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**Simone de Beauvoir, Abortion, and Women's Liberation**

Honors Thesis in Philosophy

by

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## **Introduction**

The current political economy presents a direct threat to the rights of women in the United States. Donald Trump, the current U.S. President, who is well-known for his misogyny, has vowed to severely restrict abortion and has even advocated for a form of punishment for women who have abortions. Recently, there have been attempts by various states to restrict women's constitutional right to have an abortion. Republican state legislatures have enacted more than sixty new restrictions on abortion in 2016. Many of them are known as targeted regulations of abortion providers, or TRAP laws, which are red-tape regulations framed to increase public health and safety. Most of these abortion restriction laws have been ruled unconstitutional and have been blocked by the courts, but lawmakers are finding other means to restrict reproductive rights. "In reality, such laws are medically unnecessary and designed largely to construct roadblocks for women accessing care."<sup>1</sup> The attack on healthcare is an implicit attack on women and it is a form of oppression. Defunding Planned Parenthood means that health services for women such as cancer screenings, birth control consultations, STI testing, etc., will be taken away. The onslaught on reproductive rights is relevant because all of these issues are fundamentally women's issues and must be a part of a broader analysis of how society functions. If we are going to try to figure out what the new political environment means for women, and how we are going to fight back, we are going to need to discuss where women's oppression comes from.

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<sup>1</sup> The Intercept, "19 States Passed 60 New Abortion Restrictions in 2016," The Intercept, December 27, 2016, accessed April 30, 2017, <https://theintercept.com/2016/12/27/19-states-passed-60-new-abortion-restrictions-in-2016/>.

This thesis will present an argument for not restricting abortion. I will argue, based on Simone de Beauvoir's views on women's freedom and abortion, that it is important for women to receive safe and legal abortions if they wish to do so. I will then discuss Supreme Court rulings, such as *Roe v. Wade* and *Planned Parenthood v. Casey*, and show how Beauvoir would defend the court's rulings for not placing restrictions on abortion. And finally, I am going to apply her views to the recent state attempts to restrict access to safe abortions. My ultimate conclusion is that laws that go against abortion are part of a larger system that has been constructed by society to oppress women. I will end with a few thoughts on the way forward and what meaningful change for women can look like today. We need to address the social and economic inequalities that women face and that continue to be the basis for women's oppression.

## **I. Simone de Beauvoir on Women's Freedom and Abortion**

In this section, I will analyze the position of women in society, based on Simone de Beauvoir's views, and present an argument in defense of lifting the legal restrictions placed on women and abortion. She states that men have used education and social conditioning to create a dependent 'Other' that gives women no autonomy, and where their personal decisions, such as having an abortion, are regulated. And, although social situations limit individual freedom for men and women—both groups are said to face some form of oppression in society—it is women whose political, legal, and economic situation renders them less able to take up their freedom than the situations of men.

I want to make two points:

- Being a woman means having less freedom—that women are less able to exercise their freedom than men
- Women are the *Other*; and, because their situation is different in relation to men, women have always been trapped by limiting conditions

I will end with a few words on why Beauvoir advocates for changes in social structure and possibly women's economic freedom from men.

### **A. Freedom & the *Other***

Human freedom is the fundamental idea that has significantly influenced modern history. And with human freedom comes great responsibility. In *The Ethics of Ambiguity*, Beauvoir rightly states, “we are absolutely free today if we choose to will our existence in its finiteness, a finiteness which is open on the infinite.”<sup>2</sup> Her feminist existentialist philosophy arises from the limitations that are placed on our individual freedom, especially oppression, exploitation, marginalization, and violence. Beauvoir contends, “All of our lived experiences, our psychologies, our understandings of our physical and mental capabilities is filtered through our situatedness.”<sup>3</sup> Although everyone is metaphysically capable of freedom, women's situation in patriarchal societies significantly limits their freedom. “Women are situated in ways that make it less likely

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<sup>2</sup> Gordon Daniel Marino et al., *Basic Writings of Existentialism* (New York: The Modern Library, 2004), 435.

<sup>3</sup> Claudia Card, (ed.) *The Cambridge Companion to Simone de Beauvoir* (Cambridge: Cambridge University Press, 2003), 25.

that they can act on their freedom.”<sup>4</sup> Their ‘situation’ influences and may even significantly impede their freedom. While Beauvoir holds women responsible for their choices, she also argues, “that some choices are not available.”<sup>5</sup> The choice to obtain an abortion, for example, because it is so heavily restricted, is one that is not easily available.

