

You Do You, Boo:

The Unsexy Truth about Sexual and Reproductive Justice

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What makes sex work illegal? Should law-makers control my access to contraception? Do I have the right to have an abortion? As the topic of sex continues to be taboo, we may never truly get an objective look at the justice behind these situations. Sexual stigmatization is not the only barrier in the search for intersectional commentary, for adequate exposure to the topic of sex and reproduction is shielded by cultural norms, religious values, and, most importantly, accurate and holistic education. In the United States, sexual taboo has invoked an intruding patriarchal influence of antithetical societal values creating weak representation of sexual and reproductive justice, leading to unfair and unreasonable restrictions. An individual's bodily autonomy consistently hits roadblocks created by government restriction and protocol. We can analyze these injustices by assessing a society's treatment of gender norms, the experiences of women and men in the same environment, and the political and religious foundations of that society. I will construct my argument using the Western lens and focus on events in the United States to form a conclusive idea about the country's current status and necessary adjustments for sexual and reproductive justice.

This paper will explore and assess sexual and reproductive justice by providing national case studies to analyze the treatment of these topics. It will begin by defining sexual and reproductive justice and exploring its historical origins. Then, it will focus on three topics: the legality of sex work, fertility and abortion rights, and transgender rights in the context of the sexual and reproductive health movement. After, it will offer institutional plans designed by the movement to sustain the longevity of sexual and reproductive justice.

What is Sexual and Reproductive Justice?

Definitions and Origin

Foundationally, sexual and reproductive justice exists when every individual

is equipped with the power and resources that allow them to make healthy decisions about their body, reproductive measures, and sexuality. In practice, individuals have the right to choose to have children, to set their own conditions for birthing and family creation, to have necessary social support to care for their children in a healthy environment, and to maintain complete ownership of their body without oppressive sexual or reproductive barriers.¹

In 1997, SisterSong emerged as a leading organization of the reproductive justice movement, bringing it to a national, multi-ethnic level. Prior to becoming SisterSong, the group was formerly known as Women of African Descent for Reproductive Justice, and they based their movement on the United Nations internationally accepted human rights framework to combine reproductive rights and social justice. The movement was originally advocated for by Indigenous women, women of color, and transgender people, creating a diverse and inclusive foundation from the very beginning. According to SisterSong, “the reproductive justice movement is about access, not choice.”² For example, the fight starts at having the legal choice to have an abortion, but it must also be affordable and geographically convenient. Choice is absent when there is no access. Along with abortion, the reproductive justice movement focuses on providing easier access to contraception, comprehensive sex education, STI prevention and care, and domestic violence assistance.³

The movement aims to assess power systems that perpetuate acts of dominance in gendered, sexualized, or radicalized forms and eradicate these dynamics. Secondly, it aims to address intersecting oppressions. For example, marginalized women can face multiple oppressions, such as being part of the LGBTQ+ community and being a person of color, and can only achieve freedom by understanding the connected impact of each factor. Lastly, the movement aims to focus on the most marginalized groups of people, which SisterSong defines as African American, Arab and Middle Eastern, Asian and Pacific Islander, Latina women, and LGBTQ+ people. By focusing on these groups, SisterSong can help to ensure them better access to social and healthcare resources, complete enjoyment of their human rights, and a life without fear, discrimination, or retaliation.⁴

International Developments

Sexual and reproductive rights are human rights, as declared by the

1 “Sexual and Reproductive Health,” NYC Health, accessed October 24, 2019, <https://www1.nyc.gov/site/doh/health/health-topics/sexual-reproductive-justice-nyc>.

2 “Reproductive Justice,” SisterSong, accessed October 24, 2019, <https://www.sistersong.net/reproductive-justice/>.

3 Ibid.

4 Ibid.

Universal Declaration of Human Rights (UDHR) in 1948 by the United Nations. More generally, this proclamation sets a “common standard of achievements of all peoples and all nations recognizing the ‘equal and inalienable rights of all members of the human family.’”⁵ The UDHR recognizes that individuals have the right to live without oppression, to maintain their liberty and security of person, including social security, and to sustain an adequate standard of living. In particular, mother and child are afforded special care and assistance.⁶ The 1979 *Convention on the Elimination of All Forms of Discrimination Against Women* and the 1989 *Convention on the Rights of the Child* recognize human rights related to sexual and reproductive health. The Committee on Economic, Social, and Cultural Rights and the Committee on the Rights of the Child adopted General Comments recognizing that sexual and reproductive health can only proliferate if barriers to commodities, information, and counseling are destroyed. This includes any policies requiring third-party consent or authorization.⁷ The Human Rights Committee’s last General Comment advocates for governmental accountability for high rates of death and injury in women when they must seek unsafe abortions because they lack adequate health opportunities. These measures push governments to supply comprehensive reproductive health services.⁸ A universal declaration requires all nations within the UN to adhere to commonly held international principles. In this case, these rights are institutionalized to build the strength of the sexual and reproductive justice movement so humans everywhere can have full autonomy of their bodies.

