, and eight restrictions have been enacted, the second highest number of abortion restrictions introduced at the state level in the past decade (Guttmacher, 2021a). The 2021 wave of abortion legislation can be partly attributed to the 2020 election cycle, which resulted in Republican domination at the statehouse level (Mutnick & Rodriguez, 2020). Currently, Republicans control 30 state legislatures with veto-proof supermajority in 16 (Szal, 2021). This year’s shift in state-level makeup is comparable to the state-level legislative landscape facing the U.S. in 2011, when the most abortion bans were enacted in any year since *Roe v. Wade* became law (Guttmacher, 2021b). While we cannot fully predict state-level actions in the coming months, the Trump Administration’s appointment of Amy Coney Barrett to the Supreme Court likely ensures a majority vote at the federal level against abortion rights. If *Roe v. Wade* is overturned, 22 states will ban abortion immediately and completely; moreover, analysis estimates a cumulative 14 percent decline in legal abortions, but

up to 40 percent in areas of the U.S. South and Midwest, where poor populations would be most affected (Bui, Miller, & Sanger-Katz, 2020).

Public opinion

When *Roe v. Wade* was made law in 1973, 52 percent of the American public supported abortion legalization (Samuels, 2020). However, public opinion about abortion, including from anti-abortion advocacy groups, has trended toward greater support for increasingly restrictive policies in recent years (North & Kim, 2019). Opinion about the permissibility of abortion varies based on a number of factors; political affiliation, education, religious affiliation, and rural geography are significantly associated with opinions about abortion (Jozkowski, Crawford, & Hunt, 2018). Further, abortion opinion data are constrained by inconsistencies in polling questions (Undem, 2015). For example, a 2015 Vox poll found that 34 percent of respondents felt that abortion should only be legal in cases of rape, incest, or for the health of the mother but that, within that 34 percent, 53 percent reported that they would not wish to overturn *Roe v. Wade* (Undem, 2015). According to a NPR/PBS (2019) poll, 77 percent of U.S. adults support *Roe v. Wade* in some capacity and 60 percent support laws that “decriminalize abortion and make the laws less strict” (NPR/PBS, 2019). Of note, only 33 percent reported supporting fetal “heartbeat” laws. In 2018, Pew Research Center found that 58 percent of U.S. residents reported supporting abortion legality in “all or most cases,” while 38 percent reported support for making abortion illegal in “all or most cases” (Hartig, 2018). Though there have been fluctuations over years, these statistics have not changed significantly since 1995, when 60 percent of Americans supported legality and 38 percent supported illegality (Hartig, 2018). In Texas, where the state legislature passed a bill banning abortion after 22 weeks in 2013 (Grossman, White, Hopkins, &

Potter, 2014), Smith (2016) surveyed Houston residents in 2010, 2012, and 2014 about their opinions on abortion. For each of these years, “slightly more than half of Houstonians supported legal abortion for any reason a woman wanted to obtain one,” with a significant increase in support in 2012 and 2014 than 2010 (Smith, 2016). However, between 1995 and 2018, the disparity in opinion between political parties in regard to abortion legality has widened. According to Pew Research Center, in 1995, 48 percent of Republicans felt that abortion should be illegal, whereas in 2018 this proportion rose to 59 percent (Hartig, 2018). In addition to political affiliation, Jozkowski et al. (2018) found that “education, religious affiliation, living in a rural setting” were also factors significantly associated with opinions about abortion.

Legislative positioning

Diverse views on abortion are also highly present within state legislative bodies. Recent research has begun to examine patterns within legislative decision-making and debate in regard to abortion policy in the United States. For example, research has shown that the composition of legislative bodies influences abortion policymaking. Reingold, Kreitzer, Osborn, and Swers (2020) provide evidence that “conservative Republican women stand at the forefront of anti-abortion policy leadership in state legislatures.” Their findings do, however, specify that female Republican leadership on anti-abortion positions is most present “in policy contexts that use women-centered issue frames and within competitive partisan environments” (Reingold et al., 2020) Similarly, Matthews, Kreitzer, and Schilling (2020) found that between 1993 and 2016, less restrictive abortion bills were introduced by state legislatures with greater political “polarization,” though political polarization within women legislators increased the introduction of anti-abortion bills (Matthews et al., 2020). Furthermore, the investigators highlight that

Republican and Democratic female legislators use abortion to “symbolically represent a broader political agenda” (Matthews et al., 2020). Research also indicates that Republican female legislators are becoming increasingly more conservative, partly in an effort to avoid being viewed as moderate (Matthews et al., 2020); since female Democratic state legislators are more liberal than male counterparts, heightened conservatism in the Republican party is increasing polarization between female legislators (Osborn, Kreitzer, Schilling, & Hayes Clark, 2019).

Woodruff and Roberts (2020) found that, in terms of abortion policymaking, the use of evidence was not forefront for legislators, though it did play a role in high-level education on the topic if it reinforced prior policy positioning. Evans and Narasimhan (2020) also examined the role of legislative debate in relation to abortion policy. Through close narrative analysis of legislative debate and anti-abortion testimony about Georgia’s early abortion ban, the investigators identified major themes in anti-abortion narratives, such as the “‘heartbeat’ as an indicator of life and personhood” (Evans & Narasimhan, 2020). The authors concluded that “opponents of abortion bans should attempt to understand, deconstruct, and analyze anti-abortion messaging to effectively combat it” (Evans & Narasimhan, 2020).

Exceptions

Exceptions, are a key aspect of state-level legislative debate in regard to abortion restrictions. Prior to *Roe v. Wade*, exceptions were referred to as therapeutic abortions (Flowers, 2020). The most prevailing exceptions included in abortion legislation are for the life of the mother (including for the health of the mother), for pregnancies that result from rape or incest, or for fetal anomaly (Flowers, 2020). Versions of these exceptions have been included in the Hyde Amendment, the Partial-Birth Abortion Ban Act (2003), the Affordable Care Act (2010), and in state and federal “heartbeat” bills. During the widespread introduction of “heartbeat” bills in

2019, the majority of states introducing abortion-ban legislation included an exception for the health of the mother. For example, Louisiana’s “fetal heartbeat” bill, entitled SB 184, was introduced in April 2019 and passed in May 2019 by the Louisiana State Senate; this bill bans all abortions after the detection of fetal cardiac activity, but includes an exception for medical issues (State Legislature, 2019). Politician’s abortion position has become a partisan issue in the United States partly because of President Ronald Reagan’s influence, which pushed the Republican Party to become “the party of life.” Indeed, President Reagan reportedly supported pro-life exceptions, include for protection of the mother, rape, and incest (Scarfone, 2020). However, most of the anti-abortion legislation introduced across the United States since 2018 does not include exceptions for rape or incest. According to Scarfone (2020), about half of Americans support legal abortion, but approximately “75 percent of Americans think that abortion should be legally permissible in cases of rape.” Therefore, this research implies that at least a portion of those opposed to abortion overall feel that exceptions should be included for rape and incest.

Abortion exceptions in cases of rape are particularly contentious and have a documented history of political consequence. For example, during debate over a “fetal pain bill” in the House of Representatives in 2013, Republican legislators reluctantly made the decision to add of rape and incest exceptions; however, this decision came in the wake of widespread national outrage over statements made by Republican representatives, including Trent Franks (R-AZ) and Todd Akin’s (R-MO), the latter of whom asserted that “*if it was a legitimate rape, the female body has ways to try to shut that whole thing down*” (Flowers, 2020). According to Simas and Bumgardner (2017), inclusion of rape and incest exceptions in “fetal pain bill” legislation was likely fueled by strategic political motivation to counter the assertion that the Republican party supports a “War on Women” (Simas & Bumgardner, 2017).

Between 25,000 - 35,000 pregnancies result from rape each year (Martin, 2018).

According to legal analysis regarding the relationship between abortion laws and female rape victims, there is a significant gap in legislation for the protection of women who experience pregnancy resulting from rape. Specifically, Martin (2018) argues that lack of legal protections for women from their rapists after birth “pressures victims into abortion clinics to avoid years of being legally bound to the men who raped them.” Cohen (2015) investigated the question of exceptions to the criminalization of abortions performed for rape and incest. The author discusses that there are two primary premises supporting pro-life positions and that at first glance they do not seem to align with support for rape exceptions (Cohen, 2015). The first premise is that fetuses hold the right to personhood; the second premise is that “the child is in the womb of the mother is not enough to give the mother the prerogative to terminate the fetus in the ordinary abortion case.” Cohen (2015), therefore, discusses that, if both these premises hold true, granting anti-abortion exceptions for rape would be contradictory.

Trauma & mental health

In addition to the core premises of anti-abortion arguments, Cohen (2015) discusses another important theme that arises during debate: the role of trauma and mental health. Specifically, this research discusses that a justification used in favor of exceptions is that women who experience rape and incest are subject to trauma. The author, however, argues that to make this a plausible support for those opposed to abortion, “the argument has to be that there is a “continuing violation” from the pregnancy itself that the law can correct through an abortion prerogative, almost as though every day of pregnancy is a repetition of the rape or incest.” In other words, in arguing for abortion exceptions, supporters need to make the case that pregnancy resulting from rape and incest perpetuates the trauma that results from an assault.