In fact, Beauvoir emphasizes that certain choices are unavailable to women because of the economic and social barriers that they face. These barriers, or restrictions, on women are justified by the fact that they are condemned by their biological nature. There was an accepted belief that a natural foundation existed for the, “confinement of women to the family and for the ‘legal and customary subjection of women to their husbands’ within the family.”<sup>6</sup> Under capitalism, it is the woman’s role within the family that is the root of their oppression. Historically, most of the household responsibilities such cooking, cleaning, taking care of people, etc., have fallen on women. The rising rate of participation of women in the labor force, however, has meant that women are less reliant on male partners and can make a living on their own. This economic independence has challenged the sexist stereotype of women as destined only to a life of nurturing inside the home. However, this has not made women equal. Even in the labor force, women are relied on as a permanent, low-wage sector, and are located in mainly female occupations like nursing or teaching, which are considered to be “feminine” jobs. All of

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<sup>4</sup> Ibid., 40.

<sup>5</sup> Ibid.

<sup>6</sup> Will Kymlicka, *Contemporary Political Philosophy: An Introduction* (Oxford: Oxford Univ. Press, 2002), 378.

these things impact women in disproportionate ways that are unique to their oppression.

Being a woman means having less freedom, and no matter how much the work force, or the configuration of families, changes over time women are still oppressed and are less able to exercise their freedom than men. Beauvoir advocates for changes in social structures, such as “universal healthcare, equal education, contraception, and legal abortion for women and, most importantly, women's economic freedom and independence from men.”<sup>7</sup>

This brings me to my second point: that women are the *Other*, and have always been trapped by limiting conditions because their situation is different in relation to men. To gain a better understanding of this, it is important to analyze the position of women through the framework of existential thought. Men oppress women by treating them as the *Other*. Patriarchy, which is the institutionalized dominance of women by men, has used education and social conditioning to create a dependent *Other*. “The woman herself recognizes that the universe as a whole is masculine; it is men who have shaped it and ruled it and who still today dominate it for her; she does not consider herself responsible for it.”<sup>8</sup> Freedom can only be realized through the recognition of another’s freedom, or lack thereof. Man’s freedom arises out of female oppression. “We know through painful experience that freedom is never voluntarily given by the oppressor; it must be demanded

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<sup>7</sup> Internet Encyclopedia of Philosophy, accessed February 15, 2017, <http://www.iep.utm.edu/beauvoir/>.

<sup>8</sup> Simone de Beauvoir, *The Second Sex*, trans. Constance Borde and Sheila Malovany-Chevallier (New York: Vintage, 2011), 639.

by the oppressed.”<sup>9</sup> Women’s position in patriarchal society limits their freedom; they are led to believe that they are happier rejecting their freedom rather than taking responsibility for it. “Women’s failure to take responsibility for their freedom is seen both as women’s bad faith and as the trap of patriarchal society.”<sup>10</sup> An ongoing discussion on the status of human freedom, and the construction of female oppression within society, is necessary.

Beauvoir says that “individuals must and always choose for themselves, but these choices are always situated in a social context.”<sup>11</sup> She is aware of the effects of social institutions on freedom and how they fundamentally shape women’s unique experiences of oppression. “It is mainly because she has never experienced the powers of liberty that she does not believe in liberation; the world to her seems governed by an obscure destiny against which it is presumptuous to react.”<sup>12</sup> Women are less able to exercise their freedom because they have been socially conditioned to believe that they are severely limited in terms of liberty. Essentially, women’s role is determined by society. It is difficult to escape the role of the inferior Other, especially since there are numerous factors that contribute to the oppression of women. Modern capitalism has created a plethora of social structures that have created a system of oppression for women. The obstruction of women’s freedom is inherent in society, and it makes them less able to exercise their freedom than men.

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<sup>9</sup> Nigel Warburton, *Philosophy: Basic Readings* (London: Routledge, 2010), 273.

<sup>10</sup> Card, *Cambridge Companion*, 28.

<sup>11</sup> *Ibid.*, 35.

<sup>12</sup> Beauvoir, *The Second Sex*, 643.

## **B. Abortion**

The law against abortion is part of a larger system that has been constructed by society to oppress women, by categorizing them as the Other. As a result of this, men exert control over women's general life choices—such as the decision to have an abortion. In this section, I will summarize Beauvoir's views on abortion and later apply the conclusions drawn from her material to the current legal discussion on abortion in the U.S.

Beauvoir was a strong advocate for abortion. She campaigned for the extension of access to abortion clinics and for lifting the legal restrictions placed on women.

