



EMORY
LIBRARIES &
INFORMATION
TECHNOLOGY

OpenEmory

"A daily reminder of an ugly incident horizontal ellipsis ": analysis of debate on rape and incest exceptions in early abortion ban legislation in six states in the southern US

[Dabney Evans](#), *Emory University*
[Subasri Narasimhan](#), *Emory University*
L Schnabel, *Emory University*
K Wyckoff, *Emory University*

Journal Title: SEXUAL AND REPRODUCTIVE HEALTH MATTERS

Volume: Volume 31, Number 1

Publisher: TAYLOR & FRANCIS LTD | 2023-12-31, Pages 2198283-2198283

Type of Work: Article

Publisher DOI: 10.1080/26410397.2023.2198283

Permanent URL: <https://pid.emory.edu/ark:/25593/w6pz7>

Final published version: <http://dx.doi.org/10.1080/26410397.2023.2198283>

Accessed November 28, 2023 9:36 PM EST

“A daily reminder of an ugly incident ...”: analysis of debate on rape and incest exceptions in early abortion ban legislation in six states in the southern US

Dabney P. Evans ,^{a,b†} Liesl Schnabel,^{c†} Kathryn Wyckoff,^d Subasri Narasimhan^{e†}

a Associate Professor, Hubert Department of Global Health, Rollins School of Public Health, Emory University, Atlanta, GA, USA; *Correspondence:* dabney.evans@emory.edu

b Center for Reproductive Health Research in the Southeast (RISE), Rollins School of Public Health, Emory University, Atlanta, GA, USA

c Reserch Assistant, Hubert Department of Global Health, Rollins School of Public Health, Emory University, Atlanta, GA, USA

d Public Health Program Associate, Hubert Department of Global Health, Rollins School of Public Health, Emory University, Atlanta, GA, USA

e Research Assistant Professor, Hubert Department of Global Health, Rollins School of Public Health, Emory University, Atlanta, GA, USA

Abstract: *Abortion bans in the United States often include provisions for abortion in the circumstances of rape or incest experience. Such exceptions have been included in important legislation like the Hyde Amendment, 2003 Partial-Birth Abortion Ban Act, 2010 Affordable Care Act, and state and federal legislation banning abortion in early gestation. Thus, examination of these laws is critical given the 2022 Supreme Court decision to devolve legal access to the state level. This study examines arguments made by proponents and opponents of rape and incest exceptions within early abortion ban legislation using publicly available video archives from legislative sessions in six Southern states. A narrative analysis was conducted on the legislative debate of rape and incest exceptions during the 2018–2019 legislative sessions. We found three core themes when examining legislative debate: belief in people’s claims underpinned opposition or support for exceptions; opinions about trauma were related to views on exceptions; and exception supporters called for empathy and non-partisanship in consideration of rape and incest. Additionally, support and opposition for the inclusion of rape and incest exceptions in draft law did not follow party lines. This study seeks to deepen understanding of the strategies used by legislators to promote and rebuff rape and incest exceptions in early abortion legislation while providing greater opportunity for tailored reproductive health, rights, and justice advocacy and policy, especially in the context of the US South where abortion access is now extremely restricted. DOI: 10.1080/26410397.2023.2198283*

Keywords: abortion, reproductive justice, rape, incest, sexual violence, gender-based violence

Background

Before the June 2022 United States (US) Supreme Court decision in *Dobbs v. Jackson Women’s Health Organization* reversing nearly five decades of precedent, nearly one in five pregnancies ended in abortion, making it a common reproductive experience.^{1,2} Exceptions to abortion restrictions

appeared as early as the 1880s, and access to these “therapeutic abortions” was later governed by physician committees within hospitals.^{3–6} In the 1950s exception rhetoric allowing for abortion in specific cases, was introduced in model abortion law and discussions of exceptional circumstances became common practice, further driving the polarization of public debate to focus on the “extraordinary abortion” experience;⁷ during the *Roe* era, the most common

[†]These authors contributed equally to this work.

circumstances of exception in abortion ban legislation were to protect the life of the pregnant person (including for the preservation of the health of the pregnant person), for pregnancies that result from rape or incest, and for fetal anomaly.^{8,9} Versions of these exceptions were included in the Hyde Amendment,¹⁰ the Partial-Birth Abortion Ban Act,¹¹ the Affordable Care Act,¹² and in state and federal “heartbeat” bills, designed to limit abortion upon detection of fetal cardiac activity.^{13–19} Given the *Dobbs* ruling, which devolved abortion policy to individual states, permissible exceptions for abortion are a salient issue for those in need of abortion care – including survivors of rape and incest; one in four American women experience rape in their lifetimes, with many of these occurring before age 18.²⁰ In the US, between 25,000 and 35,000 pregnancies result from rape each year,²¹ underscoring the importance of abortion access for survivors of such violence. In 2019, 63% of US adults supported abortion at any time for a pregnancy resulting from rape or incest.²² Yet, a synthesis of global evidence highlighted that these laws remain restrictive, rather than expansive in interpretation, and place greater burdens on survivors and health workers who serve them because of their complicated requirements.²³ Thus, rape and incest exceptions within abortion legislation are both common and contentious, with a documented history of political consequences.

Rape and incest are often upheld as “extraordinary abortion” cases which function as a tool in political debate, creating strong empathy for such exceptions;⁷ introducing such exceptions in abortion legislation – particularly as bills are being debated – is often a tactic to deflect from the broad implications posed by abortion restriction and criminalization.²⁴ For example, during debate over a 2013 “fetal pain bill” in the US House of Representatives, Republican legislators reluctantly added rape and incest exceptions; this decision was subsequent to widespread national outrage over statements made by a Republican legislator, who asserted that “*if it was a legitimate rape, the female body has ways to try to shut that whole thing down*”.⁸ Ultimately, the inclusion of rape and incest exceptions in “fetal pain bill” legislation was included to counter claims that the Republican party supports a “War on Women”, which resulted in negative public opinion.²⁵ While the introduction of these exceptions in legislation reifies a hierarchy of

justifiable and unjustifiable reasons for abortion, we choose to focus on rape and incest exceptions in early abortion bans for several reasons. First, rape and incest exceptions have implications for actors outside of the pregnant person and the health system, to a greater degree than other exceptions related to the health of the fetus or pregnant person.²⁶ For example, compliance with the regulation often requires the involvement of law enforcement, making such regulations exceptionally onerous or invasive. Additionally, exceptions within abortion bans are aggressively contested and not always along party lines. Finally, exceptions for rape and incest inserted in abortion bans remain a common way to deflect from the overall negative impact of abortion bans on pregnant people, falsely signalling that access to abortion remains, which is paradoxical to the goal of these bans.²⁶

Despite its regularity and necessity, abortion access is no longer legally protected at the federal level, and even prior to the *Dobbs* decision abortion access was highly dependent on state context and social position.^{9,27–29} Although state legislative bodies include lawmakers with diverse views on abortion, the political composition of legislative bodies influences anti-abortion policymaking; historically, Republicans have spearheaded anti-abortion legislation and in 2022 Republicans controlled 30 state legislatures, with a veto-proof supermajority in 15.^{30,31} This paper examines rape and incest exceptions in Southern US states, which at present maintain a greater percentage of Republican/Republican-leaning state legislatures.³²