On the other hand, opponents of rape and incest exceptions may rely on the narrative that abortion itself causes trauma. Suk (2010), in assessing the relationship between trauma and legal abortion discourse, discusses that trauma inflicted from the experience of abortion has become an aspect of “constitutional foothold” after the Supreme Court’s acknowledgement of abortion-related regret in *Gonzales v. Carhart*. The author posits that abortion regret is now given consideration because of the 1970s ignited feminist legal movement that has normalized psychological trauma as legitimate in the legal system. However, Suk (2010) argues that abortion regret has faced criticism because it perpetuates “paternalistic stereotypes.” While Suk evaluates the legal perspective on abortion decision-making, other studies have investigated the perspective of people who receive abortions. Indeed, a longitudinal study across 30 clinics in the U.S. between 2008 – 2010 found that the vast majority of women who received an abortion reported that it was the right decision over a three year period (Rocca et al., 2015).

The medical system

Debate regarding rape and incest exceptions as a component of abortion legislation often involves the role of a physician in determining the legitimacy of rape and incest claims, and abortion-related legal restrictions at the state level often involve the role of medical providers. For example, in Arkansas, recent federal Supreme Court rulings have allowed the state to “require clinics to report to law enforcement the names of minors who have abortions...treat fetal tissue as criminal evidence” and “require providers to attempt to obtain patients’ full pregnancy-related medical records before providing care and grant rights over fetal remains to both parents of the fetus as well as to the pregnant person’s parents if the patient is a minor” (Ellmann, 2020). This law includes notification of both parents -- even in cases of rape.

A study by Ilyas and Widaningsih (2020) indicates that physicians who assisted with abortions for rape victims were convicted due to a lack of proof of rape, or in other words that “the incidence of rape was not guaranteed based on court decisions that had permanent legal force” (Ilyas & Widaningsih, 2020). A survey of 279 abortion providers identified that 50 percent of medical practices screen for “pregnancy resulting from rape” (Perry, Murphy, Rankin, Cowett, & Harwood, 2016). Additionally, Dodge, Haider, and Hacker (2013) found that physicians had varying levels of understanding regarding state-level abortion laws, and the highest knowledge was in regards to “spousal involvement, mandatory waiting periods, and availability of private insurance coverage.” A further study by Dodge, Haider, and Hacker (2016) surveyed reproductive health providers about abortion-related attitudes. Among 278 physicians in the United States, “nearly all strongly agreed that abortion should be available in cases of rape (89.6%), incest (89.2%), life endangerment (93.2%), health endangerment (91.0%), and fetal anomaly (85.9%)” (Dodge et al., 2016).

Manuscript

Student contribution

This manuscript was developed collaboratively by Liesl Schnabel, Dr. Dabney P. Evans, and Dr. Subasri Narasimhan from October 2020 – April 2021. Dr. Evans and Dr. Narasimhan provided the data and concept for this project. Schnabel conducted the analysis plan, data analysis, and draft manuscript writing. Dr. Evans and Dr. Narasimhan provided iterative review of data analysis and detailed editing of the manuscript draft.

Abstract

Title: *“A daily reminder of an ugly incident...”* Examination of Discussions of Rape and Incest Exceptions in Personhood Abortion Bans

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Introduction: Research has begun to examine legislative hearings and decision-making within “heartbeat” bills in the U.S. A divisive area within legislative hearings are rape and incest exceptions. This study examines arguments made by proponents and opponents of rape and incest exceptions within “heartbeat” ban legislation in the South.

Methods: Data included publicly available video archives from House, Senate, and committee meetings in six Southern states. Narrative analysis was conducted with testimony proponents and opponents to rape and incest exceptions during 2018 - 2019 legislative sessions. Data were open-coded and analyzed using a constant-comparative method for emergent theme identification.

Results: Themes emerged in arguments made by legislators to support or oppose rape and incest exceptions across multiple states, with extended discussions in South Carolina and Georgia. Opponents and proponents of exceptions differed in opinion about the involvement of medical and legal systems, and used beliefs and myths about women’s reporting of rape and incest to support their arguments. Arguments focused on trauma resulting from sexual violence, balancing the protection of women’s mental and physical health against protection of a fetus. Proponents used examples of familial relationships and calls for bipartisan action to draw upon colleagues’ morality and empathy. Support and opposition for rape and incest exceptions did not follow party lines.

Conclusions: This study seeks to deepen understanding of the strategies used by legislators to oppose rape and incest exceptions in abortion legislation, while providing greater opportunity for tailored reproductive rights advocacy and policy.

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Background

In the United States (U.S.) almost a fifth of pregnancies are terminated via abortion (Guttmacher, 2019). However, safe and legal abortion is increasingly difficult to access and is highly state-dependent (Rewire, 2019). As of March 2021, 384 antiabortion provisions have been introduced across 43 states, ranging from provider regulations to medication abortion, and eight restrictions have been enacted, the second-highest number of abortion restrictions introduced at the state level in the past decade (Guttmacher, 2021a).

Abortion law and regulation became a state-level issue in 1973 after *Roe v. Wade* ("*Roe v. Wade*," 1973) and *Doe v. Bolton* ("*Doe v. Bolton*," 1973) were passed in the federal Supreme Court (Guttmacher, 2021b). In the Spring of 2019, long-term efforts of anti-abortion advocates came to fruition as states began to introduce legislation restricting access to abortion in early gestation (Ryman & Wynn, 2019); specifically, 25 Southern and Midwestern states across the U.S. proposed bills that would limit abortion after the detection of a fetal heartbeat, often referred to as early abortion bans (Nash, Mohammed, Cappello, & Naide, 2019). For most pregnant people fetal cardiac activity may be detected after approximately six weeks of pregnancy via transvaginal ultrasound, which is often much earlier than when most women become aware they are pregnant (North & Kim, 2019). These state-level bans have been heavily contested as the U.S. Supreme Court has ruled against the ability of states to ban abortion prior to the viability of a pregnancy (typically 24 - 28 weeks of gestation) as unconstitutional (Ravitz, 2019).

Opinion about the permissibility of abortion varies based on a number of factors; political affiliation, education, religious affiliation, and rural geography are significantly associated with opinions about abortion (Jozkowski, Crawford, & Hunt, 2018). Further, abortion opinion data are constrained by inconsistencies in polling questions (Undem, 2015). However, the majority of Americans support legalization of abortion. According to an NPR/PBS poll, 77 percent of U.S. adults support *Roe v. Wade* in some capacity and 60 percent support laws that “decriminalize abortion and make the laws less strict” (NPR/PBS, 2019). Of note, only 33 percent reported supporting fetal “heartbeat” laws. Though there have been fluctuations over years, these statistics have not changed significantly since 1995, when 60 percent of Americans supported legality (Hartig, 2018). However, in states like Texas, the disparity in opinion between political parties in regard to abortion legality has widened. In 1995, 48 percent of Republicans felt that abortion should be illegal, whereas in 2018 this proportion rose to 59 percent (Smith, 2016). Abortion positionality has become a partisan issue in the United States partly through President Ronald Reagan’s influence, which pushed the Republican Party to become “the party of life.” Indeed, President Reagan reportedly supported pro-life exceptions, including for protection of the mother, rape, and incest (Scarfone, 2020). However, much of the anti-abortion legislation introduced across the United States since 2018 does not include exceptions for rape or incest. While over half of Americans support legal abortion, approximately “75 percent of Americans think that abortion should be legally permissible in cases of rape” (Scarfone, 2020). Therefore, at least a portion of those opposed to abortion legalization feel that exceptions should be included for rape and incest. This study examines arguments made by opponents and supporters of rape and incest exceptions within “heartbeat” ban legislation in Southern states, a key aspect of state-level legislative debate.

Rape & incest exceptions to abortion restrictions in the U.S.

Prior to *Roe v. Wade*, exceptions permitting abortions were referred to as therapeutic abortions (Flowers, 2020). The most prevailing exceptions included in anti-abortion legislation are to protect the life of the mother (including for preservation of the health of the mother), for pregnancies that result from rape or incest, or for fetal anomaly (Flowers, 2020). Versions of these exceptions have been included in the Hyde Amendment, the Partial-Birth Abortion Ban Act (2003), the Affordable Care Act (2010), and in state and federal “heartbeat” bills. During the widespread introduction of “heartbeat” bills in 2019, the majority of states introducing abortion-ban legislation included an exception for the health of the mother, but bills varied on inclusion of exceptions for rape and incest.

Abortion exceptions in cases of rape are particularly contentious and have a documented history of political consequence. Between 25,000 - 35,000 pregnancies result from rape each year (Martin, 2018), and in 2019 63 percent of U.S. adults supported abortion at any time during pregnancy if resulting from rape or incest (NPR/PBS, 2019). However, according to legal analysis regarding the relationship between abortion laws and female rape victims, there is a significant gap in legislation for the protection of women who experience pregnancy resulting from rape. Specifically, the lack of legal protections for women from their rapists after birth “pressures victims into abortion clinics to avoid years of being legally bound to the men who raped them” (Martin, 2018) During debate over a “fetal pain bill” in the House of Representatives in 2013, Republican legislators reluctantly made the decision to add of rape and incest exceptions; however, this decision came in the wake of widespread national outrage over statements made by Republican representatives, including Trent Franks (R-AZ) and Todd Akin’s (R-MO), the latter of whom asserted that “*if it was a legitimate rape, the female body has ways*

to try to shut that whole thing down” (Flowers, 2020). Ultimately, inclusion of rape and incest exceptions in “fetal pain bill” legislation was likely fueled by strategic political motivation to counter the assertion that the Republican party supports a “War on Women” (Simas & Bumgardner, 2017).