According to Beauvoir, safe and legal abortions would rid women of reproductive servitude so that, “she can take on the economic roles open to her, roles that would ensure her control of her own person.”<sup>13</sup> Access to contraception and abortion would ultimately enhance women's freedom and liberate them from specific impediments that men do not have. Beauvoir, “not only was not opposed to abortion, but campaigned for a widening of access to abortion clinics for those who did not belong to a social elite.”<sup>14</sup> She largely fought for the extension of access to abortion clinics, especially for working class women who did not have access to abortion as easily as ruling class women did. In the 1970s, for example, she campaigned for the women's movement and used her physical presence to raise awareness in France. She signed *Manifesto de 343*, a manifesto signed by 343 women who had themselves had abortions. It was a protest for the extension of abortion rights to the non-elite. Her argument for abortion is as such: (1) illegal abortions are

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<sup>13</sup> Beauvoir, *The Second Sex*, 139.

<sup>14</sup> Joseph Mahon, *Simone de Beauvoir and her Catholicism: An Essay on her Ethical and Religious Meditations* (Galway: Arden House, 2002), 118.

risky; (2) contraception and legal abortion would allow women freedom of choice; and, (3) when contraception is legalized and made easily available, the need for abortion will diminish. Her main point is the following: “it is illegal abortion, not the operation as such, which is the major health risk.”<sup>15</sup> Instead of criminalizing abortion, society should integrate it in a way that safe abortions are readily available for women. Moreover, “De Beauvoir argues that contraception and legal abortion would allow women freedom of choice in maternity: meanwhile women are often obliged to reproduce against their will. In the majority of cases, the mother requires the economic support of man.”<sup>16</sup>

There are many different aspects to women’s oppression, such as sexual violence. Sexual assault, harassment, and violence are very real and widespread and profoundly affect all aspects of women’s everyday lives. If we are going to challenge the permeating sexism in our society, however, we also need to address the social and economic inequalities that women face. “Now protected in large part from the slavery of reproduction, she is in a position to assume the economic role that is offered her and will assure her of complete independence.”<sup>17</sup> This economic inequality is a crucial part of women’s oppression.

Beauvoir’s point—that illegal abortions are risky—is important to consider. She says that, “free, safe and legal abortion should be available to every woman. The alternative to a legal abortion is a backstreet abortion, which often has dire consequences

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<sup>15</sup> Ibid., 119.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid., 124.

for women, such as hemorrhaging, septicemia, and death itself.”<sup>18</sup> Physicians actually practiced abortion when it was a question of saving the mother’s life. What is referred to as a “backstreet abortion” was performed in dangerous conditions. “What makes it a serious risk for women is the way in which it is actually done under present conditions. The lack of skill on the part of the abortionist and the bad conditions under which they operate cause many accidents, some of them fatal.”<sup>19</sup> The law made it a misdemeanor for abortions to be performed in secret: “So far as its social and legal aspects are concerned, women are forced to beg and cringe, and seek the collusion of other parties in a clandestine and illegal practice.”<sup>20</sup> As a matter of fact, a safe and legal abortion is less dangerous than giving birth. According to Joseph Mahon, “Beauvoir clearly holds that a mother should never be sacrificed for the sake of a fetus. She gives precedence to the mother not just when her life is in danger, but also when a continuation of the pregnancy would threaten her.”<sup>21</sup> Not too many people are aware of Beauvoir’s views on abortion. She held that there was no protection to embryonic life, since it was inhabiting the woman’s body.<sup>22</sup> She also held that reproductive freedom be granted to women, and that abortion and contraception be legalized.

Contraception and abortion allow women to exercise their freedom of choice; it

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<sup>18</sup> Ibid., 131.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid., 127.

<sup>22</sup> Judith Jarvis Thomas shifts the focus away from the typical abortion argument. She argues that if the woman has bodily autonomy, and the fetus is using her body, then it is up to the woman to decide whether to allow this to continue or not. The woman has the right to decide to allow the fetus to use her body. Judith Jarvis Thomson, “A Defense of Abortion,” *Philosophy and Public Affairs* 1 (1971), 47-66.

liberates them from specific impediments that men do not have. Women's freedom is restricted by their bodies—their biology has been used to reduce them to the inferior role of the *Other*. Beauvoir suggests that inequality between the sexes is first biological and, for this reason, men have certain advantages that women do not. “The law against abortion is an essential part of the system that society has put in place for the oppression of women.”<sup>23</sup> Beauvoir suggests that health services, and the law, should find an appropriate way to respond to the demand for access to abortion and contraception. In *The Second Sex*, she emphasizes, “if a woman is to take charge of her biological destiny, if she is to give life on her terms, then she needs, in addition to contraception, a free, safe and legal abortion service available to her.”<sup>24</sup> She saw all aspects of women's decisions as shaped by the patriarchy. And, that patriarchal influence has gone so far as to permeate our laws. If women are going to exercise their freedom and form their own attitudes, they must not be constrained by various socioeconomic factors that prevent them from doing so. Beauvoir claims that a woman's life will be structured by her ‘situation,’ as well as the attitudes of others. The law that goes against abortion has institutionally restricted women—it is something that keeps them down:

Institutional oppression occurs when established laws, customs, and practices systematically reflect and produce inequities based on one's membership in targeted social identity groups. If oppressive consequences accrue to institutional

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<sup>23</sup> Mahon, *Simone de Beauvoir and her Catholicism: An Essay on her Ethical and Religious Meditations*, 133.