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 early in gestation;³³ specifically, 25 Southern and Midwestern states across the US proposed early abortion ban bills. Despite widespread public support for exceptions to abortion bans in cases of rape and incest,³⁴ much of the anti-abortion legislation introduced across the US did not include such exceptions. Where prior generations of pregnant Americans could rely on the national legal protections of abortion under *Roe*, pregnant people now no longer have that right. Survivors of rape and incest are among the few pregnant people who may be able to access abortion in states with abortion bans; therefore, understanding the narrative scaffolding and rationale behind the formation of these exceptions in state-level abortion laws is extremely

Table 1. Southern states introducing early abortion bans in 2019 with publicly available data

State	Bill Number (Introduced in 2019)	Publicly Available Data	Data total (minutes)	Committee meetings (minutes)	Floor debates (minutes)
Georgia	House Bill 481	Yes	284	112	172
Kentucky	Senate Bill 9	Yes	118	55	63
Louisiana	Senate Bill 184	Yes	159	153	6
Mississippi	Senate Bill 2116	Yes	21	–	21
South Carolina	House Bill 3020	Yes	629	367	262
Tennessee	Senate Bill 1257	Yes	100	65	35

important. This study examines arguments made by opponents and supporters of rape and incest exceptions within early abortion ban legislation in six Southern US states.

Methods

Study design

This qualitative study builds upon a parent study focused on legislative testimony in Georgia's 2019 early abortion ban, HB 481.³⁵ The foundational study details the methodology used in this work.³⁵ Focusing on rape and incest exceptions, this study, a secondary qualitative analysis of publicly available data, analysed the debates of early abortion ban legislation in six Southern US states during the 2018 and 2019 legislative sessions.

Sample

The sample for this study included Southern US states that introduced legislation banning abortion upon detection of fetal cardiac activity, a type of personhood legislation. Such bills are sometimes referred to as fetal “heartbeat” bills. We reject this terminology based on its scientific inaccuracy and instead use the term early abortion ban since such legislation functions to limit abortion from the earliest stages of pregnancy.^{35–37}

For the purposes of this research, Southern US states were defined as Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.³⁸ States were selected based on having introduced early

abortion ban legislation in the 2018 or 2019 legislative session and the public availability of legislative session data. Of the twelve states under consideration, only six had publicly available data. Arkansas, North Carolina, Texas, and Virginia did not introduce relevant bills during the session. Florida and West Virginia introduced bills, but they died in committee and produced no debate. Finally, no data were collected from Alabama because the State Legislature did not have publicly available video archives. We attempted to collect data through public social media channels (e.g. Facebook) and through community reproductive justice groups but without success. As a result, these states were excluded from our analysis. Six other states passed early abortion ban legislation between 2018 and 2019 and had publicly available legislative session data: Georgia, Kentucky, Louisiana, Mississippi, South Carolina, and Tennessee (Table 1). Portions of publicly available data for South Carolina were collected by private citizens present at the committee meetings. Additionally, only partial data were publicly available from Mississippi.

Mississippi passed SB 2116 in February 2019 and the bill went into effect as law in July 2019.¹⁶ The bill was enjoined until 6 July 2022, when a state judge refused to block the abortion ban from going into effect following the 10-day post-certification period of the trigger law.^{39,40} In Louisiana, a nearly identical bill, entitled SB 184, was passed in May 2019 by the Louisiana State Senate.¹⁵ Louisiana Governor John Bel Edwards signed the bill on 30 May 2019. On 21

July 2022, a state district court judge provided a preliminary injunction temporarily blocking the bill from going into effect while the case proceeds to a trial to decide whether to permanently block Louisiana's total abortion bans.^{41,42} Similarly, SB 9 was introduced in the Kentucky Senate on 8 January 2019, and signed into law by Kentucky Governor Matt Bevin on 15 March 2019; the bill mirrors the same restrictions and exceptions as Mississippi and Louisiana.¹⁴ On Thursday, 30 June 2022, a Kentucky judge granted a temporary suspension of the bill, allowing providers in the state to resume procedures.^{43,44} Georgia passed the "Living Infants Fairness and Equality" (LIFE) Act or HB 481 in March 2019, and it was signed into law in May 2019.¹³ HB 481 was permanently enjoined by a federal judge in July 2020;⁴⁵ on Wednesday, 20 July 2022, the federal appeals court ruled the legislation could enter effect as of that day.⁴⁶ Tennessee SB 1257 was signed into law by Governor Bill Lee on 10 May 2019, which immediately prohibited all abortions when *Roe v. Wade* was overturned by the US Supreme Court;¹⁸ this law entered effect 30 days after the *Dobbs* decision.⁴⁷ The South Carolina "Fetal Heartbeat Protection from Abortion Act," or HB 3020, was signed into law by Governor Henry McMaster in February 2021 and entered into effect in July 2022.^{17,48}

This study included legislators across six states: Georgia, Louisiana, Kentucky, Mississippi, Tennessee, and South Carolina. Both those in support of (supporters) and in opposition (opponents) to early abortion ban legislation during 2018–2019 legislative sessions were included. All other Southern states were considered but did not have bans meeting our criteria at the time of data collection. Community members and subject matter experts also provided testimony on rape and incest exceptions during legislative hearings but were excluded from this analysis based on evidence that rape and incest are primarily discussed during formal legislative debate, as opposed to in personal testimony by community members.⁴⁹

Measures and 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 US South. We refer to the circumstances where abortion is legally allowed as "abortion exceptions." Debate regarding rape and incest exceptions in early abortion bans was

present in the data for all six states included in this study. Rape and incest exceptions were ultimately included in two bills: Georgia House Bill 481 and South Carolina House Bill 3020 (Table 2). The legislation from Kentucky, Louisiana, Mississippi, and Tennessee ultimately did not include exceptions for rape and incest, though their inclusion was debated.

Study ethics

This study was deemed exempt from review by the Emory University Institutional Review Board due to its nature as a secondary analysis of publicly available data. There were no risks to the individuals involved in public debate.

Positionality statement

All authors identify as cis-gender women with reproductive capacity with one author identifying as a person of colour. All authors reside in Georgia, one of the states where early abortion ban legislation was passed in 2019.

Data collection

Data for this study were collected between 2019 and 2020 and included publicly available video archives from House and Senate committee meetings and legislative sessions across six states. The data collection procedures for Mississippi and South Carolina varied. Mississippi did not have video archives of legislative sessions, despite being required by its state constitution; however, the Mississippi College Law School had a publicly accessible legislative database with video archives from 2019 (now defunct), which provided limited data. The South Carolina public committee hearings were recorded in person by local study staff. All other data were gathered from publicly available sources. Details on the process for data retrieval and transcription are described in the parent study.³⁵

Data analysis

A qualitative narrative approach was used to analyse 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 second author through iterative memo writing within the rape and incest coded segments from the original dataset, aiding in the identification of codes and patterns. The data were coded by the second author using MAXQDA 20 software and a constant comparative approach

Table 2. Rape and incest exceptions in early abortion ban legislation across six southern states

State	Bill Number	Rape & Incest Exceptions	Excerpted Text on Rape & Incest Exceptions
Georgia	House Bill 481	Yes	“... 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 alleging the offense of rape or incest.” ¹³
Kentucky	Senate Bill 9	No	... “if a medical emergency exists.” ¹⁴
Louisiana	Senate Bill 184	No	“... 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.” ¹⁵
Mississippi	Senate Bill 2116	No	“... 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.” ¹⁶
South Carolina	House Bill 3020	Yes	“... 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.” ¹⁷
Tennessee	Senate Bill 1257	No	“... exception for situations where the abortion is necessary to prevent the death of pregnant woman or prevent serious risk of substantial and irreversible impairment of major bodily function.” ¹⁸

using combined deductive codes and inductive thematic analysis. Data were organised through thematic analysis.