The role of state legislators

Diverse views on abortion are highly present within state legislative bodies. Recent studies have begun to examine patterns within legislative decision-making and debate in regard to abortion policy in the U.S. Research has shown that the composition of legislative bodies influences abortion policymaking; for example, female Republican leadership often lead anti-abortion efforts in state bodies (Reingold, Kreitzer, Osborn, & Swers, 2020). Between 1993 and 2016, less restrictive abortion bills were introduced by state legislatures with greater political “polarization,” though political polarization between female legislators increased the introduction of anti-abortion bills (Matthews, Kreitzer, & Schilling, 2020). Studies have also indicated that, in terms of abortion policymaking, the use of evidence is not forefront for legislators, though it did play a role in high-level education on the topic if it reinforced prior policy positioning (Woodruff & Roberts, 2020). Evans and Narasimhan (2019) also examined the role of legislative debate in relation to abortion policy. Through close narrative analysis of legislative debate and anti-abortion testimony about Georgia’s early abortion ban, the investigators identified major themes in anti-abortion narratives, such as the “‘heartbeat’ as an indicator of life and personhood” (Evans & Narasimhan, 2020).

The 2021 wave of abortion legislation can be partly attributed to the 2020 election cycle, which resulted in Republican domination at the statehouse level (Mutnick & Rodriguez, 2020). Currently, Republicans control 30 state legislatures with veto-proof supermajority in 16 (Szal,

2021). This year's shift in state-level makeup is comparable to the state-level legislative landscape facing the U.S. in 2011, when the most abortion bans were enacted in any year since *Roe v. Wade* became law (Guttmacher, 2021b). While we cannot fully predict state-level actions in the coming months, the Trump Administration's appointment of Amy Coney Barrett to the Supreme Court likely ensures a majority vote at the federal level against abortion rights. If *Roe v. Wade* is overturned, 22 states will ban abortion immediately and completely; moreover, analysis estimates a cumulative 14 percent decline in legal abortions, but up to 40 percent in areas of the U.S. South and Midwest, where poor populations would be most affected (Bui, Miller, & Sanger-Katz, 2020).

Methods

This qualitative study builds upon a parent study focused on legislative testimony in Georgia's 2019 abortion ban, HB 481. Prior publication of the foundational study further details the methodology used in this work (Evans & Narasimhan, 2020). Focusing on the debates of rape and incest exemptions within early abortion ban legislation during the 2018 and 2019 legislative sessions, this study utilizes data from six Southern states that introduced and attempted to pass "heartbeat" bills in this timeframe.

Sample & participants

The sample for this study included six states that introduced legislation banning abortion after six weeks of gestation. These states were selected based on having passed such legislation in the 2018 or 2019 legislative session and the public availability of legislative session data; Florida, West Virginia, and Alabama also introduced early abortion bans, but did not have publicly available data. Bills in Florida and West Virginia did not pass committee hearings, and

Alabama did not produce public video archives. The total recorded minutes of data, including time of committee meetings and floor and senate house debates, can be seen in Table 1.

Table 1. Time properties of data by state.

State	Bill Number (introduced in 2019)	Publicly Available Data*	Data total (minutes)	Committee meetings (minutes)	Floor senate and house debates (minutes)
Georgia	House Bill 481	Yes	--	--	--
Kentucky	Senate Bill 9	Yes	118	55	63
	House Bill 100	No**			
Louisiana	Senate Bill 184	Yes	159	153	6
Mississippi	Senate Bill 2116	Yes*	21	--	21
	House Bill 1061	No**			
South Carolina	House Bill 3020	Yes***	629	367	262
	Senate Bill 32	No**			
Tennessee	Senate Bill 1257	Yes	100	65	35

*Partial data available

**Died or still in committee, no data exists

***Portions of data collected by private citizens present at committee meetings

Georgia passed the “Living Infants Fairness and Equality” (LIFE) Act or HB 481 in March 2019, which was signed into law in May 2019. The bill prohibited abortion after detection of a fetal heartbeat (G. General Assembly, 2019). HB 481 was permanently enjoined by a federal judge in July 2020; however the state is appealing in federal court (Time, 2020). The South Carolina “Fetal Heartbeat Protection from Abortion Act,” or HB 3020, is still held in the Senate Committee on Medical Affairs (as of January 14, 2020). Though currently enjoined,

Mississippi passed SB 2116 in February 2019 and the bill went into effect as law in July 2019; the bill prohibits abortion after the detection of a fetal heartbeat, with the exception of risk to the mother's life, but not for rape or incest (Legislature, 2019). In Louisiana, a nearly identical "fetal heartbeat" bill, entitled SB 184, was passed in May 2019 by the Louisiana State Senate (State Legislature, 2019). Louisiana governor John Bel Edwards signed the bill on May 30, 2019, but it will not go into effect while Mississippi's bill remains enjoined. Similarly, the Kentucky Senate introduced SB 9 on January 8, 2019 and the bill was signed into law by Kentucky Governor Matt Bevin on March 15, 2019; the bill mirrors the same restrictions and exceptions as Mississippi and Louisiana (K. General Assembly, 2019). Tennessee introduced SB 1257, signed into law by Governor Bill Lee on May 10, 2019, which immediately prohibits all abortion at the overturning of *Roe v. Wade* by the U.S. Supreme Court ("Tennessee Senate Bill 1257," 2019). HB 77, an additional House Bill early abortion ban in Tennessee, passed on March 11, 2019 (S. C. General Assembly, 2019), but has not been signed into law.

Participants in this study included legislative committee members across six states: Georgia, Louisiana, Kentucky, Mississippi, Tennessee, and South Carolina. Committee members both in support of and in opposition to early abortion ban legislation during 2018 - 2019 legislative sessions were included. Community members and subject matter experts also provided testimony on rape and incest exceptions during legislative hearings but were excluded from this analysis. The decision to include only legislative committee members was made based on indications that rape and incest are primarily discussed during formal legislative debate, as opposed to personal testimony by community members.

Data collection

The data for this study were collected by study investigators between 2019 - 2020 and included publicly available video archives from House and Senate committee meetings across six states. The data collection procedure for Mississippi and South Carolina varied; video archives were drawn from the Mississippi College Law School and the South Carolina public committee hearings were recorded in-person by local study staff. Details on the process for data retrieval and transcription can be accessed via Evans and Narasimhan (2020).

Data analysis

A qualitative narrative analysis approach was used to analyze the data. The codebook for the parent study included codes for rape and incest. A new codebook for data pertaining to rape and incest was developed by the first author through iterative memo writing throughout the rape and incest coded segments from the original dataset, which aided in the identification of codes and patterns; consultations with parent study investigators guided the development of the selected codes. Data coding was conducted by the first author using MAXQDA 20 software and a constant comparative approach using combined deductive codes and inductive thematic analysis. Data were organized through thematic analysis as well as identification of major tactics and properties for the rape and incest themes.

The code “rape” included 141 coded segments and the code “incest” included 96 coded segments. Deductive codes included: 1) personhood; 2) choice; 3) protection; 3a) protection of women; 3b) protection of fetus; 3c) mother/child post-birth; 4) trauma and mental health; 5) legality; 5a) justice/criminality; 5b) legal process and procedure; 6) alternatives; 7) mortality/argumentation; 7a) non-partisan; 7b) personal/family; 8) evidence; 9) role of physician. During coding, three additional codes were identified inductively: 8a) proof/accountability; 10) religion; and 11) health of the mother. See *Annex 1* for codebook.

Themes and tactics were selected through close reading and analysis of coded segments. Core themes were those that included 15 or greater coded segments, inclusive of sub-codes. Six codes reached 15 or more coded segments: 1) protection; 2) legality; 3) role of physician; 4) trauma and mental health; 5) morality/argumentation; and 6) evidence. We found three core themes through analysis which are presented below, and four major argumentative tactics, which is described in relation to the findings.

Measures & Outcomes

The outcomes measured in this study included major themes arising from narrative discussion of rape and incest exceptions to early abortion ban legislation in the U.S. South. Debate regarding rape and incest exceptions to early abortion bans was present in the data for all six states included in this study. Rape and incest exceptions were included in two bills: Georgia House Bill 481 and South Carolina House Bill 3020 (Table 2). Kentucky, Louisiana, Mississippi, and Tennessee did not include exceptions for rape and incest.

Table 2. Early abortion ban legislation exceptions by state.