<sup>24</sup> *Ibid.*, 134.

laws, customs, or practices, the institution is oppressive whether or not the individuals maintaining those practices have oppressive intentions.<sup>25</sup>

We need to look at the abortion debate about women's freedom, and look at abortion restrictions both in the past and the present as attempts to restrict women's freedom. My focus will be on lifting the legal restrictions on women and pregnancy; I will first look at the history of abortion regulation in the U.S., and then consider recent attempts that further hamper women's freedom.

## **II. Supreme Court Rulings**

### ***A. Roe v. Wade***

The women's liberation movement of the 1970s inspired one of the most famous Supreme Court cases in the history of the United States—*Roe v. Wade* (1973). The Court's ruling made a woman's right to have an abortion a constitutionally protected right. It struck down all laws banning abortion in the first trimester. It made abortion legal, at least in the first trimester, across the country. The Court revisited abortion in subsequent cases because, "although *Roe* forbids states to deny women the right to seek abortions, it does not require state and local governments to make abortion

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<sup>25</sup> Carol Cheney, Jeannie LaFrance, and Terrie Quinteros, "Institutionalized Oppression Definitions," 2006, accessed May 2017, <https://www.pcc.edu/resources/illumination/documents/institutionalized-oppression-definitions.pdf>.

available...governments moved to restrict access to abortion in other ways.”<sup>26</sup>

Subsequent Supreme Court cases involving women’s right and gender equality include: *Doe v. Bolton* (1973), *Planned Parenthood of Central Missouri v. Danforth* (1976), *Carey v. Population Services International* (1977), *City of Akron v. Akron Center for Reproductive Services* (1983), *Webster v. Reproductive Health Services* (1989), and *Ohio v. Akron Center for Reproductive Health* (1990), respectively.<sup>27</sup>

We have to focus on dismantling the institutional ways that women are oppressed. The law uses aspects of women’s struggle, from reproductive rights and sexual violence to unpaid labor in the home, to advance its own oppressive agenda. It affects some of the most vulnerable people in the country, such as undocumented women and low-income women. We need to look at the abortion debate as a debate about women’s freedom, and we must, especially, look at the various state attempts to limit women.

The U.S. Constitution grants everyone certain rights that provide us with basic freedoms such as the ability to make autonomous decisions about the way we live our lives. The fundamental right to freely choose what to do with one’s body—such as deciding to have an abortion—is a constitutional, as well as a moral, right and must be protected by the law. With several states having recently passed restrictive abortion laws, it is almost impossible to procure an abortion in those states. Ohio’s governor signed a bill this year that bans abortions after 20 weeks of pregnancy.<sup>28</sup> Recent political efforts to

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<sup>26</sup> Barbara Hinkson Craig and David M. O'Brien, *Abortion and American Politics* (Chatham: Chatam House, 1993), 77.

<sup>27</sup> *Ibid.*, 97-100.

<sup>28</sup> Laura Bassett, "States Enacted More Than 60 Abortion Restrictions in 2016," *The*

defund Planned Parenthood, in particular the health care bill passed by the House this May, demonstrate that abortion is still highly controversial. States restrictively regulating abortion—or outright banning it—violates a woman’s constitutional right to liberty.

Past legal decisions have set a precedent for present cases regarding reproductive decision-making. *Roe v. Wade* famously legalized abortion in the U.S. by rendering the Texas anti-abortion laws unconstitutional. It argued that the right to an abortion was encompassed in the Due Process Clause of the Fourteenth Amendment. Justice Blackmun delivered the opinion of the court, he opined: (1) for the stage prior to approximately the end of the first trimester, the abortion decisions must be left to the medical judgment of the pregnant woman’s attending physician; (2) for the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother may regulate the abortion procedure in ways that are reasonably related to maternal health; and (3) for the stage subsequent to viability, the State, in promoting its interest in the potentiality of human life may regulate, and even proscribe, abortion except when it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.<sup>29</sup> *Roe v. Wade* raised the issue of abortion to the political level, but it did not have the final word.