Themes were developed through close reading and analysis of coded segments. Core codes 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 the physician; (4) trauma and mental health; (5) morality/argumentation; and (6) evidence.

Results

We found three core themes through analysis of debate on rape and incest exceptions in early abortion ban legislation in six Southern US states: belief in pregnant people’s claims underpinned opposition or support for exceptions; opinions about trauma were related to views on exceptions; and exception supporters called for empathy and non-partisanship in consideration of rape and incest. The core themes were present in four

states: Georgia, Louisiana, South Carolina, and Tennessee; the richest data came from South Carolina, where rape and incest exceptions were heavily debated.

Theme 1. Belief in pregnant people’s claims underpinned opposition or support for exceptions

Pregnant people’s trustworthiness when reporting rape and incest was frequently questioned during legislative sessions. This doubt of victims’ veracity sparked debate over the need for third-party confirmation and institutional responsibility in determining the truth behind rape and/or incest claims. Fundamentally, supporters of rape and incest exceptions felt that pregnant people should be believed, while opponents felt that they should be doubted or questioned. Therefore, opponents believed that personnel within systems and institutions, such as doctors

and police officers, were responsible parties to “fact check” victims’ stories. There was close overlap between narratives describing evidence or proof, and the role of physicians and the medical system in exception-related decision-making.

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, opponents of exceptions also implied that individuals and institutions making exception determinations cannot assume that claims of rape and incest are true, underscoring their belief in the need for third-party verification to receive abortion. Most legislators pointed out that veracity of claims would be decided by health providers or law enforcement. Supporters of exceptions pointed out this pattern. For example, a legislator stated:

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

Legislators in Georgia, Louisiana, and South Carolina held differing opinions about which institution should be responsible for key decisions about exceptions; arguments focused on the involvement of law enforcement and physicians when pregnant people report rape or incest. A small group across both sides agreed rape and incest allegations should be processed through law enforcement in advance of an abortion exception, some citing the “burden” that determining exceptions places on physicians; by contrast, most exception supporters felt that abortion should be dealt with as a health issue. Some exception supporters argued that involvement of law enforcement personnel could perpetuate trauma, introduce negative repercussions for victims (such as reports becoming public), and worsen speculation over rape and incest claims. Additionally, opponents of exceptions argued that physicians may face moral challenges in exception decision-making, 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 pregnant people came from a legislator who strongly supported amending legislation to require a police report instead of leaving the decision to physicians. In Georgia, supporters of exceptions argued against requiring a police report in an effort to “protect” victims of sexual violence:

“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 [sic] 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?” (GA-D)

Among those in support of rape and incest exceptions, legislators were candid in disagreeing with the insinuation that pregnant people are dishonest in reporting rape and incest claims. Notably, a Republican drew on their personal experience of sexual assault as a young child to make the case that belief in pregnant people must be fundamental when considering exceptions for rape and incest. The legislator 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 and girls 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 the doctor because this child who’s ten, or eleven, twelve is pregnant. And

by that time there's probably a heartbeat [in the fetus]." (SC-R)

Support or opposition to exceptions often hinged on legislators' belief in the trustworthiness of claims or rape overall.

Theme 2. Opinions about trauma were related to views on exceptions

Discussion of trauma and mental health issues frequently occurred in debate regarding rape and incest exceptions, specifically across Georgia, Louisiana, and South Carolina. Narratives of trauma and mental health were utilised in arguments by both opponents and supporters of rape and incest exceptions. Many legislators in favour of exceptions relied on description of the emotional and mental impacts of rape and incest as reasons for the inclusion of exceptions in proposed policy.

In Louisiana and South Carolina, mental health and trauma-related arguments were primarily used to support rape and incest exceptions. Supporters argued that pregnant people who are survivors of rape and incest experience 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 by reminding the pregnant person daily of the assault:

"... for others it is going to be a daily reminder of an ugly incident 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 ... 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." (SC-D)

A very similar argument was made by a legislator in Louisiana, who highlighted having to "endure" pregnancy after experiencing sexual violence. Strategically, this state Senator used 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)

For some opponents of exceptions, debate centred on the argument that the abortion experience inflicts trauma, therefore rape and incest survivors need the involvement of other actors, rather than access to abortion, for support to mitigate trauma. In these cases, legislators minimised the need for abortion and highlighted the involvement of avenues of support for survivors without supporting evidence. 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 trauma,

"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." (LA-D)

While the discussion of trauma resulting from receiving an abortion was mostly an anti-exception argument, a Republican South Carolina legislator discussed the nuances of this stance while still supporting the case for exceptions. The legislator 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 pregnant person should be given the agency to decide if they want 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 raped, 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." (SC-R)

Two main tactics were used in arguments relating to mental health and trauma. First, supporters of exceptions highlighted potential long-term health

impacts of denying pregnant people abortion. Supporters of exceptions used the combination of physical and emotional repercussions of pregnancy as a rationale for abortion exceptions. They noted that pregnant people who become pregnant as a result of rape or incest experienced a non-consensual interaction that resulted in pregnancy, therefore, the pregnancy was not their choice, the pregnancy could result in health issues, and that the physical and emotional impacts could perpetuate the trauma of the non-consensual act long-term. Second, opponents of exceptions balanced the protection of pregnant people against the protection of a fetus – introducing a personhood balancing test. Specifically, opponents argued that protection from physical and emotional effects of pregnancy was ultimately less important than protecting a fetus. Protection of the fetus was positioned in opposition to the protection of pregnant people arguing that fetuses are “innocent” in cases of rape and incest and therefore deserve protection; on the other hand, supporters of exceptions argued that pregnant people should be protected because it was not their choice to become pregnant.

Theme 3. Exception supporters called for empathy and nonpartisanship in consideration of rape and incest

Throughout debate in Louisiana, South Carolina, and Tennessee, supporters of abortion exceptions asked their colleagues to empathise with people who experienced rape or incest; they did so by using hypothetical examples of family members and friends. A Louisiana legislator 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, akin to values clarifications exercises frequently used when discussing abortion. Additionally, legislators used familiar relationships to assert that it is immoral to oppose rape and incest exceptions. The call by exception supporters 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 legislator argued that it is unethical to vote against exceptions since everyone has 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)

In South Carolina, a legislator discussed the need for empathy for survivors by asking colleagues to step into the shoes of a pregnant person who experienced sexual violence. The legislator’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:

“I don’t think we can in theory say what we would or what we wouldn’t do because until 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)

Exception supporters also asserted that consideration of rape and incest exceptions should be a non- or bipartisan issue. This tactic was present across Georgia and South Carolina. In Georgia, a legislator 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)

In Georgia, a legislator supporting early abortion legislation noted that, given that supporting rape and incest exceptions does not erase barriers for pregnant people 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 reference to bipartisan agreement was not appreciated by some supporters of exceptions who opposed early

abortion bans. In Georgia, a legislator 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)

Supporters of exceptions used examples of familial and personal relationships to encourage empathy; they also asserted that consideration of rape and incest exceptions should be a non- or bipartisan issue.