State	Bill Number	Exceptions: Rape and Incest	Exceptions Details*
Georgia	House Bill 481	Yes	<i>if physician determines a medical emergency exists; or the probable gestational age of the unborn child is 20 weeks or less and the pregnancy is the result of rape or incest in which an official police report has been filed</i>

			<i>alleging the offense of rape or incest (G. General Assembly, 2019)</i>
Kentucky	Senate Bill 9	No	<i>if a medical emergency exists (K. General Assembly, 2019)</i>
Louisiana	Senate Bill 184	No	<i>to prevent the death of the pregnant woman or to prevent a serious risk of substantial and irreversible impairment of a major bodily function of the woman (State Legislature, 2019)</i>
Mississippi	Senate Bill 2116	No	<i>to prevent the death of the pregnant woman or to prevent a serious risk of substantial and irreversible impairment of a major bodily function of the woman (Legislature, 2019)</i>
South Carolina	House Bill 3020	Yes	<i>physician determines according to standard medical practice that a medical emergency exists; or in cases of rape or incest in which an official police report has been filed alleging the offense of rape or incest (S. C. General Assembly, 2019)</i>
Tennessee	Senate Bill 1257	No	<i>exception for situations where the abortion is necessary to prevent the death of pregnant woman or prevent serious risk</i>

			<i>of substantial and irreversible impairment of major bodily function ("Tennessee Senate Bill 1257," 2019)</i>
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**Directly quoted from bills*

Study ethics

This study received exempt status from the Emory University Institutional Review Board because it was secondary analysis of publicly available data. There were no ethical risks to participants.

Results

The results highlight overarching ideas of rape and incest exceptions arguments. Four tactics and three core themes emerged from thematic analysis. Tactics were fundamental components of arguments made about exceptions to fetal “heartbeat” legislation and were used by both supporters and opponents. The core themes were present in four states: South Carolina, Georgia, Tennessee, and Louisiana; however, the richest data came from South Carolina, where rape and incest exceptions were heavily debated due to the nature of the legislation (“Fetal Heartbeat Protection from Abortion Act,” HB 3020). All themes are related to general arguments made about abortion legislation in Southern states.

1. Belief in the legitimacy of women’s claims underpinned opposition or support for exceptions

Women’s trustworthiness when reporting rape and incest was questioned, which sparked debate over third-party and institutional responsibility in determining the legitimacy of rape and incest. Fundamentally, supporters of exceptions felt that women should be believed, but opponents felt that women should be doubted. Therefore, opponents believed that personnel

within systems and institutions, such as doctors and police officers, need to “fact check” women. There was close overlap between narrative relating to evidence/proof and narrative around the role of physicians and the medical system in exception-related decision-making.

As discussed below, South Carolina legislators both opposing and supporting exceptions argued that physicians should not be solely responsible for determining the legitimacy of rape and incest allegations. However, for opponents of exceptions, their arguments also implied that individuals and institutions making exception determinations cannot assume that women’s claims of rape and incest are legitimate. Supporters of exceptions pointed out this pattern, for example, a Representative stated:

“...the doctor had to give his beliefs as to whether this pregnancy was because of a rape or incest. Because this body, through its own toxic masculinity over the years has never believed that a woman can be trusted to tell the truth.” (SC-D)

Opponents also argued that physicians may face moral challenges in determining exceptions, particularly if claims of rape and incest were not truthful:

“Let's say...I performed a termination on somebody and four months later. It come to light that nothing happened. Rape did not occur or it was not incest whether it's from the adjudication process or whether the patient herself admits it. OK I have to look at myself in the morning. Every morning in the mirror. And I don't think I could do that.” (SC-D)

Further evidence of doubt in women came from a Representative who strongly supported amending legislation to require a police report instead of leaving the decision to physicians.

Copying and learning from Georgia’s bill, the Representative said:

“You're going to allow anybody to come forward and simply say, ‘I've been raped’ or, you know, ‘I've had this pregnancy as a result of incest...I get the abortion because here

is an exception.’ ...The way that I have drafted this amendment [is] in order for a woman to claim rape or incest as an exception, that there would have to be empirical or objective evidence of that fact. And I have listed here a police report, and that follows what Georgia did. It provides a sort of an objective indication of the fact that this did, in fact, occur.” (SC-R)

Of note, this South Carolina Representative emphasized that the state is following in the footsteps of legislation in Georgia, where there was also active debate over requiring a police report. In Georgia, supporters of exceptions argued against requiring a police report in an effort to protect victims of sexual violence and due concern over a lack of belief in women’s truth when reporting of rape and incest:

“I’m very concerned about forcing a woman to file a police report against a relative or a boyfriend with something as someone earlier testified. It could be someone you know they’ve got rough one night or something happened and you end up pregnant...here’s my other question with the police report filing it is one thing but at one point a woman could say I was raped, but does the investigation have to prove it in order for her to get an abortion? Do the police have to investigate before she gets an abortion to prove it really was a rape? I mean when you’re giving those is the only two exceptions.” (GA-D)

Among those in support of rape and incest exceptions, legislators were candid in disagreeing with the insinuation that women are dishonest in reporting rape and incest claims. For example, a Representative noted that:

“You can’t trust a woman and tell the truth about whether she’s a victim of incest because they lie and that is why this amendment says that a doctor has to insert his beliefs or her

belief. How insulting, how insulting and I guess the doctor gets to decide and can mark on there, this woman's lying.” (GA-D)

Drawing on personal experience from her sexual assault as a young child, a South Carolina Representative made the case that belief in women must be fundamental when considering exceptions for rape and incest because women often do not feel comfortable disclosing instances of assault. The Representative continues her statement by drawing a comparison between her experience and a hypothetical situation, pointing out the timeline that a child might go through. Additionally, the Representative argued that survivors of rape and incest are more likely to disclose to physicians than law enforcement, but that rape and incest will often go unreported until victims see a doctor:

“I am disturbed by some of the comments and questions in the room today regarding this subject [of believing] women who are raped. I'm beginning to think some of you think all women who are raped lie about being raped and that's not the case. If you do a little bit of research, you'll see that 80 percent of women who've been sexually assaulted do not report the rape...This is why women do not come forward...When I was molested at the age of 14 inside a pool I thought it was my fault because I wore a two-piece bathing suit that was neon colored...it may not get reported until they go to a physician go to the doctor because this child who's ten or eleven twelve is pregnant. And by that time there's probably a heartbeat.” (SC-R)

Expectations of physician and legal responsibility for exceptions differed

Beliefs held about the truthfulness/credibility of rape and incest allegations extended to discussions about the involvement of law enforcement and physicians in rape and incest exceptions. Legislators in South Carolina, Louisiana, and Georgia held differing opinions about

which institutional body should be responsible for key decisions about exceptions; arguments focused on the involvement of law enforcement and physicians when women report rape and/or incest. A small group across sides agreed rape and incest allegations should be processed through law enforcement in advance of an abortion exception; in contrast, most supporters felt that abortion should be dealt with as a health care issue.

Arguments over the role of law enforcement were particularly evident in South Carolina, where HB 3020 says that physicians may only perform an abortion for women who experience rape or incest if a police report of the assault claim is filed by the patient. Specifically, the bill details that a physician “must report the allegation of rape or incest to the sheriff in the county in which the abortion was performed” within 24 hours after an abortion; additionally, the bill requires that the report “include the name and contact information of the pregnant woman making the allegation.” Legislators voted on an amendment to remove the requirement for the filing a police report, but it did not pass. The requirement for a police report sparked debate on the House floor.

Opinions on both sides differed with regard to physician responsibility in determining support for rape and incest exceptions in abortion bills. First, both opponents and supporters argued that physicians may feel burdened by providing abortion services to women who experience rape and/or incest. This burden was described from several perspectives, including from medical, legal, and moral standpoints. For example, a Representative in South Carolina supporting rape and incest exceptions argued that physicians and law enforcement should be kept separate, and that all claims of rape and incest should be processed through law enforcement. The Representative asserted:

“Criminal offenses should not be left in the hand of a physician who’s trying to make a decision with their patient. Criminal Offenses should be adjudicated through the judiciary system....I think criminal offenses and medical conditions are two entirely different things...I would be very, very wary to try to put whether rape or incest occurred on just the belief of a physician and I don't think this is a good amendment.” (SC-D)

Another strong supporter of rape and incest exceptions in South Carolina agreed that removing a requirement for a police report would burden physicians, fearing that requiring physicians to determine rape and/or incest would violate the boundaries of their professional jurisdiction:

“But tell me if we are now turning physicians into police officers usually with rape/incest there is required in most cases for prosecution an incident report. So, if we wanted to say rape/incest we could add language which takes the burden off the physician and say there has to be an incident report or police report that would at least do you think relieve the concerns...” (SC-D)

Reflecting the opposing opinion, a Representative in opposition to rape and incest exceptions asserted that doctors should not be responsible for making rape and incest determinations because it requires believing a claim sometimes without concrete procedure to establish proof.

The Representative went on to describe a concern about proof:

“How do you prove this claim of that you've been raped or had incest anyway, there's too many unanswered questions. The amendment doesn't provide a process for showing anything about rape or incest. It just says the physician has to believe it to be true. Does put a lot of pressure on the physician.” (SC-R)

A South Carolina Representative, a proponent of exceptions, disagreed with colleagues by arguing against the idea that determining rape and incest is a burden or “liability” for physicians.

Additionally, the Representative highlighted that opponents of exceptions may use physicians' professional liability as an excuse for involving law enforcement, stating:

“But I don't see where you would be subjected to any professional liability or liability under this statute if you comply by taking your patients word that she was raped.