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Huffington Post, December 28, 2016, accessed April 11, 2017, [http://www.huffingtonpost.com/entry/supreme-court-anti-abortion-states\\_us\\_5863e1b5e4b0de3a08f6bf53](http://www.huffingtonpost.com/entry/supreme-court-anti-abortion-states_us_5863e1b5e4b0de3a08f6bf53).

<sup>29</sup> Craig and O'Brien, *Abortion and American Politics*, 30.

## **B. *Planned Parenthood v. Casey***

*Planned Parenthood v. Casey* (1992) provided evidence for how the state routinely tries to obstruct women's freedom. The case concerned a challenge by Planned Parenthood to the five provisions of Pennsylvania's Abortion Control Act of 1982, which established regulations for women seeking abortions (abortion being legal after *Roe v. Wade*). The provisions were the following: (#1) required abortion counseling (informed consent); (#2) a required waiting period; (#3) required parental consent for minors under eighteen; (#4) required spousal notification; and (#5) reporting and public disclosure requirements.<sup>30</sup> These provisions directly interfered with the freedom granted by *Roe*'s decision, which established that states could not regulate abortions during the first trimester—and that it was, instead, a private decision between a woman and her doctor.

In the 1977 United States Supreme Court case, *Carey v. Population Services International*, the Court held that prohibitions on sales and advertisements of contraceptives for minors are unconstitutional.<sup>31</sup> It established that our law affords constitutional protection to free decisions relating to marriage, contraception, child rearing, and education. These rights grant women the freedom to choose when, if at all, to bear children, and to make other autonomous reproductive choices. Under *stare decisis*—the principle by which judges are bound to precedents—Justice O'Connor, in *Casey*, opined that *Roe*'s essential holding be retained. The ability for a woman to freely decide to have an abortion is a liberty that is protected against any state interference—

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<sup>30</sup> *Ibid.*, 329.

<sup>31</sup> *Ibid.*, 97.

specifically by the Ninth Amendment which has a provision for enumerated rights “retained by the people,” and the Fourteenth Amendment, which prohibits against a state depriving “any person of life, liberty, or property, without the due process of the law.”

*Casey* reaffirmed each of *Roe*’s three parts: (1) recognition of a woman’s right to choose to have an abortion before fetal viability (the stage subsequent to viability—the final stage) and to obtain it without undue interference from the State; (2) confirmation of the State’s power to restrict abortions after fetal viability, so long as the law contains exceptions for when a woman’s life or health is at risk; and (3) the principle that the State has legitimate interests in protecting the health of the woman and the life of the fetus that may become a child.<sup>32</sup>

The ruling states, “the ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.”<sup>33</sup> An unwanted pregnancy disrupts a woman’s life and has significant social and economic impacts. Having an unwanted pregnancy and subsequently forcibly having the child comes with many personal and socioeconomic disadvantages, such as educational underachievement, welfare dependence, and single parenthood. “Because motherhood has a dramatic impact on a woman’s educational prospects, employment opportunities, and self determination, restrictive abortion laws deprive her of basic control of her life.”<sup>34</sup>

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<sup>32</sup> "FindLaw's United States Supreme Court case and opinions.," Findlaw, accessed March 06, 2017, <http://caselaw.findlaw.com/us-supreme-court/505/833.html>.

<sup>33</sup> *Ibid.*

<sup>34</sup> Maureen Harrison and Steve Gilbert, *Abortion decisions of the United States Supreme Court: the 1990's* (Beverly Hills, CA: Excellent Books, 1993), 163.

For example, a woman can be deprived of future educational opportunities because she is forced to quit high school or college. A lack of education can lead to a failure to obtain gainful employment and can lead to a cycle of poverty that affects the child. Access to birth control and safe and legal abortions beyond (and including) the first trimester should not be hampered by any state laws. Adoption is an alternative to abortion, but perhaps it is not always available, especially in the case of some babies. In fact, abortion is safer than childbirth. Adoption requires that the woman carry the baby to term, and then give birth, both of which are inherently dangerous. This process invokes anxiety and depression. The decision to give a child up is a stressful one, mainly because one cannot be sure of how the child will be situated. In adoption, the child might lead a happy life or lead a terrible life, and suffer from mental illness or imprisonment. Beauvoir makes the argument that unwanted children will end up imprisoned or depressed: “Forced motherhood results in bringing miserable children into the world, children whose parents cannot feed them, who become victim of public assistance.”<sup>35</sup> Adoption is not an alternative; it still remains the woman’s decision whether or not to give her child up for adoption.