International recognition for sexual and reproductive rights has been prominent over the past decades with particular developments in Europe, such as the recognition for sexuality education by the European Court of Human Rights in 1976. As of 2018, the Court decided to provide sexuality education to children, following Switzerland’s decision to make this a legal obligation. This recognition was promulgated as a global education effort to fight against sexual abuse and to protect public health.⁹ Sexual education is inadequate in the United States because only one-fifth of middle schools and less than one-half of all high schools teach all sixteen sexual

5 “Universal Declaration of Human Rights,” United Nations, accessed December 8, 2019, <https://www.un.org/en/universal-declaration-human-rights/>.

6 Ezer Kismödi and Laura Ferguson, “Celebrating the 70th Anniversary of the UDHR, Celebrating Sexual and Reproductive Rights,” *Reproductive Health Matters* 26, no. 52 (2018): 1, www.jstor.org/stable/26605055.

7 Ibid.

8 Ibid.

9 Ibid.

education topics recommended by the CDC.¹⁰ Such topics include HIV and STD transmission and infection prevention, as well as necessary decision-making and communication skills. According to the Guttmacher Institute, a research and policy organization committed to advancing sexual and reproductive health and rights in the United States, fewer teens are being exposed to sex education topics in important and timely ways. 43 percent of female teens and 57 percent of male teens did not receive information about birth control prior to their first sexual experience.¹¹ It is important to make international comparisons to showcase the strength of sexual and reproductive justice around the world. Adolescents in the United States are being deprived of proper education and exposure that helps them understand themselves and their bodies because of intruding personal beliefs about how large a role sex should play in a society. Eventually, these beliefs become political and divisive when they should instead be accepted as human rights.

Historical Movements

Legal control of women's choice for reproduction began in the nineteenth century. Industrial capitalism is noted as being responsible for lowering the high fertility rate of white women because society was moving away from an agricultural way of life, which depended on ample familial help. Concurrently, the United States became an industrialized nation and a nation of immigrants, which was veering from the status quo of white people who were established in this country for decades. As a result, the declining birth rates of non-immigrant whites prompted a societal response to outlaw contraception and abortion. Higher birth rates of immigrants created movements at the federal and state levels to restrict access to birth regulation in order to coerce more white births. From the state level, U.S. physicians fought to make abortion illegal unless performed by or advised by a physician.¹² The shift in immigrant births led to the deprivation of sexual and reproductive rights while intersecting with nationalism and the preservation of the status quo. Policies that diminished access to birth control were much easier to garner public support for because it used the platform of national security to push a political agenda, which most people agreed was a larger priority, so the loss of individual rights flew under the radar. This is just another example of national precedent that suppressed the growth of sexual and reproductive justice.

10 "What's the State of Sex Education in the U.S.," Planned Parenthood, accessed December 9, 2019, <https://www.plannedparenthood.org/learn/for-educators/whats-state-sex-education-us>.

11 Ibid.

12 Zakiya Luna and Kristin Luker, "Reproductive Justice," *Annual Review of Law and Social Science* 9 (2013): 328–335, <https://doi.org/10.1146/annurev-lawsocsci-102612-134037>.

In the 1860s, Anthony Comstock was a prominent force behind original anti-birth control statutes. As a devout Christian, Comstock was appalled by the city streets that, to him, teemed with prostitutes and pornography. Comstock collaborated with police to provide information for raids on sex trade merchants, thus launching his anti-obscenity crusade. He found advertisements for birth control devices offensive and targeted the contraception industry. In 1872, Comstock independently penned and introduced an anti-obscenity bill to Congress, which included a ban on contraceptives. On March 3, 1873, Congress deemed contraceptives “illicit and obscene” and also criminalized the dissemination of birth control in the mail or across state lines.¹³ This act was later known as the Comstock Act, and following official federal implementation, twenty-four states formalized their own versions of the Act with the same purpose: to restrict contraceptive trade at the state level.¹⁴ Additionally, Comstock singlehandedly capitalized on the deplorable reputation of prostitution to push his own agenda. At this time, sexual and reproductive justice lacked societal poise and recognition, so it was much easier to deprive certain rights. Women in particular lacked the political footing to fight this oppression and, collectively, men were not advocating for women’s rights. As a result, Massachusetts and Connecticut residents lived under the most restrictive laws. Specifically, in New England, people were fined and imprisoned for disseminating contraceptives or simply sharing information about it. Connecticut’s birth control prohibition even meant that married couples could be arrested if they used birth control.¹⁵

Appalled by these national developments, Margaret Sanger made it her mission to challenge the Comstock Act. In 1916, Sanger, and her partners, Ethel Byrne and Fania Mindell, were arrested for opening the Brownsville Clinic, which was the first birth control clinic in America. Brownsville provided women with information about the female reproductive system and different forms of contraception. Brownsville’s work violated the contraception laws at the time and resulted in criminal charges against the three women. Byrne was charged with illegally distributing contraceptive information, Sanger for the establishment of the clinic, and Mindell for distributing information about reproductive health and sexual education. After many appeals, Sanger reached an official decision in the New York State of Appeals.¹⁶

13 “Anthony Comstock’s ‘Chastity’ Laws,” WTTW PBS, accessed October 24, 2019, <https://www.pbs.org/wgbh/americanexperience/features/pill-anthony-comstocks-chastity-laws/>.