Performing the abortion at her request...” (SC-D)

In Louisiana, the debate on law enforcement focused on if there should be rape and incest exceptions at all, versus South Carolina where the debate revolved around the specific procedure for exception. For example, a Louisiana state Senator, who opposed exceptions, argued that the alternative to exceptions for rape and incest should be accountability for the perpetrator of sexual assault through “punishment,”

“...for me is what is the appropriate remedy for that. Is it prayer and sustenance in the community and of course holding the wrongdoer culpable and accountable and punishing them, which I think is the you know the indicated social, moral, and theological response. Versus killing the baby that is the, you know, the child who has, you know, resulted from that sexual assault...” (LA-D)

Supporters argued that rape and incest reporting should remain between a woman and her doctor

Many representatives who supported exceptions disagreed with the involvement of law enforcement as a necessity to receiving an abortion. They viewed law enforcement, specifically the police, as a gatekeeper for women and physicians. For example, a South Carolina Senator discussed that filing a police report could hold negative repercussions for a woman, such as further harm from the perpetrator of the violence:

“When you're in that situation, and if you were raped by somebody, it's not easy sometimes to file a police report. You have to look at the fact that some of these ladies who were raped, if they file a police report, they fear for their life. Sometimes they are powerful people. They fear that their career may be ended.” (Sen. SC-D)

Throughout, supportive legislators argued that the decision to receive an abortion after experiencing rape and/or incest should be made between a woman and a doctor. Supporters of exceptions argued that requiring a police report could cause further harm and trauma to women in addition to the sexual violence that they experienced. Such further trauma included potential negative repercussions of placing a disclosure in a public record, the potential danger of police activity becoming public, and bias by police. Highlighting these points, a state Senator in South Carolina stated that:

“First, I see a big delay that will likely occur [between reporting to police and receiving an abortion?]. And second, I see the mental and physical effects of what is going to happen to her. Because especially in small areas, and especially on college campuses, once you go to the police and it becomes public whether or not you like it or not. And that adds to the mental harassment, mental and psychological effects... That should be up to her and her doctors is what I'm saying.” (Sen. SC-D)

Particularly in South Carolina, legislators positioned the law enforcement system in opposition to the medical system. For example, a state Senator made the argument that the law enforcement will inflict more harm on women through perpetuating trauma and the added burden of having to continue to recount experiences of sexual violence. The Senator stated:

“...the bill, as it came out of the House, did have the verification that you had to tell the doctor. And now you're saying that's not good enough. You've got to tell the police

officer, which by definition of what I understood, your concern to be the trauma to the woman who's already been traumatized, to put her through, to have to go through the whole everything that follows. You making [sic] a police report and you having to go through all of this and tell all of these other people, when you could have just talked to your own doctor and you could have handled it in a way that's least intrusive, given the bad thing that's already happened to you.” (Sen. SC-D)

Finally, a state Senator expressed concern that requiring a police report may inappropriately call into question the legitimacy of a woman’s claim of rape or incest because police are unable to perform a physical examination and may have alternative motives in the case. The Senator argued that, for this reason, a doctor should be responsible for determining rape and incest:

“My real concern with the police report is the police doesn't have any ability to do any form of examination. Unless there's a physical proof that a person is injured. And that's still doesn't dictate that that's a rape. I'm a little more comfortable with the doctor doing the testing... That officer could have been involved himself. The officer could have known someone who, in fact, have committed this crime. So, I'm just not comfortable with the police, with the police report on it.” (Sen. SC-R)

2. Supporters called upon colleagues’ morality and empathy in consideration of rape and incest exceptions

Supporters of exceptions used examples of familial/personal relationships to encourage empathy

Throughout debate in Louisiana, South Carolina, and Tennessee, supporters of abortion exceptions asked their colleagues to empathize with women who experienced rape or incest; they

did so by using hypothetical examples of family members and friends. For example, a Louisiana Representative asked colleagues to consider a scenario where a close friend or relative experienced sexual violence and what their response to the bill and exceptions would be:

“You know oftentimes and when we just think in theory we can make and talk about these things but when we are faced with our own convictions of if it happened to you or your wife or your daughter then maybe the empathy becomes a little more real.” (LA-D)

The request of supporters of legislation to consider if opinion would change if an experience of rape or incest happened to a family member or friend was a tactic for emoting empathy in opponents of exceptions. In Tennessee, a Representative argued that it is inhumane for legislators to vote against exceptions if they have a close female relative:

“When the sponsor of this bill says we don't need to address whether a woman should have a rapist's baby or not, that is stunning to me. If anyone after that statement can vote for this bill and you have a wife, a mother, or daughter something's wrong.” (TN-D)

Representatives also used familiar relationships to assert that it is immoral to opposing rape and incest exceptions. In Louisiana, a Representative highlighted the need to consider rape and incest exceptions from a wholistic perspective, meaning empathizing with the situation of a woman from a personal perspective instead of othering women:

“But speaking of morality I know that we are not all at the same level when it comes down to morality. I think we need to check ourselves. We need to take an honest look because it could have been your wife or your daughter your sister your mother that are involved in this issue. So we need to start thinking realistically and kind of examine our own selves and our own condition instead of putting the burden off on someone else or pushing the issue off on someone else...” (LA-)

In South Carolina, a legislator specifically referred to empathy by asking colleagues to step into the shoes of a woman who experienced sexual violence. The Representative's lengthy statement described his support of exceptions due to the feelings he would experience as a father if his daughter became pregnant after experiencing rape and/or incest:

“I don't think we can in theory say what we would or what we wouldn't do because in two years you walked in those shoes until it has affected your family in that way... What I am going to ask is picture your child being raped crying to you not understanding having to suffer the consequences for something that was not their own doing.” (SC-D)

Supporters assert that consideration of rape and incest exceptions should be a nonpartisan issue

A tactic used by supporters of exceptions was emphasis of rape and incest exceptions as a bipartisan, or non-political issue. This tactic was present across South Carolina and Georgia. In Georgia and South Carolina, legislators appealed to opponents of exceptions by acknowledging that a fetus is innocent, but arguing that exceptions should not be political:

“And I felt like this is something that although we know these children as innocent as others we could get broad consensus around. It's just good sense. But I wouldn't call that a political consideration” (GA-R)

“And so it's imperative that we look at this issue in a bipartisan manner. Rape and incest is not a Republican or Democrat issue. This is an issue that I believe we can all agree on providing this exception.” (SC-R)

Even in Georgia, a Representative supporting early abortion legislation noted that, given that supporting rape and incest exceptions does not erase barriers for women who seek an abortion, that all legislators should be able to agree on exceptions in a “bipartisan way,”

“...we're not giving them the ability to skip down there and do anything trivializes a very serious circumstance, we provide them a mechanism that in filing an official police report they can that they can have access to what I believe is a bad decision. But I'm trying to make this an issue that we can come together in a bipartisan way.” (GA-R)

It was clear, however, that the tactic of referencing bipartisan agreement was not appreciated by some supporters of exceptions who opposed early abortion bans. In Georgia, a Representative responded to a conservative colleague by asking him to stop referring to the exceptions in the bill as a bipartisan issue:

“You know you keep talking about bipartisan and I really wish you'd stop using the expression bipartisan, because it is it might not be a political bipartisan of Republican Democrat. But it is a real partisan split between those who support your position and those that are supportive of my position.” (GA-D)

3. Opinions about mental health and trauma predicate exception positionality

Mentions of mental health and trauma frequently occurred in debate regarding rape and incest exceptions, specifically across Louisiana, South Carolina, and Georgia. Narrative debate surrounding the concepts of trauma and mental health was utilized in arguments by both opponents and supporters of rape and incest exceptions. Many representatives in favor of exceptions relied on the emotional and mental impacts of rape and incest to for the inclusion of exceptions in proposed policy. Supporters focused on that rape and incest survivors often experience life-long trauma and should not be forced to undergo further trauma by carrying a fetus to term.

Arguments utilizing mental health and trauma as support for allowing rape and incest exceptions were made in Louisiana and South Carolina. In South Carolina, multiple

representatives in both the state House and Senate put forth that rape and incest exceptions cannot be debated without consideration of the trauma that women undergo from these acts. Supporters of exceptions highlighted the importance of discussing rape and incest exceptions through a lens that acknowledges that rape and incest are events that are perpetrated against women without consent, in turn causing significant trauma and mental harm.

Supporters of exceptions argued that people who experience rape and incest face life-long trauma and should not be forced to undergo further trauma by carrying a fetus to term. A state Senator in South Carolina noted that passing a bill without exceptions would force victims of sexual assault to go through unwanted pregnancies that could perpetuate trauma through reminding the woman daily of the assault:

“... for others it is going to be a daily reminder of an ugly indecent in their life, that I was minding my business, going about my life and somebody raped me and I became pregnant or a close relative had sex with me and I became pregnant. And it’s a daily reminder. And so, some people can cope with that and some can’t. But by passing the bill, we’re going to say whether you can cope with it or not, you have to go through this in your life.” (Sen. SC-D)

A very similar argument was made by a Representative in Louisiana, who highlighted having to “endure” pregnancy after experiencing sexual violence. Likely as a strategy, this state Senator uses strong language, describing rape as violent and abusive and trauma as “horrific stress”,

“So, have you given consideration to the protection of a female who may have been violently raped and abused by a perpetrator who in that process became pregnant and the horrific stress and emotional strain and difficulty that that person has to endure for nine months carrying a baby that is the product of a violent horrible experience such as rape?”