The Supreme Court cases *Griswold v. Connecticut* (1965) and *Eisenstadt v. Baird* (1972) set a precedent; they provided constitutional support for access to birth control. *Griswold* established that a state ban of the use of contraceptives by anyone, including married couples, violates the right to privacy, while *Eisenstadt* extended the right to use contraceptives that *Griswold* acknowledged and protected to unmarried men and

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<sup>35</sup> Beauvoir, *The Second Sex*, 525.

women.<sup>36</sup> These earlier cases concerning privacy have something in common with *Roe* and with *Casey*—that a woman’s freedom is not fully protected from state restrictions. They are about woman’s freedom from state restrictions of sexual activity, reproduction, having a family, etc., which, greatly impact every single aspect of her life, such as employment and education. We need to create an environment where aspects of women’s oppression—reproductive rights, sexual violence, etc.—are addressed.

Abortion is usually chosen as a response to the failure of contraceptives, or as a response to unplanned sexual activity, or at least as a response to an unintended pregnancy. Being able to freely choose to discontinue an unwanted pregnancy is an individual liberty that should be afforded to women. However, state laws still place restrictions on women’s individual liberty. *Roe*’s decisions left states free to place restrictions on the abortion decisions within established guidelines. Pennsylvania’s provision requires that women make an appointment, but that they return another day for another appointment. This is the mandatory waiting period (#2), which requires women, after giving her informed consent to an abortion, to wait twenty-four hours before obtaining an abortion. The provision also requires women make at least two visits to the doctor’s office to receive counseling on the specific risks of abortion. This also includes doctors detailing each stage of fetal development and providing information offering ‘alternatives to abortion.’

*Casey*’s approval of Pennsylvania’s informed consent law (#1) paved the way for

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<sup>36</sup> "FindLaw's United States Supreme Court case and opinions.," Findlaw, accessed April 20, 2017, <http://caselaw.findlaw.com/us-supreme-court/405/438.html>.

future laws requiring ultrasounds and ‘fetal pain.’ Oklahoma passed an ultrasound law in 2008. The law makes it mandatory for women to undergo an ultrasound before an abortion. And fetal pain laws are based on the notion that a fetus can feel pain during the procedure, and thus doctors must provide anesthesia to the woman having an abortion after 20 weeks. Both have a significant effect on a woman’s decision to seek an abortion. The purpose of these laws is to ‘personify’ the fetus and, in doing so, to “dissuade a woman from obtaining an abortion.”<sup>37</sup> Doctors often misinform them of the psychological consequences involved with having an abortion, for example, by telling them that they will suffer from post-traumatic stress disorder.

“These laws symbolize state attitudes toward abortion and about the capacity of women to make informed choices about abortion.”<sup>38</sup> This is a form of sexism; it implies that women are incapable of making autonomous decisions about pregnancy. Those most vulnerable to the laws, such as low-income young women, are placed in a very difficult position. *Casey*’s abortion counseling and informed consent (#1) required doctors to counsel women on the specifics of abortion, to describe and provide materials detailing the stages of fetal development, and to provide a list offering “alternative to abortion.” Women must delay their decision-making. They are given a period of time to engage in reflection, in order to make a more informed and deliberate decision.

These visits also came with other impediments. Married women needed a signed statement from their husbands certifying that they had notified their husbands, and

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<sup>37</sup> Neal Devins, "How *Planned Parenthood v. Casey*’ (Pretty Much) Settled the Abortion Wars," *Yale Law Journal* 118 (2009), 1341.

<sup>38</sup> *Ibid*, 1343.

women under the age of eighteen were to obtain the written consent of a least one parent. These requirements are both limiting and oppressive. Why should they be required by law to notify their husbands? The people framing the law either want this provision because they think it will stop women from obtaining an abortion, or, they genuinely think that a wife should not make decisions without consulting her husband and—both are wrong.

### **C. Beauvoir's Defense**

State regulations that impose an undue burden on a woman's ability to make decisions about pregnancy, her body, etc., violate her right as an autonomous being. Beauvoir states that, "everyone is equally metaphysically capable of freedom."<sup>39</sup> We all possess the ontological freedom to make decisions despite social, economic, or political conditions. And, although we are oppressed—either socially or economically—that we remain ontologically free. It is clear, then, that those framing the law are imposing on women's moral right to obtain an abortion. Beauvoir contends, "women are situated in ways that make it less likely that they can act on their freedom. Women's situation may influence and even impede women's freedom."<sup>40</sup> Women's 'situation' in patriarchal societies prevents them from experiencing freedom as men do, who are regarded as the 'subject' whereas women are the 'object' - or the Other. This severely limits their freedom. Beauvoir argues for women's equality; it is unjust to subordinate women because of their

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<sup>39</sup> Joseph Mahon, *Simone de Beauvoir and her Catholicism*, 40.