Discussion

Our analysis of legislative debate revealed core arguments used by legislators to oppose or support rape and incest exceptions in early abortion ban legislation across six states in the US South. The richness of data varied across the states, with clear themes relating to belief in pregnant people in Georgia and South Carolina, as well as themes of belief in survivors, trauma, and calls for empathy for rape and incest survivors across all states, included in our analysis.

Legislators questioned the trustworthiness of sexual assault allegations, with their doubts being used as a core argument against the inclusion of rape and incest exceptions and aligning with the well-documented history of rape myths.⁵⁰ A commonly perpetuated rape myth is the idea that victims of sexual violence falsely report rape, which clearly contradicts scientific evidence which indicates that only about 0.5% of rape reports are inaccurate.⁵⁰ The persistence of this myth was highlighted during the 2019 confirmation hearings for US Supreme Court Justice Brett Kavanaugh, when public and legislative scrutiny was intensely directed towards Dr. Christine Blasey Ford who accused Kavanaugh of sexual assault; despite public outcry, the US Senate confirmed him to the Supreme Court, while casting doubt on the veracity of her story.⁵¹ During 2019 state legislative sessions, legislators used their own experiences of sexual assault to emphasise the importance of rape and incest exceptions. For example, in South Carolina, one Representative recounted a personal experience of rape

and her hesitancy to report the assault – after her colleagues argued that pregnant people make false claims about rape to receive an abortion.⁵² Such arguments suggest that legislators who believe that pregnant people falsely report rape and incest may be less inclined to accept or believe the legitimacy of testimony from constituents who cite data and personal accounts of rape and incest. Some research has indicated that those who support rape myths – false beliefs, narratives, and tropes about sexual assault – are more likely to believe that rape accusations are false.⁵³ Furthermore, such actions highlight the tendency towards victim blaming, where sexual assault is treated as a moral failing of the survivor rather than a violent crime perpetrated by an assailant, and the default position is to protect the assailant rather than centre the survivor.⁵⁴

More broadly, the failure to believe survivors reflects a deep societal misogyny, where survivors are devalued; at best they are subject to a benevolent patriarchy which, if charitable, may grant them access to abortion care – namely through state-appointed gatekeepers such as law enforcement and physicians. Yet, these gatekeepers may simply be tools of the state to perpetuate a “science of disbelief.”⁵⁵ Mass media coverage of the recent case of a 10-year-old rape survivor from Ohio who had to seek abortion care across state lines due to enactment of Ohio’s early abortion ban highlighted the close overlap between narratives doubting the credibility of the story as well as the role of gatekeepers; some media outlets questioned the veracity of the case, doubting whether the girl existed due to the lack of publicly available information customary in cases pertaining to child abuse and rape.^{56,57} In this instance the credibility of the physician was even brought into question with many media outlets focusing criticism on the girl’s medical provider, questioning whether she followed legal protocols in reporting the rape and abortion.⁵⁸ These media portrayals underscore prevalent victim-blaming narratives in which we do not believe survivors or even the providers who treat them.⁵⁸ Overall, such portrayals serve as a distraction from the issue at hand: the need for comprehensive, timely abortion care. Abortion restrictions have a “chilling effect” on access to abortion, meaning that individuals may be dissuaded from pursuing abortions even in lawful circumstances or healthcare providers may not provide care due to concern about violating the law.^{59–63} To best serve

survivors of rape and incest in need of abortion care, it is vital that the systems involved in abortion decision-making and care – including state legislatures, healthcare providers, and law enforcement – institutionalise processes that are survivor-centred and trauma-informed. Only about 10% of rape cases are reported in the US,⁶⁴ and approximately 60% of rape victims do not recognise their experience as such.⁶⁵ Moreover, while approximately 89% of sexual assault victims experience trauma, only about 1% of perpetrators receive a criminal conviction. Notably, in states where rape and incest exceptions exist, they do not operate effectively to ensure abortion, as these “grounds-based” approaches to abortion limit access to abortion because they are both exclusionary and limit access, availability, and quality of abortion care.²³ Therefore, the likelihood that pregnant people will report sexual violence through law enforcement prior to visiting a physician is low. Even if victims are not required 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 pregnant people are under the age of 18 or fear negative repercussions from a perpetrator. The time-consuming, cumbersome, and potentially retraumatizing nature of reporting rape and sexual assault to law enforcement entities further reduces the likelihood of a survivor receiving abortion care within the constraints of states’ early abortion bans. Additionally, survivor hesitance to report rape or sexual assault further exacerbates issues surrounding access to abortion care stemming from the limited time frames in which survivors are legally entitled to access resources. Global data show rape and incest exceptions often place an onus on health providers to act as reporters to state and law enforcement, lessening the safety of the health sector for individuals who need abortion access. For example, a study conducted by Women Help Women documented the story of Andrea, who was denied an abortion after rape because she could not remember her last menstrual period.⁶⁶ This study concluded that in restrictive contexts, doctors acted as law enforcement, collecting evidence of abortion for criminal prosecution.⁶⁶ Another study in Ethiopia described how health workers questioned rape and incest claims, often using their evaluation of a patient’s physical or emotional state to decide if the abortion was justified.⁶⁷ These data highlight that the onus of

proof for rape or incest experience typically falls on the shoulders of the individual seeking an abortion.

The justification used in favour of exceptions, that pregnant people who experience rape and incest are subject to trauma, was supported by personal accounts and has been explored through legal analysis⁶⁸ suggesting that 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.”⁶⁹ 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, which was evidenced through discussions of both physical and emotional impacts of pregnancy.

Our narrative analysis revealed that some 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 very young children). This focus was likely strategic on the part of exceptions supporters, in efforts to evoke empathy or an emotional response from opponents and plays into an expected “hierarchy” of abortion narratives from abortion rights advocates.⁶⁹ Revictimization from carrying a fetus to term after experiencing rape or incest is a common abortion rights argument in the US.⁷⁰ However, using examples of violent rape as the primary argument perpetuates a “traditional rape script” that depicts rape as a “physically brutal attack.”³⁵ 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 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.⁷¹ To support reporting of sexual assault to physicians or law enforcement, legislators should avoid extreme narratives of rape and incest, instead reasserting that if forced or coerced sex was present in any form, exceptions are justifiable.

Most recently, US Representative Eric Swallwell referred to the lack of protections for rape survivors as “government mandated pregnancy” – a phrase used earlier by advocates who referred to

early abortion ban legislations as state-enforced pregnancy.^{70,72} In overturning *Roe*, the US Supreme Court has defaulted on the country's legally binding obligations under international human rights law to protect women's right to life from harmful impacts of abortion restrictions.⁷³ These international protections ensure an "ability to enjoy their legally protected human rights to life, health, equality and non-discrimination, privacy, freedom from torture, cruel, inhuman, and degrading treatment and to ensure their freedom from gender-based violence."⁷³ Moreover, abortion bans are also in direct violation of the United Nation's International Covenant on Civil and Political Rights – to which the US is a party – and which explicitly states

*"parties must provide safe, legal and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable."*⁷⁴

In prior international legal cases, state-enforced pregnancy has been found to constitute gender discrimination, amount to torture, and in cases where the survivor was a minor these actions constituted a violation of the child's rights.^{75–77} Opposition to rape and incest exceptions enables gender discrimination, torture, and other rights violations enacted against pregnant people through enforced pregnancy, violating international human rights law via state-sanctioned structural violence.