Have you given consideration to the emotional and physical aspects of that?” (Sen. LA-D)

A legislator also argued that, since rape and incest are traumatic events, exceptions should not be discussed in a “vacuum.” A South Carolina Representative used language similar to many others when stating that, given the nonconsensual nature of the exceptions being considered, a woman should not be forced to experience continued repercussions:

“So, when we talk about an instance when a woman has gone through a traumatic event that no doubt will scar her both mentally and potentially physically, I don't think we can talk about this in a vacuum....What I am going to ask is picture your child being raped crying to you not understanding having to suffer the consequences for something that was not their own doing.”(SC-D)

For some opponents of exceptions, debate centered on the argument that abortion itself inflicts trauma and that rape and incest survivors should be supported through alternative mechanisms. For example, a Louisiana State Senator argued that faith, community, and law enforcement are appropriate alternatives to abortion in cases of rape and incest, even when accounting for the trauma “inflicted”,

“I think there's no justifying or mitigating or minimizing the trauma that's inflicted upon a woman that is raped. Whether she conceives or does not conceive there's no minimizing that. Those are lifetime scars and traumas...Versus killing the baby that is the, you know, the child who has, you know, resulted from that sexual assault...To me the right response is community support, prayer of church, family, community, holding the wrongdoer accountable, thorough investigation by you know investigative and police authorities”
(Sen. LA-D)

While discussion of trauma resulting from receiving an abortion is mostly an anti-exception argument, a South Carolina Representative discussed the nuances of this stance while still supporting the case for exceptions. The Representative argued that receiving an abortion and rape are both traumatic occurrences, but that ultimately the fact that sexual violence is non-consensual means that a woman should be given the agency to decide if she wants to terminate a pregnancy:

“But for a woman who's been through that kind of trauma I think choosing an abortion could be equally traumatic... These are complicated scenarios. And I think that choosing an abortion after being rape, those are two traumatic events, but I'm not going to take that away from a woman who's been through the kind of trauma that I've seen and I've witnessed and I've been there. It was not my fault and I'm not going to take that away from a woman who's been that or a child.” (SC-R)

Supporters of exceptions highlight potential long-term health impacts of denying women abortion

There was a distinction between arguments that referenced protecting women from the physical effects of pregnancy and those relating to protection from mental and emotional trauma associated with rape and incest. Supporters of exceptions used physical complications of pregnancy as a rationale for abortion exceptions. Arguments noting the physical impact of pregnancy relied on the fact that women who become pregnant as a result of rape and/or incest experienced a non-consensual interaction that erased the ability to make a choice in regards to pregnancy:

“...if we don't allow that to be an exception then we are forcing potentially a woman who did not choose to engage in that activity, who was raped to have that decision removed

from her, we could potentially be causing her lifelong complications for her health up to include death...” (SC-D)

Additionally, a Representative used physical health to argue that it is not fair or just to prioritize the health of a fetus over the health of a mother, when pregnancy can have significant health impacts:

“...but I don't think when that choice was removed did you know from that woman to engage in that activity that she should be subjected to health issues and that's what that's what is being talked about. I mean you can't just disregard the health of one person for the health of another person. They have to be looked at holistically.” (SC-D)

Another legislator argued that forcing a woman to continue with a pregnancy resulting from rape and/or incest could in itself have negative effects on health. The state Senator referenced another common exception, when the life of the mother is “at risk,” and claims that pregnancy from rape and incest could also be seen as harming the life of a mother:

“...forcing that woman to still have that child, at least in my mind, has the potential of materially impacting the health or life or well-being of that mother. And I realize it's not rising to the physical level that you're talking about, it doesn't put her life at risk.^[P]_[SEP]But there are certain physical and emotional and spiritual impairments and damages to her life that may occur as a result of that” (Sen. SC-R)

Similar arguments were made in Louisiana, where a representative asked their colleagues to consider the combination of physical and emotional/mental effects of carrying a fetus to term after experiencing rape and/or incest:

“So, have you given consideration to the protection of a female who may have been violently raped and abused by a perpetrator...Have you given consideration to the

emotional and physical aspects of that? Now, that's just during the nine months. I mean then we'll talk about what happens after the birth but during that period the immediate aftermath of what a person suffers.” (LA-D)

Opponents of exceptions balance the protection of women against the protection of a fetus

There was noticeable overlap between narrative discussing trauma and arguments related to the protection of women; this was most apparent through a tactic used by opponents of exceptions in Louisiana, South Carolina, and Georgia that pitted the protection of women against the right to life of a fetus. Specifically, opponents argued that protection from physical and emotional effects of pregnancy were ultimately less important than protecting a fetus. Protection of the fetus was positioned in opposition of protection of women arguing that fetuses are “innocent” in cases of rape and incest and therefore deserve protection; on the other hand, supporters of exceptions argued that women should be protected because it was not their choice to become pregnant. In Louisiana, an opponent of the legislation argued that the life of a fetus should be prioritized over potential alleviation of the suffering caused by sexual violence towards women, stating:

“That is...that suffering has to be very real. And to me the question is what is the moral response? What is our response as legislators?...I would say to you that an assault or misuse or mistreatment of a woman is wrong. And I don't believe that it's...I don't believe that it's rectified by killing the baby.” (LA-D)

In one case, a Republican South Carolina Representative referred to an unborn fetus as the victim of rape and incest, as opposed to the pregnant woman, stating:

“To me it is a grave indecency that there are folks in this room saying that if you were conceived in rape and incest you can be murdered. Do we murder adult victims of rape

and incest? Then why don't we murder, then why should we murder unborn victims of rape and incest?... Let me ask you a question, ladies and gentlemen we each other laws in the state of South Carolina allow us to kill someone for the crime of another person.” (SC-R)

Another state Senator from South Carolina expressed sympathy for pregnant women who are survivors of rape and incest, noting that pregnancy resulting from these acts is “unfair” and “terribly difficult,” but ultimately positing that the life of a fetus should be prioritized:

“I will begin by acknowledging what we all know to be true, that rape and incest are horrible crimes and cause great pain and suffering. Also, it is certainly understandable that women that become pregnant as a result of such crimes might not wish to carry the baby to full term. Such a pregnancy is a terribly difficult and unfair situation for any woman to be in. However, there are other considerations that should be acknowledged as well. The first is that killing the unborn baby will in fact, end the life of an innocent human being. That baby is just as much a human being as any other baby and just as innocent as well. So, if you vote against this amendment, you are voting to allow the killing of a tiny unborn baby for something he or she had nothing to do with.” (Sen. SC-R)

Reference to the fetus as “innocent” arose again during debate in Georgia, where a Representative expressed sympathy for the emotional trauma experienced due to rape, yet argued that the protection of the fetus should be prioritized:

“It's so important that we protect children that have heartbeats...these people came to me and said you know that the emotional complexity the difficulty of this this rape question makes it very difficult for me to support this even though I know it's so important and

people were sort of tortured over this issue and I don't want to be in a place where this becomes a divider... And I felt like this is something that although we know these children as innocent as others we could get broad consensus around.” (GA-R)

Discussion

Analysis of multiple Southern states revealed core arguments used by legislators to oppose and support rape and incest exceptions in fetal “heartbeat” bills in the region. The richness of data varied across the states, with clear patterns relating to belief in women and the roles of physicians and law enforcement in South Carolina and Georgia, as well as themes of morality/empathy and trauma across all states included in analysis.

Fetal “personhood” within a frame of empathy

Legislative arguments discussing the life and personhood of a fetus mirrored parent study findings, which uncovered narrative focus on “heartbeat” as an indication of life and “creating a new protected class of persons with subsequent legal protections” (Evans & Narasimhan, 2020). Given consistent focus on the innocence of a fetus in cases of rape and incest, this study indicates that these themes remain constant across topics in legislative debate. Specifically, in arguments of rape and incest exceptions, discussion of fetal personhood was used in opposition to the protection of women’s health and rights. This finding aligns with the two primary premises supporting pro-life positions, which do not align with support for rape exceptions (Cohen, 2015). The first premise is that fetuses hold the right to personhood; the second premise is that carrying a child does not “give the mother the prerogative to terminate the fetus in the ordinary abortion case” (Cohen, 2015). Therefore, if legislators believe both these premises hold true, granting exceptions for rape and/or incest would be contradictory because the right to life of a fetus is viewed as holding greater importance than the well-being of a pregnant woman.

Legislative strategies that relied on evoking mortality and empathy may have been employed to counter these premises. As discussed, supporters of rape and incest exceptions consistently used narrative that asked fellow legislators to imagine if a family or friend was in the situation being debated. During testimony of her own rape in South Carolina, Representative Nancy Mace implored the House to consider rape and incest exceptions as a bipartisan issue; in an interview, Mace said “It doesn’t matter what side of the aisle you are on, there are so many of us who share this trauma and this experience...rape and incest are not partisan issues” (Smyth & Cassidy). Indeed, across the states included in analysis, supporters of exceptions focused deeply on trauma, bipartisanship, and personal examples of family and friends in an attempt to exhibit the universality of sexual assault and, in turn, shift the mindsets of representatives fixated on fetal “personhood.”