<sup>40</sup> *Ibid.*

sexual differences from men. “If these same situations are compared, it is obvious that man’s is infinitely preferable, that is to say, he has far more concrete opportunities to project his freedom in the world; for women, it is practically forbidden to *do* anything.”<sup>41</sup> It is clear that the historical role offered to women has contributed to their systematic oppression.

Beauvoir would defend the court’s rulings by claiming that women are entitled to reproductive freedom, and freedom over their bodies in general. Contraception and abortion enhance women’s freedom, and liberates them. Beauvoir’s main claim is that, “birth control and legal abortion would allow all women to control their pregnancies freely.”<sup>42</sup> However, the law in the U.S. is set up in a way that makes abortion a misdemeanor for failure to meet standards for legal abortion. This forces women to clandestinely obtain an abortion. It is part of a larger system that has been constructed by society to oppress women by categorizing them as the Other. The only way to authentically assume our rights is to revolt: “they must refuse the limits of their situation and seek open paths to the future; for woman there is no way out than to work for her liberation.”<sup>43</sup>

The lack of abortion rights curtails freedom, according to Beauvoir. And, the intervention of the law prevents women from making autonomous decisions. We must stop the state from interfering, because it is even worse to restrict woman. A legal ban on abortion means that, “many unwanted children get born, many of whom end up in

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<sup>41</sup> Beauvoir, *The Second Sex*, 664.

<sup>42</sup> *Ibid.*, 533.

<sup>43</sup> *Ibid.*, 664.

orphanages, prison, and in psychiatric institutions.”<sup>44</sup> The law that forces women to bring unwanted children into this world is criminal itself. She also maintains that, “a law against abortion is an essential part of a social system designed for the oppression of women.”<sup>45</sup>

### **III. Women’s Liberation**

Beauvoir also points out that men have used education and social conditioning to create a dependence that gives women no autonomy. Their personal decisions, such as the decision to obtain an abortion, are heavily regulated. Women’s oppression includes restrictions on reproductive rights, unequal pay, and sexual violence against women. It is crucial to go through the history of the facets of women’s oppression because we cannot come to understand the oppression of women without factoring in their role as the Other.

The recent political climate, specifically the current U.S. President’s public contempt of women, has given more encouragement to individuals and organizations that want to rescind the gains that women have won in this country. Women feel scared about the Trump presidency. We need to understand where women’s oppression comes from, so that we can tackle the injustices committed against women. The rights of women to control their own bodies and to decide if and when they choose to become mothers has been chipped away at ever since women won the right to legal abortion in 1973.

Beauvoir, by analyzing the position of women in society within the framework of

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<sup>44</sup> Joseph Mahon, *Simone de Beauvoir and her Catholicism*, 131.

<sup>45</sup> *Ibid.*, 132.

existential thought, argued that women had always been ‘trapped’ by ‘limiting conditions.’ She also argued that women’s household work grants her no autonomy, and that she is only an ‘inessential intermediary.’ Historically, most of the responsibilities such as cooking, cleaning, and taking care of people have fallen on women. This is still the case today, even though women make up most of the U.S. workforce. The rising rate of participation of women in the labor force has meant that women are less reliant on a male partner to make a living. This has challenged the stereotype of women as destined to a life inside of the home. However, even in the labor force, women are located in overwhelmingly traditionally female occupations such as nursing, elementary school teachers, and waitressing. All of these factors impact women in disproportionate ways that are unique to their oppression.

We must rebuild an empowering fighting women’s movement in this country. Beauvoir, in fact, encourages revolt and points out that liberation can only be collective. It is evident that the right-wing is waging a war against abortion rights. If *Roe* is overturned by the new administration, there is reason to think that some states would approve abortion bans. Some states have already passed laws that severely restrict abortion. For example, Louisiana’s state legislature has passed seven laws that restrict abortion. It restricts abortion by extending the state mandatory waiting period from twenty-four to seventy-two hours, and bans abortion after 20 weeks. Ohio has also placed a ban on abortion after 20 weeks of pregnancy. And eight other states have passed laws intended to defund Planned Parenthood. These are real issues at hand: the shutting down of clinics altogether, and the restrictions on access to the existing ones, because of

various extra requirements.