Tactics used by opponents of exceptions to argue against the trauma experienced by survivors of rape and incest 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."⁷⁸ 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 as a balancing test in opposition to the protection of pregnant people's health and rights.^{78,79} This finding aligns with the two primary premises supporting anti-abortion positions, which do not align with support for rape exceptions.⁷⁸ The first premise is that fetuses are entitled 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."⁸⁰ Thus, granting exceptions for rape and/or incest is viewed by opponents of exceptions to be contradictory to these values since the right to life of a fetus is viewed as of equal if not greater importance than the well-being of a pregnant person. Moreover, legitimising the personhood of a fetus provides the emotional scaffolding for legislators to deem most abortion as unnecessary, including in cases of rape and/or incest. This conclusion is supported by the fact that exceptions for rape and incest have been notably absent from several versions of early abortion ban legislation including states in this study and most notably House Bill 314, the early abortion ban legislation in Alabama, which was signed into law in 2019.⁵² The personhood debate was further illustrated when a Texas woman was ticketed in June 2022 for driving in a traffic lane designated for multiple vehicle occupants.⁸¹ She disputed the ticket because she was pregnant and indicated that Texas' abortion ban – including a personhood statute – meant there were two people in the car: herself and her fetus.⁸¹ The notion of fetal personhood has significant importance in cases of rape and incest since this argument wrongly places the rights of rape and incest survivors on a level playing field with those of fetuses *in utero*.

Legislative strategies that relied on evoking morality and empathy for survivors were employed to counter these premises. As discussed, supporters of rape and incest exceptions consistently used narratives that asked fellow legislators to imagine if a family or friend was in the situation being debated. During testimony of their own rape a Representative from South Carolina implored the House to consider rape and incest exceptions as a bipartisan issue; in an interview, they shared, "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."⁸² Indeed, across the states included in analysis, supporters of exceptions focused deeply on trauma, bipartisanship, and personal examples of family and friends, attempting to exhibit the widespread nature of sexual assault and, in turn, shift the mindsets of legislators fixated on fetal "personhood." The widespread prevalence of sexual violence in this country underscores the necessity

for protections for survivors.⁸³ In a time where the abortion landscape has shifted dramatically, support for rape and incest exceptions in anti-abortion legislation across US states is crucial; instead of a “wedge issue,” abortion exceptions may provide an opportunity for bipartisanship, especially given that the vast majority of Americans support such exceptions.²²

Limitations

This study reveals information about narratives and rhetoric during early abortion ban legislation across the US South, a region with severe limits on abortion. 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, our analysis presented perspectives on rape and incest including legislators’ own personal experiences. To protect legislators’ identities, we did not seek to identify them using perceived demographics (e.g. race, gender) or party affiliations, thus are unable to compare across demographic characteristics. Moreover, the debates in this study took place before the US Supreme Court ruling repealing federal abortion protections; as a result, the context and conditions under which abortions may take place has dramatically shifted and continues to rapidly change. However, the findings of this study may be transferable and remain important. As state-level abortion ban legislation is introduced within this new era, the consideration of the impact of rape and incest exceptions should continue to be fully elucidated.

Conclusion

Over the past five decades, *Roe V. Wade* was under perpetual attack and many states have functionally banned abortion since its reversal.²⁹ Since the data were collected for this study, additional early abortion ban legislation has been introduced and adopted; in May 2021, the Texas legislature became the latest state to ban abortion upon “detection of a fetal heartbeat,” with no exception made for pregnancies from rape or incest.^{82,84} For states that maintain some form of legalised abortion, rape and incest exceptions will continue to incite debate. In our prior work (2020) we concluded that “opponents of abortion bans should attempt to understand, deconstruct, and analyze anti-abortion messaging to effectively

combat it.”³⁵ 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 health, rights and justice advocacy and policy. The multi-state nature of this study indicates that legislation is often copied across states in the South and beyond.

With abortion access determined at the state level, it is important for abortion advocates to utilise findings proactively to inform state-level policy and national advocacy efforts. The findings from this study, combined with previous research, provide a base for a tailored advocacy strategy relating to rape and incest exceptions. 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. For advocacy efforts to be effective, sexual and reproductive health, sexual assault (i.e. MeToo), and child abuse organizations and advocates should collaborate in promoting awareness about intersections across movements, including the roles of the medical and legal systems, trauma and mental health, and belief in pregnant people’s reporting of rape and incest. Advocacy and policy strategies should respect and build upon efforts led by Black female-identifying individuals and groups in Southern states.³⁰ Given that legislators opposing and supporting exceptions did not follow partisan lines, it is important to strategise beyond party-based divisions. With more than half of the US state legislatures dominated by Republicans, advocacy should focus on finding points of shared priority across partisan divides and in solidarity with survivors of rape and incest.

Acknowledgements

The authors wish to express their gratitude to Debbie Billings, Victoria Lambert, and Emily Loud for their support in collecting data from South Carolina.

Disclosure statement

No potential conflict of interest was reported by the author(s).