Rape myths and belief in women

Finding that opponents utilized belief in women as a core argument against inclusion of rape and incest exceptions aligns with a well-documented history of rape myths in the U.S. One rape myth is the idea that victims of sexual violence falsely report rape, while estimates indicate that only about .5 percent of rape reports are inaccurate (Heaney). This myth was brought to light during the 2019 Brett Kavanaugh hearings, when public and legislative scrutiny was applied to his accuser’s testimony and the U.S. Senate confirmed him to the Supreme Court (Trautwein, 2019). During 2019 state legislative sessions, representatives used personal narratives of sexual assault to emphasize the importance of rape and incest exceptions. In South Carolina, Representative Mace recounted a personal experience of rape and her hesitancy to report the assault after her colleagues put forth arguments that women make false claims about rape to receive an abortion (Smyth & Cassidy). Research has indicated that those who support rape myth

are more likely to believe that accusations are false (Stabile, Grant, Purohit, & Rama, 2019). This raises the question of if legislators who believe that women report false instances of rape and incest are less inclined to accept testimony from supporters of exceptions who cite data and personal evidence that rape and incest claims are rarely illegitimate.

Narrative analysis revealed that opponents and supporters of exceptions continually shared stories that focused on extremes. Specifically, they used examples of rape and incest perpetrated through extreme violence (e.g. violent rape, rape of young children). This focus was likely strategic on the part of exceptions supporters, in efforts to evoke empathy or an emotional response from opponents. As evidenced by arguments, the role of trauma and mental health are implicit to consideration of these exceptions. Research discusses that a justification used in favor of exceptions is that women who experience rape and incest are subject to trauma; however, to make trauma a plausible support for those opposed to abortion, “the argument has to be that there is a “continuing violation” from the pregnancy itself that the law can correct through an abortion prerogative, almost as though every day of pregnancy is a repetition of the rape or incest” (Cohen, 2015). Therefore, establishing long-lasting trauma as a result of rape and/or pregnancy as a result of rape was important to the arguments made by supporters. However, using examples of violent rape as the primary argument perpetuates a “traditional rape script” that depicts rape as a “physically brutal attack” (Klement, Sagarin, & Skowronski, 2019). It is important to ensure that people seeking an abortion due to rape or incest are not met with speculation as to the degree of consent or violence experienced during an assault. For example, people who experience various levels of intimate partner violence (IPV), exacerbated during the COVID-19 pandemic, should have the ability to access abortion services in states with rape and incest exceptions. In

order to support reporting of sexual assault to physicians or law enforcement, legislators should avoid traditional narratives by ensuring discussion of the varying degrees of rape and incest.

Intended gatekeepers: physicians and law enforcement

Debate regarding rape and incest exceptions as a component of abortion legislation often involved the role of a physician in determining the legitimacy of rape and incest claims. By virtue of that abortion is a medical procedure, discourse around the jurisdiction of medical providers at the state level is not novel. A survey of 279 abortion providers revealed that roughly 50 percent of medical practices screen for “pregnancy resulting from rape,” and that only 19.7 percent of these practices “have a specific protocol for care of women who report rape-related pregnancy” (Perry, Murphy, Rankin, Cowett, & Harwood, 2016). According to 2019 polling, 71 percent of U.S. adults are opposed to laws that fine or administer prison time to physicians who perform abortions (NPR/PBS, 2019). Nonetheless, the role of physicians has been heavily contested at the federal and state level. For example, the federal Supreme Court has seen recent arguments from Texas and Louisiana that would make physician admitting privileges at a hospital a prerequisite to performing abortions in clinics (Najmabadi). Recent federal Supreme Court rulings have allowed the Arkansas to “require clinics to report to law enforcement the names of minors who have abortions...treat fetal tissue as criminal evidence” and “require providers to attempt to obtain patients’ full pregnancy-related medical records before providing care and grant rights over fetal remains to both parents of the fetus as well as to the pregnant person’s parents if the patient is a minor” (Ellmann, 2020) This law includes notification of both parents -- even in cases of rape.

While opponents and supporters of rape and incest exceptions disagreed about if physicians or law enforcement should determine the legitimacy of an assault claim, both the

medical and legal systems create barriers to abortion care. The arguments made by opponents supporting the involvement of law enforcement likely aim to create delays and difficulty for women seeking abortion care; however, arguments highlighting the “burden” placed on physicians are not fully illegitimate. Indeed, a study by Ilyas and Widaningsih (2020) indicates that physicians who assisted with abortions for rape victims were convicted due to a lack of proof of rape, or in other words that “the incidence of rape was not guaranteed based on court decisions that had permanent legal force” (Ilyas & Widaningsih, 2020). Additionally, a study by Dodge, Haider, and Hacker (2016) surveyed reproductive health providers about abortion-related attitudes. Among 278 physicians in the United States, “nearly all strongly agreed that abortion should be available in cases of rape (89.6%), incest (89.2%), life endangerment (93.2%), health endangerment (91.0%), and fetal anomaly (85.9%)” (Dodge, Haider, & Hacker, 2016).

Multiple representatives pointed out that requiring reporting through the legal system creates a barrier for women who fear retribution from perpetrators or are hesitant to report rape and/or incest. Only about 10 percent of rape cases are reported in the U.S. (Heaney), and approximately 60 percent of individuals who experience rape do not recognize it as such (Wilson & Miller, 2016). Moreover, while approximately 89 percent of sexual assault victims experience trauma, only about one percent of perpetrators receive a criminal conviction (Dam, 2018). Therefore, the likelihood that women will report through law enforcement prior to visiting a physician may be low. Even if the burden is removed from women to report directly to law enforcement, the requirement for physicians to file a police report prior to providing an abortion can also create barriers if women are under the age of 18 (e.g. in cases of incest) or fear negative repercussions from a perpetrator. The debate over involvement of physicians and law

enforcement emphasizes the importance of ensuring exceptions provisions in legislation that align with the needs of women who experience sexual trauma.

Limitations

For themes relating to the roles of physicians and law enforcement, codes reached the thematic threshold of 15 segments but were only inclusive of select states (South Carolina and Georgia). This was due to the nature of the abortion bans in these states; as discussed above, South Carolina and Georgia included rape and incest exceptions leading to heightened debate over the specificities of the procedure for determining the exceptions. This limitation may have prevented a cross-state understanding of the narrative arguments used by legislators.

It is important to acknowledge that this study focuses solely on the narrative debate of state legislators and excludes testimony from advocates and community members. Given the extremely personal nature of rape and incest, this poses the ethical risk of developing an analysis that does not present the full weight or nuanced perspective of considering rape and incest exceptions in early abortion ban laws. For example, the analysis did not take into account the perspective of physicians, law enforcement, women who experienced sexual assault, or other important narratives that were present in the findings of this study.

Conclusions

Roe V. Wade is under perpetual attack in the U.S. and many states will immediately ban abortion if this federal ruling is overturned. For states that maintain some form of legalized abortion, exceptions to restrictions for rape and incest will continue to incite debate. Evans and Narasimhan (2020) concluded that “opponents of abortion bans should attempt to understand, deconstruct, and analyze anti-abortion messaging to effectively combat it” (Evans & Narasimhan, 2020). This study seeks to deepen understanding of the strategies used by

legislators to oppose rape and incest exceptions in early abortion bans in order to provide greater opportunity for tailored reproductive rights advocacy and policy.

The multi-state nature of this study indicates that legislation is often copied across states in the South. The findings from this study, combined with previous research, provide a base for a tailored research and advocacy strategies relating to rape and incest exceptions. This research would be well complemented by further investigation of the weight that specific narratives hold in determining support for exceptions. Additionally, evidence indicates that Black women in Southern states are leading efforts against abortion bans (Szal, 2021), while conservative women “stand at the forefront of anti-abortion policy leadership in state legislatures” (Reingold et al., 2020). Future analysis should explore if this pattern holds true in state legislatures during debate regarding rape and incest exceptions. Given that representatives opposing and supporting exceptions did not follow partisan lines, it is important to strategize beyond Republican and Democrat divisions. Particularly with more than half of the U.S. state legislatures dominated by Republicans, advocacy should focus on finding points of shared priority across the aisle. Finally, rather than responding to attacks on abortion access, abortion advocates should utilize these findings to proactively inform state-level policy.

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Public Health Implications

This study builds upon a body of research on legislative narratives about abortion policy in Southern States conducted by Dr. Dabney P. Evans and Dr. Subasri Narasimhan.

Understanding the patterns and thematic arguments used by legislators in discussions about abortion policy, specifically early abortion bans, is imperative to forming research, policy, and advocacy strategies that can counteract inaccurate or harmful narratives and ultimately promote better abortion policy in the U.S. As discussed in the conclusions of this study's manuscript, the multi-state nature of this work indicates that legislation is often mirrored across states in the South, showing that strategies for combatting abortion restrictions should consider (and hope for) spillover effects beyond the individual state level. This research is important now, more than ever, as the majority of the states in the U.S. are controlled by majority Republican legislative bodies. In 2021 alone opponents of abortion have continued to introduce policies that restrict the access and reproductive rights of people seeking reproductive health care. Rape and incest are particularly important considerations in early abortion ban legislation as they are consistently considered in debate over policy exceptions (second only to the life of the mother). From those in South Carolina and Georgia were the only states to include exceptions for rape and incest during the 2019 wave of Southern abortion restrictions. However, it is vital that people who experience sexual assault are able to receive an abortion without question or barriers.