Also, the current attack on our current healthcare law presents an implicit, yet direct, attack on women. The new American Health Care Act bill, if it becomes law, will not only harm women but the poor and the elderly as well. It will strip funding from Planned Parenthood, slash Medicaid, and even cut services for women at risk. According to the *New York Times*: “Under the House bill, women would no longer be able to use Medicaid for care at Planned Parenthood centers.”<sup>46</sup> In addition, it would eliminate services used by women, such as birth control and mammograms. Slashing Medicaid would significantly impact women, “especially black and Latina women, who are more likely than white women to be insured through Medicaid.”<sup>47</sup> Over \$880 billion from Medicaid will be cut over the next ten years, removing a vital source of coverage for women’s health services. We must create a society where our bodies are ours to control – not the state’s.

Beauvoir would go against recent attempts to restrict and block access to abortion by arguing that it is a direct threat to women’s freedom. It also reinforces the institutionalized dominance of women by men, which has been socially conditioned. It mainly places restrictions on a human being’s freedom solely because of their reproductive functions. In our society, men collectively exert control over women’s general life choices—either political, economic, or personal decisions. This is a form of

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<sup>46</sup> The Health Care Bill’s Insults to Women, *The New York Times*, May 12, 2017, accessed May 13, 2017, <https://www.nytimes.com/2017/05/12/opinion/the-health-care-bills-insults-to-women.html>.

<sup>47</sup> *Ibid.*

oppression, which can be manifested either through powerlessness, marginalization, or systemic violence. Women's oppression, specifically, consists of an inequality of status, power, and wealth. By controlling the law, and by getting rid of social services and spending, the ruling class can freely exert its power over women and contribute to an even greater inequality of status and power. Modern capitalism is responsible for the creation of the multitude of social structures that have contributed to the systematic oppression of women. The onslaught on reproductive rights, as well as other issues like the defunding of public schools, lack of government subsidized childcare, and the attack on trans individuals, are all fundamentally women's issues.

The future of this country is not predetermined, nor does it necessarily depend on the President or those who dominate Congress. We must show support for those exercising their existing legal right to an abortion and healthcare services, and oppose bills and state laws that go against this. Beauvoir would suggest that we build an atmosphere where attitudes against women, as well as people of color, Muslims, immigrants, and all of the oppressed, are combatted. The goal of liberation, according to her, is a Hegelian mutual recognition of each other as free.

As I have shown, the current political economy presents a direct threat to the rights of women in the U.S. The attempts made by various states to restrict abortion rights are based on the institutionalized oppression of women; which generally means that the established laws or customs produce inequities based on a person's social identity. If we are going to figure out what the current U.S. political climate means for women, it is important to delve into the history to discern where women's oppression comes from.

Past U.S. legal cases have shown that restrictions were mainly anti-women. It can be concluded that the law that goes against abortion is part of a larger system constructed by society to oppress women. This is because, firstly, being a woman means having less freedom—that we are less able to exercise our freedom than men. And, that the category of the Other is used to create a secondary position for women in society. Man is regarded as subject and woman is regarded as object – or the Other. But Beauvoir did not think “that the point of women’s liberation was for women to become more like men or to assume their positions of power in a capitalist society. Nor did she think that the advent of a socialist society would ensure equality for women.”<sup>48</sup> Beauvoir rightly advocates for changes in social structures. One way to do this is to stop criminalizing abortion, and instead, for society to rationally integrate it into its legal system. The demand for abortion clinics and birth control is at an all-time high, as well as the demand for autonomy and reproductive freedom.

The abortion debate should be looked at as a debate about women’s freedom, and we must also look at restrictive abortion laws as implicit attempts to impede women’s freedom. Safe and legal abortions should be available to every woman in the U.S. The laws that place restrictions on abortion are based on patriarchal ideals that are anti-women’s freedom. In a 1976 interview with Beauvoir, Susan J. Brison stated:

Current debates within US feminism about freedom and the power of the state remind me of the conflict in the 1970s between Beauvoir and the feminists who

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<sup>48</sup> Susan J. Brison, Card, *The Cambridge Companion to Simone de Beauvoir*, 202.

located women's emancipatory potential outside of the laws of the state, beyond the male-dominated systems of discourse and knowledge.<sup>49</sup>

Although women have come a long way since 1976 in terms of their rights and liberties, the debate on abortion has remained virtually the same. Women in the U.S. are still challenging the law in order to protect the laws that were granted to them by *Roe*.

It is difficult to ban an activity that has been so ingrained in the lives of women. Placing restrictions on abortion affects everyone, but especially working class women who cannot afford an abortion and have to either raise a child in poverty or resort to a back-street abortion that can potentially put her at risk of death. Women, as well as other oppressed minority groups, must be protected. So, the government must come to a compromise with its citizens—especially since the funding for local governments comes from the citizens itself—if they aim to cultivate a “great America.”

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<sup>49</sup> *Ibid.*, 205.

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