ORCID

Dabney P. Evans  <http://orcid.org/0000-0002-2201-5655>

References

1. Dobbs v. Jackson. US: Supreme Court; 2022.
2. Guttmacher. Induced Abortion in the United States: Guttmacher Institute; 2019 [updated September 2019]. Available from: https://www.guttmacher.org/fact-sheet/induced-abortion-united-states?gclid=CjwKCAiA_L9BRBQEiwA-bm5ftSk7HLD7fo1DI2jPmj01TIHoV51XtUXfJAI0fvkFBJtOepMvXOiRoCptYQAvD_BwE.
3. Reagan LJ. When abortion was a crime: women, medicine, and law in the United States, 1867-1973 [internet]. Berkeley: University of California Press; 1997; [cited 2022 Jul 28]. Available from: <http://ark.cdlib.org/ark:/13030/ft967nb5z5/>.
4. Packer HL, Gampell RJ. Therapeutic abortion: a problem in law and medicine. *Stanford Law Rev* [Internet]. 1959;11(3):417–455. Available from: <http://www.jstor.org.proxy.library.emory.edu/stable/1226957>.
5. Planned Parenthood. Historical Abortion Law Timeline:1850 to Today [Internet]. Planned Parenthood. [cited 2022 Jul 28]. Available from: <https://www.plannedparenthoodaction.org/issues/abortion/abortion-central-history-reproductive-health-care-america/historical-abortion-law-timeline-1850-today#>.
6. Hevesi D. The Supreme Court; How Debate Over Abortion Evolved With Changes in Science and Society. *The New York Times* [Internet]. 1989 Jul 4 [cited 2022 Jul 28]; Available from: <https://www.nytimes.com/1989/07/04/us/supreme-court-debate-over-abortion-evolved-with-changes-science-society.html>.
7. Watson K. *Scarlet A: The ethics, law, and politics of ordinary abortion*. New York, NY: Oxford University Press; 2018. p. 297.
8. Flowers P. The purists and the pragmatists: The right-to-life movement and the problem of the exceptional abortion in the United States, 1980s–2010s. In *Women's studies international forum* 2020 Jan 1 (Vol. 78, No. 102326, pp. 1–7).
9. *Roe v. Wade*. US: Supreme Court; 1973. p. 113.
10. Hyde Amendment Codification Act. Congress; 2013.
11. Partial-Birth Abortion Ban Act of 2003. Congress; 2003.
12. Patient Protection and Affordable Care Act. Congress; 2009.
13. General Assembly G. HB 481 Living Infants Fairness and Equality (LIFE) Act; enact: Georgia General Assembly; 2019 [Available from: <https://www.legis.ga.gov/legislation/55445>].
14. General Assembly K. Senate Bill 9 Kentucky General Assembly: Kentucky General Assembly; 2019 [Available from: <https://apps.legislature.ky.gov/record/19RS/sb9.html>].
15. State Legislature L. SB 184 Louisiana State Legislature: Louisiana State Legislature; 2019 [Available from: <http://www.legis.la.gov/legis/BillInfo.aspx?i=236316>].
16. Legislature M. Senate Bill 2116 Mississippi Legislature: Mississippi Legislature; 2019 [Available from: <http://billstatus.ls.state.ms.us/2019/pdf/history/SB/SB2116.xml>].
17. General Assembly SC. H. 3020 South Carolina General Assembly: South Carolina General Assembly; 2019 [Available from: https://www.scstatehouse.gov/sess123_2019-2020/bills/3020.htm].
18. Tennessee Senate Bill 1257 LegiScan2019 [Available from: <https://legiscan.com/TN/bill/SB1257/2019>].
19. Weitz TA, Yanow S. Implications of the federal abortion ban for women's health in the United States. *Reprod Health Matters* [Internet]. 2008;16(31):99–107. Available from: <http://www.jstor.org.proxy.library.emory.edu/stable/25475407>.
20. National Center for Injury Prevention and Control D of VP. Fast Facts: Preventing Sexual Violence [Internet]. Centers for Diseases Control and Prevention. 2022 [cited 2022 Jul 30]. Available from: <https://www.cdc.gov/violenceprevention/sexualviolence/fastfact.html>
21. Martin AK. Making pro-abortion laws pro-choice for female rape victims. *Wis J Law Gender Soc*. 2018;33:63.
22. NPR/PBS. NPR/PBS NewsHour/Marist Poll of 944 National Adults Marist Poll: Marist Poll; 2019 [Available from: http://maristpoll.marist.edu/wp-content/uploads/2019/06/NPR_PBS-NewsHour_Marist-Poll_USA-NOS-and-Tables-on-Abortion_1906051428_FINAL.pdf#page=3].
23. de Londras F, Cleeve A, Rodriguez MI, et al. The impact of "grounds" on abortion-related outcomes: a synthesis of legal and health evidence. *BMC Public Health*. 2022 May 10;22(1):936.
24. The science, law, and politics of fetal pain legislation. *Harv Law Rev*. 2002;115(7):2010–2033.
25. Simas EN, Bumgardner M. Modern sexism and the 2012 US presidential election: reassessing the casualties of the "war on women". *Pol Gender*. 2017;13(3):359–378.
26. Norris A, Bessett D, Steinberg JR, et al. Abortion stigma: a reconceptualization of constituents, causes, and consequences. *Womens Health Issues Off Publ Jacobs Inst Womens Health*. 2011;21(3 Suppl):S49–S54.
27. Rewire. Legislative tracker: heartbeat bans Rewire News Group 2019 [updated May 30 2019]. Available from: <https://rewirenewsgroup.com/legislative-tracker/law-topic/heartbeat-bans/>.
28. *Doe v. Bolton*. US: Supreme Court; 1973. p. 179.
29. Guttmacher. An overview of Abortion Law Guttmacher Institute 2021 [updated March 1 2021]. Available from: https://www.guttmacher.org/state-policy/explore/overview-abortion-laws?gclid=CjwKCAjwq_D7BRADEiwAVMDDhNrEmtiZPnOWGKy8_zwudWgvKYVLvEXGpniToYzI6_NEbJHpkcAjQRoCxyoQAvD_BwE#.