There are several key implications of this study for public health research and policy actors. First, this research would be well complemented by future research investigating if specific narratives used by legislators hold more weight than others in determining support for exceptions (e.g. trauma vs belief in women) – weight could be evaluated through qualitative interviews with state legislators. In turn, qualitative analysis could assess the communication and

advocacy channels that inform legislator's key arguments in exceptions-related debate.

Additionally, research regarding rape and incest exceptions in abortion legislation could focus on evaluating the impact of exceptions on abortion access in Southern States; for example, researchers could analyze the relationship between legislative positioning and the reporting rate of rape and incest for those seeking abortion at the state level. Research evaluating the relationships between legislation, reporting rates, and abortion access should ensure consideration of the role of doctors and law enforcement. Finally, research could explore if the increase of sexual and gender-based violence during the COVID-19 pandemic has impacted the number of rape and incest reports when seeking abortion services.

On the policy front, rather than responding to attacks on abortion access, it is important for abortion advocates to utilize these findings proactively to inform state-level policy. For example, these findings can be developed into issue briefs and fact sheets on specific topics, such as trauma and mental health, that can be disseminated and discussed with policymakers. Bringing to light common narratives used against exceptions – as well as the effectiveness of narratives supporting exceptions – can fact-check, counteract, and ultimately reverse harmful arguments. In order for advocacy efforts to be effective, sexual and reproductive health organizations, sexual assault organizations, and child abuse organizations should collaborate in promoting awareness about the common positions against allowing access in cases of rape and/or incest – including the roles of the medical and legal systems, trauma and mental health, and belief in women's reporting of sexual assault. Advocacy organizations can also work together through intersectional coalition-building, increasing leverage in policy environments and ensuring alignment on messaging and strategies. It is also important for public health practitioners to follow the lead and impressive work of reproductive justice organizations in

Southern states, especially those led and operated by people of color. Given that representatives opposing and supporting exceptions did not follow partisan lines and bipartisanship was used as a tactic by exception supporters, it is important to strategize beyond political divisions.

Important themes arising from this research relate to belief in women, the consideration of trauma and mental health in abortion care, and the importance placed on physicians and law enforcement during the reporting of rape and incest. People who experience rape and incest are particularly vulnerable to trauma, and trauma may be perpetuated through a lack of availability to health services and the requirement to carry a fetus to term. Though opponents of abortion exceptions attempt to perpetuate the idea that women experience trauma from receiving an abortion, evidence does not support this narrative. Therefore, there is a need for survivor centered and trauma-informed care and response for people who report rape and/or incest when seeking an abortion, as well as much stronger protocols for trauma-informed reporting and protection via the medical and legal system. This research indicates that the medical and legal systems are extremely important players in rape and incest exceptions, as legislators attribute their involvement as a necessity to believing or verifying the credibility of women's reports of sexual assault and therefore abortion access. Hence, physicians providing abortion care and all law enforcement responsible for processing reports of sexual assault should have mandated training in trauma-informed care, as well as clear education on evidence showing the extremely low incidence of false reporting of sexual assault. Additionally, advocates and lawmakers should ensure that the perspectives and experiences of physicians and law enforcement are gathered and shared to inform abortion-related decision-making.

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Annex 1. Codebook

Topic: Early abortion bans in southern states

Focus: Rape and incest exceptions

Data included: Legislative debate

- 1 Personhood.** Reference to a fetus that results from rape and/or incest as a person or the right to life for the fetus. Statements of personhood do not need to be linked to a legal basis of personhood. E.g., *“In other words if, if we don't treat the victim of a rape as less than a person or if we should not treat the victim of a rape as less than a person, less than a woman, less than a human being, then why should we treat the baby as less than a baby as less than a human being.”*
- 2 Choice.** Any mention of ‘choice’ in relation to a pregnancy resulting from rape and incest. Includes references. For example “legitimate rape” or other similar argumentation. E.g. *“...I'm sure you already know as many members of the committee know there are many individuals who experience pregnancy as a result of domestic violence and as a result of rape including incest and I know we all agreed that those aren't instances where people chose to get pregnant so I just wanted to clarify our response to you”*
- 3 Protection.**
 - 3.1 Protection of women.** Any reference to protecting a woman from the consequences of rape or incest, including health consequences relating to pregnancy. Additionally, includes pro-bill arguments that reference protecting a woman from the negative effects of abortion (e.g. trauma). E.g. *“So, have you given consideration to the protection of a female who may have been violently raped and abused by a perpetrator who in that process became pregnant and the horrific stress and emotional strain and difficulty that that person has to endure for nine months carrying a baby that is the product of a violent horrible experience such as rape?”*
 - 3.2 Protection of fetus.** Reference to protecting a fetus that results from rape and/or incest from abortion, including references to unfair blame places on a fetus for the actions of a perpetrator. E.g., *“Versus killing the baby that is the, you know, the child who has, you know, resulted from that sexual assault. So, I would say that killing the baby who did nothing wrong is not the right response.”*
 - 3.3 Mother/child post birth.** Reference to what happens to a child that is born as a result of rape/incest; or negative consequences for a woman after birth. Includes pro-bill argument that focus should be on support for child/mother after birth instead of abortion.

- 4 Trauma and mental health.** Reference to the trauma and mental health consequences of rape and/or incest, including the psychological stress of carrying a fetus resulting from rape and/or incest to term. E.g., “...*it would have even been sad or in this state to women who have been raped who have been subject to insist that they have to go forward with a pregnancy they have to already deal with the mental anguish of being raped or been subject to incest. And then on top of that having to deal with that additionally through nine months of pregnancy.*”
- 5 Legality.**
- 5.1 Legal process and procedure.** References to changes in the code and other laws that would happen if the current law goes into effect, or reference to comparison to other existing laws. E.g., “...*we have no rape and incest exceptions in other portions of our law.*”
- 5.2 Justice/criminality.** References to using the legal system to find justice for victims of rape and/or incest, often in opposition to allowing rape and incest exceptions. Includes holding perpetrators accountable legally instead of the fetus accountable. E.g., “*I’m opposing this amendment because it puts me out on a limb having to make a decision on a criminal offense.*”
- 6 Alternatives.** Refers to alternative solutions to abortion presented by legislators for women affected by rape and incest. E.g., “*To me the right response is community support, prayer of church, family, community, holding the wrongdoer accountable, thorough investigation by you know investigative and police authorities.*” Includes references to adoption, psychosocial support and others.
- 7 Mortality/Argumentation.** Arguments referring to the principles of behavior as right or wrong. This usually includes values-based statements. E.g., “*What other laws allow us to kill somebody for the crime of someone else. There are none. It would be terribly unjust.*”
- 7.1 Personal/family.** Any use of personal family, e.g. “think of your mother/sister/wife,” as an argument for or against including rape and/or incest exceptions. E.g., “*you know oftentimes and when we just think in theory we can make and talk about these things but when we are faced with our own convictions of if it happened to you or your wife or your daughter then maybe the empathy becomes a little more real*”
- 7.2 Non-partisan.** Reference to rape and incest as a non-partisan issue. E.g., “*I am asking for your support on this amendment today right now because I don't see rape or incest as a partisan issue.*”

- 8 Evidence.** Statistics or indication of evidence presented by both sides of the argument relating to rape and incest (does not necessarily indicate accuracy). E.g., *“And in South Carolina over five or six thousand women a year access services at rape centers across the state of South Carolina.”*
- 8.1 Proof/accountability.** Reference to belief in women, both explicit and implicit. Includes discussion of necessity for proof of rape and/or incest. E.g., *“...in order for a woman to claim rape or incest as an exception, that there would have to be empirical or objective evidence of that fact. And I have listed here a police report, and that follows what Georgia did. It provides a sort of an objective indicia of the fact that this did, in fact, occur.”*
- 9 Physician role.** Reference to the role of a medical provider in decision-making in regard to rape, incest, and abortion. Includes abortion as a personal medical decision, risks to providers who perform abortions, legitimacy of rape and incest claims as determined by physicians, and moral/personal views of health care providers in relation to rape, incest, and abortion. E.g., *“Criminal offenses should not be left in the hand of a physician whose trying to make a decision with their patient. Criminal Offenses should be adjudicated through the judiciary system.”*
- 10 Religion.** Reference to the relationship between rape, incest, and religion. Specifically relating to God. E.g., *“I believe firmly that when a woman is raped or the victim of incest that the decisions made after the act are between that woman and her family and her God and that's the way it should be.”*
- 11 Health of the mother.** Reference to exceptions for the health and life of the mother as related or similar to exceptions for rape and incest. E.g., *“And I just don't think that's true. I don't think that's true. And so I think that, the way I think about this, rape and incest is inextricably tied to life of the mother.”*