30. Szal R. How Black Women Legislators Are Fighting Abortion Bans and Trumpism in State Legislatures Ms.: Ms.; 2021 [Available from: <https://msmagazine.com/2021/02/18/black-women-legislators-abortion-bans-state-legislatures-south-carolina-mia-mcleod-ohio-erica-crawley-kentucky-attica-scott/>].
31. National Conference of State Legislatures. State Partisan Composition [Internet]. National Conference of State Legislatures. 2022 [cited 2022 Jul 28]. Available from: <https://www.ncsl.org/research/about-state-legislatures/partisan-composition.aspx>.
32. State Political Parties [Internet]. The Henry J. Kaiser Family Foundation. 2023 [cited 2023 Mar 2]. Available from: <https://www.kff.org/other/state-indicator/state-political-parties/>
33. Ryman A, Wynn M. For anti-abortion activists, success of “heartbeat” bills was 10 years in the making. USA Today; 2019 December 18 2019. Contract No.: March 25 2021.
34. Scarfone M. Incoherent Abortion Exceptions. 2020.
35. Evans DP, Narasimhan S. A narrative analysis of anti-abortion testimony and legislative debate related to Georgia’s fetal “heartbeat” abortion ban. Sex Reprod Health Matters. 2020;28(1):1686201.
36. Forte DF. Life, heartbeat, birth: a medical basis for reform. Ohio State Law J; 74.
37. Haining CM, Keogh LA, Savulescu J. The unethical Texas heartbeat law. Prenat Diagn. 2022 May;42(5):535–541.
38. The South | Definition, States, & History | Britannica [Internet]. 2023 [cited 2023 Mar 2]. Available from: <https://www.britannica.com/place/the-south-region>
39. Associated Press. Judge won’t block law banning most Mississippi abortions. Politico [Internet]. 2022 Jul 5 [cited 2022 Jul 29]; Available from: <https://www.politico.com/news/2022/07/05/mississippi-abortion-law-judge-00044133>.
40. Guttmacher Institute. Interactive Map: US Abortion Policies and Access after Roe - Mississippi [Internet]. Guttmacher Institute. 2022 [cited 2022 Jul 29]. Available from: <https://states.guttmacher.org/policies/mississippi/abortion-policies>.
41. Shepherd K. Louisiana abortion clinics stay open after judge temporarily blocks ban. The Washington Post [Internet]. 2022 Jul 21 [cited 2022 Jul 29]; Available from: <https://www.washingtonpost.com/nation/2022/07/21/louisiana-abortion-ban-preliminary-injunction/>.
42. Guttmacher Institute. Interactive Map: US Abortion Policies and Access after Roe - Louisiana [Internet]. Guttmacher Institute. 2022 [cited 2022 Jul 29]. Available from: <https://states.guttmacher.org/policies/louisiana/abortion-policies>.
43. Lovan D. Kentucky judge extends block of state’s abortion ban. PBS News Hour [Internet]. 2022 Jul 22 [cited 2022 Jul 29]; Available from: <https://www.pbs.org/newshour/health/kentucky-judge-extends-block-of-states-abortion-ban>.
44. Guttmacher Institute. Interactive Map: US Abortion Policies and Access after Roe - Kentucky [Internet]. Guttmacher Institute. 2022 [cited 2022 Jul 29]. Available from: <https://states.guttmacher.org/policies/kentucky/abortion-policies>.
45. Time. Federal Judge blocks Georgia’s Controversial Law banning most abortions after 6 weeks time: Time; 2020 [updated July 14 2020. Available from: <https://time.com/5866714/georgia-heartbeat-abortion-law-ban/>].
46. American Civil Liberties Union. Georgia Six-Week Abortion Ban to Take Effect [Internet]. American Civil Liberties Union. 2022 [cited 2022 Jul 29]. Available from: <https://www.aclu.org/press-releases/georgia-six-week-abortion-ban-take-effect>.
47. Guttmacher Institute. Interactive Map: US Abortion Policies and Access After Roe - Tennessee [Internet]. Guttmacher Institute. 2022 [cited 2022 Jul 29]. Available from: <https://states.guttmacher.org/policies/tennessee/abortion-policies>.
48. WLTX. South Carolina fetal heartbeat abortion law is now in effect. News 19 [Internet]. 2022 Jun 27 [cited 2022 Jul 29]; Available from: <https://www.wltx.com/article/news/local/south-carolina-fetal-heartbeat-bill/101-13edbb76-77ba-437d-ae8a-6cfcacd7b59c>.
49. Schlotman K. Examining the Types of and Use of Personal Narratives in Abortion Bans at Early Gestation in Four States in the US South. In: University E, editor. 2021.
50. Ferguson CE, Malouff JM. Assessing police classifications of sexual assault reports: a meta-analysis of false reporting rates. Arch Sex Behav. 2016;45(5):1185–1193.
51. Trautwein C. Inside the Kavanaugh hearings: an oral history. Frontline. 2019.
52. Smyth JC, Cassidy CA. Female lawmakers share personal stories of rapes as abortion bills advance The Daily Jeff: Associated Press; [updated May 19 2019. Available from: <https://www.daily-jeff.com/news/20190518/female-lawmakers-share-personal-stories-of-rapes-as-abortion-bills-advance>.
53. Stabile B, Grant A, Purohit H, et al. “She lied”: social construction, rape myth prevalence in social media, and sexual assault policy. Sex Gend Policy. 2019;2(2):80–96.
54. Weiser DA. Confronting myths about sexual assault: a feminist analysis of the false report literature. Fam Relat. 2017;66(1):46–60.
55. Huda T. “No signs of rape”: corroboration, resistance and the science of disbelief in the medico-legal jurisprudence of Bangladesh*. Sex Reprod Health Matters [Internet]. 2022 Jan 1;29(2):2096186. Available from: <https://www.tandfonline.com/doi/abs/10.108026410397.2022.2096186>.
56. Lanum N. Biden-cited story of 10-year-old Ohio rape victim needing abortion still not verified by fact-checkers. Fox

- News [Internet]. 2022 Jul 11 [cited 2022 Jul 29]; Available from: <https://www.foxnews.com/media/biden-cited-story-10-year-old-ohio-rape-victim-needing-abortion-still-not-verified-fact-checkers>.
57. The Editorial Board. An Abortion Story Too Good to Confirm. *The Wall Street Journal* [Internet]. 2022 Jul 13 [cited 2022 Jul 29]; Available from: <https://www.wsj.com/articles/an-abortion-story-too-good-to-confirm-joe-biden-ten-year-old-girl-indiana-ohio-caitlin-bernard-11657648618>.
 58. Robertson K. Facts Were Sparse on an Abortion Case. But That Didn't Stop the Attacks. 2022 Jul 14 [cited 2022 Jul 28]; Available from: https://www.nytimes.com/2022/07/14/business/media/10-year-old-girl-ohio-rape.html?campaign_id=2&emc=edit_th_20220714&instance_id=66681&nl=todayshadlines®i_id=29113168&segment_id=98565&user_id=b41514bedd48bb0e745d73ce0ab964de.
 59. Sneha B. Abortion Restrictions in U.S. Foreign Aid: The History and Harms of the Helms Amendment [Internet]. Guttmacher Institute; 2013 Sep [cited 2023 Mar 2]. Report No.: Volume 16, Issue 3. Available from: <https://www.guttmacher.org/gpr/2013/09/abortion-restrictions-us-foreign-aid-history-and-harms-helms-amendment>.
 60. McGovern T. Overturning Roe v Wade has had an immediate chilling effect on reproductive healthcare. *Br Med J*. 2022 Jun 30;377:o1622.
 61. Dorf MC, Canes-Wrone B. Measuring the Chilling Effect. *SSRN Electron J* [Internet]. 2015 [cited 2023 Mar 2]; Available from: <http://www.ssrn.com/abstract=2689185>.
 62. Novkov J, Bird CC. Whole Woman's Health v. Jackson on Delegated Enforcement of Abortion Restrictions. In: *SCOTUS 2022: Major Decisions and Developments of the US Supreme Court*. Springer Nature; 2022.
 63. Casas L, Vivaldi L. Abortion in Chile: the practice under a restrictive regime. *Reprod Health Matters*. 2014 Nov;22(44):70–81.
 64. Heaney K. Almost No One Is Falsely Accused of Rape The Cut: The Cut; [updated October 5 2018. Available from: <https://www.thecut.com/article/false-rape-accusations.html>.
 65. Wilson LC, Miller KE. Meta-analysis of the prevalence of unacknowledged rape. *Trauma Violence Abuse*. 2016;17(2):149–159.
 66. Larrea S, Assis MP, Mendoza CO. "Hospitals have some procedures that seem dehumanising to me": experiences of abortion-related obstetric violence in Brazil, Chile and Ecuador. *Agenda*. 2021 Jul 3;35(3):54–68.
 67. McLean E, Desalegn DN, Blystad A, et al. When the law makes doors slightly open: ethical dilemmas among abortion service providers in Addis Ababa, Ethiopia. *BMC Med Ethics*. 2019 Sep 5;20(1):60.
 68. Cohen IG. Are all abortions equal? Should there be exceptions to the criminalization of abortion for rape and incest? Los Angeles (CA): SAGE Publications Sage CA; 2015.
 69. Ludlow J. The things we cannot say: witnessing the traumatization of abortion in the United States. *Women Stud Q*. 2008;36(1/2):28–41.
 70. RepSwalwell. Government-mandated pregnancies for 4th-graders. That's the MAGA Republican plan for child rape victims: <https://twitter.com/RepSwalwell/status/1543280074039984129> 2022 July [cited 2022 July 30] [Tweet]. Available from: @RepSwalwell
 71. Wyckoff KG, Narasimhan S, Stephenson K, et al. "COVID gave him an opportunity to tighten the reins around my throat": perceptions of COVID-19 movement restrictions among survivors of intimate partner violence. *BMC Public Health*. 2023 Jan 30;23(1):199.
 72. American Civil Liberties Union. End Forced Pregnancy [Internet]. American Civil Liberties Union. 2022 [cited 2022 Jul 29]. Available from: <https://www.aclu.org/news/topic/end-forced-pregnancy>.
 73. The Office of the High Commissioner for Human Rights. Joint web statement by UN Human rights experts on Supreme Court decision to strike down Roe v. Wade [Internet]. United Nations. United Nations; 2022 [cited 2022 Jul 29]. Available from: <https://www.ohchr.org/en/statements/2022/06/joint-web-statement-un-human-rights-experts-supreme-court-decision-strike-down>
 74. OHCHR | General comment No. 36 on article 6: right to life [Internet]. United Nations. [cited 2023 Mar 2]. Available from: <https://www.ohchr.org/en/calls-for-input/general-comment-no-36-article-6-right-life>
 75. Paulina Ramirez v. Mexico (Inter-American Commission on Human Rights) [Internet]. Center for Reproductive Rights. [cited 2023 Mar 2]. Available from: <https://reproductiverights.org/case/paulina-ramirez-v-mexico-inter-american-commission-on-human-rights/>.
 76. L.C. v. Peru (UN Committee on the Elimination of Discrimination against Women) [Internet]. Center for Reproductive Rights. [cited 2023 Mar 2]. Available from: <https://reproductiverights.org/case/l-c-v-peru-un-committee-on-the-elimination-of-discrimination-against-women/>.
 77. P. and S. v. Poland (European Court of Human Rights) [Internet]. Center for Reproductive Rights. [cited 2023 Mar 2]. Available from: <https://reproductiverights.org/case/p-and-s-v-poland-european-court-of-human-rights/>.
 78. Fried C. Two concepts of interests: some reflections on the Supreme Court's Balancing Test. *Harv Law Rev*. 1963;76(4):755–778.
 79. Bridges KM. Life in the balance: judicial review of abortion regulations. *UC Davis Law Rev*. 2012 2013;46(4):1285–1338.
 80. Elliott D, Wamsley L. Alabama Governor Signs Abortion Ban Into Law NPR: NPR; 2019 [Available from:

<https://www.npr.org/2019/05/14/723312937/alabama-lawmakers-passes-abortion-ban>.

81. Vander PL. Can You Drive Alone in the H.O.V. Lane if You're Pregnant? A Post-Roe Quandary. The New York Times [Internet]. 2022 Jul 12 [cited 2022 Jul 29]; Available from: <https://www.nytimes.com/2022/07/12/us/pregnant-woman-hov-lane-roe-wade.html>.
82. NAJMABADI S. Gov. Greg Abbott signs into law one of nation's strictest abortion measures, banning procedure as early as six weeks into a pregnancy The Texas Tribune: The Texas Tribune, 2021 [Available from: [\[texas-tribune.org/2021/05/18/texas-heartbeat-bill-abortion-law/\]\(https://www.texastribune.org/2021/05/18/texas-heartbeat-bill-abortion-law/\).](https://www.</div><div data-bbox=)

83. National Center for Injury Prevention and Control D of VP. Fast facts: preventing sexual violence [Internet]. Centers for Diseases Control and Prevention, 2022 [cited 2022 Jul 29]. Available from: <https://www.cdc.gov/violenceprevention/sexualviolence/fastfact.html>.
84. Guttmacher Institute. Interactive Map: US Abortion Policies and Access After Roe - Texas [Internet]. Guttmacher Institute, 2022 [cited 2022 Jul 29]. Available from: <https://states.guttmacher.org/policies/texas/abortion-policies>.

Résumé

L'interdiction de l'avortement aux États-Unis s'accompagne souvent de dispositions autorisant l'interruption de grossesse en cas de viol ou d'inceste. Ces exceptions ont été incluses dans d'importantes législations comme l'amendement Hyde, la loi de 2003 sur l'interdiction de l'avortement par « naissance partielle », la loi de 2010 sur les soins abordables ainsi que dans les législations fédérales et des États interdisant l'avortement au début de la gestation. Par conséquent, l'examen de ces lois est essentiel à la lumière de la décision de 2022 de la Cour suprême de décentraliser l'accès légal au niveau des États. Cette étude s'intéresse aux arguments présentés par les personnes favorables et opposées aux exceptions pour viol et inceste dans le cadre de la législation sur l'interdiction de l'avortement précoce en utilisant des archives vidéo disponibles publiquement tirées de sessions législatives dans six États du Sud. Une analyse narrative a été menée sur les débats législatifs relatifs aux exceptions en cas de viol et d'inceste pendant les sessions législatives de 2018–2019. Nous avons relevé trois thèmes centraux lors de l'examen des débats législatifs: la foi accordée aux revendications des personnes a étayé l'opposition ou le soutien aux exceptions; les opinions sur le traumatisme étaient liées aux idées sur les exceptions; et les partisans des exceptions demandaient de faire preuve d'empathie et d'impartialité en tenant compte du viol et de l'inceste. De plus, le soutien ou l'opposition à l'inclusion des exceptions en cas de viol et d'inceste dans le projet de loi ne suivait pas les lignes des partis. Cette étude cherche à approfondir la compréhension des stratégies employées par les législateurs pour promouvoir ou rejeter les exceptions en cas de viol et d'inceste dans la législation sur l'avortement précoce, tout en offrant davantage de possibilités pour adapter

Resumen

La prohibición del aborto en Estados Unidos a menudo permite disposiciones para el aborto en circunstancias de violación o experiencia de incesto. Dichas excepciones han sido reconocidas en legislación importante como la Enmienda Hyde, la Ley de Prohibición del Aborto por Nacimiento Parcial de 2003, la Ley del Cuidado de Salud a Bajo Precio de 2010 y legislación estatal y federal que prohíbe el aborto a temprana edad gestacional. Por ello, es imperativo examinar estas leyes en vista de la decisión de 2022 de la Corte Suprema de delegar el acceso legal al nivel estatal. Este estudio examina los argumentos planteados por defensores y opositores de las excepciones por violación e incesto en la legislación que prohíbe el aborto temprano, utilizando archivos de videos disponibles públicamente provenientes de sesiones legislativas en seis estados sureños. Se realizó un análisis narrativo del debate legislativo sobre las excepciones por violación e incesto durante las sesiones legislativas de 2018–2019. Al examinar el debate legislativo, encontramos tres temas fundamentales: la creencia en las alegaciones de la gente era la base de la oposición o del apoyo a las excepciones; las opiniones sobre trauma estaban relacionadas con puntos de vista sobre las excepciones; y los defensores de las excepciones hicieron un llamado a la empatía e imparcialidad en consideración de violación e incesto. Además, el apoyo y la oposición a la inclusión de las excepciones por violación e incesto en proyectos de ley no siguieron las líneas partidarias. Este estudio busca profundizar la comprensión de las estrategias utilizadas por legisladores para promover o rechazar las excepciones por violación e incesto en la legislación sobre aborto temprano, y a la vez ofrecer mayor oportunidad de adaptar la incidencia política y

sur mesure la santé reproductive, les droits, de même que le plaidoyer pour la justice et les politiques, spécialement dans le contexte du Sud des États-Unis où l'accès à l'avortement est maintenant extrêmement restreint.

las políticas sobre salud, derechos y justicia reproductivos, especialmente en el contexto de Estados Unidos, donde el acceso al aborto ahora está sumamente restringido.