14 Ibid.

15 Ibid.

16 Lakshmeeramya Malladi, “The People of the State of New York v. Margaret H. Sanger (1918),” last modified January 1, 2018, <https://embryo.asu.edu/pages/people-state-new-york-v-margaret-h-sanger-1918>.

In 1918, in the case of *The People v. Sanger*, Judge Frederick Crane ruled that physicians could provide contraceptives to women if they had a medical reason for needing to avoid pregnancy, as this was deemed a public health measure. Judge Crane's decision required birth control clinics to be solely managed by physicians, so Sanger's criminal conviction was justifiable because she was not a physician. His justification rested in protecting the morals of society.¹⁷ Time and time again, men made decisions for women's health and, in turn, women activists were labeled as "radical" or "lawbreakers" based on positive law violations. Judge Crane's decision displays how patriarchal influence attempts to maintain the status quo, specifically pushing a reactionary mentality. During this time, there were more male physicians and judges than there were women, so we can make the argument that the female voice in these policy and legal discussions was virtually absent. The only agenda and perspective being pushed at the time was patriarchal and male in nature and thus inspired some of the repugnant women's health laws existing today. Sanger and her partners put themselves on the line to prevent the erosion of sexual and reproductive rights for all women because, based on precedent, it has been easier to strip away rights than to advocate for them. This action was formative in the push for recognition and rights.

Sexual and Reproductive Justice and Philosophy

The Legality of Sex Work

The combined power of SisterSong's foundation of self-determination, the UDHR's proclamation for the right to non-discrimination, right to life, and security of person are reminiscent of John Locke's commentary in the *Second Treatise*. Locke, commonly known as the "Father of Liberalism," based his philosophy on the premise that people have the right to life, liberty, and property, which formed his conceptions of natural human equality and justice. He believed that humans would naturally preserve themselves and enforce the law of nature. The first thing an individual owns is their body; as a result, they own the work of their body and can claim the fruits of their labor.¹⁸ We can connect this philosophical commentary to the modern-day contemplation of sex as work.

Sex researchers and international sex workers have advocated that sex is a type of labor, but this idea has not successfully permeated mainstream discourse. Anti-prostitution feminists have continued to promote the idea that sex work is risky and a global practice of exploitation that perpetuates male violence against women, normalizing their inherent

¹⁷ Ibid.

¹⁸ John Locke, "Second Treatise of Government by John Locke," accessed November 16, 2019, <https://www.gutenberg.org/files/7370/7370-h/7370-h.htm>.

subordination through sexual practice. Anti-prostitution analysts mostly focus on street-based trade, when only 5 to 20 percent of a city's sex industry is made up of street-based trade.¹⁹ The "whore" stigma and ignorance about sex work sustains the misconception that prostitution is simply a woman selling her body to a man for his own pleasure.²⁰ Pervasive stigmatization of this practice is reflective of the taboo nature of sex that has been embedded in Western society.

Sex-work-as-labor proponents are pushing for decriminalization because it will lead to safer working conditions and less police interference.²¹ Sex workers have an interesting relationship with police because they risk arrest for doing their job but lack protection from law enforcement as well. Police are supposed to protect people in times of difficulty, but there are no explicit protections for sex work. If a worker experiences a transgression with a client, their work alone is illegal and lacks support from the law, thus incriminating them as well. Sex as labor practice looks very much like a regular trade for a specific service: negotiation of time, terms, price, and specification of the exact service. Just like other workers in the social service sector, sex workers seldom receive the respect they deserve.²² Decriminalizing sex work will foster a greater relationship with law enforcement because workers will not work in constant fear of arrest and will view law enforcement as their proponents.

Feminist labor theorists have taken Karl Marx's analogy of prostitution to labor as a way to connect a similar analogy of sex work as labor. Marx's analogy associated prostitution with other forms of labor, deeming it inherently problematic.²³ Feminist labor theorists used his analogy as a way to justify prostitution as labor. This is important to point out because it proves that prostitution is not a new formation, but, as the famed phrase jests, "the oldest profession in the world." Sex as labor is not another twenty-first century, millennial advocacy point, but has been observed as an element of many societies. In Rudyard Kipling's *On the City Wall* (1889), he writes:

Lalun is a member of the most ancient profession in the world...In the West, people say rude things about Lalun's profession, and write lectures about it, and distribute the lectures to young persons in order that Morality may be preserved. In the East, where the profession is hereditary,

19 Emily van der Meulen, "When Sex is Work: Organizing for Labour Rights and Protections," *Labour/Le Travail* 69, (2012): 149–152, DOI: 10.1353/lt.2012.0033.

20 Anne McClintock. "Sex Workers and Sex Work: Introduction," *Social Text*, no. 37, (1993): 2-3, <https://www.jstor.org/stable/466255>.

21 Van der Meulen, "When Sex is Work."

22 McClintock, "Sex Workers and Sex Work."

23 Van der Meulen, "When Sex is Work."

descending from mother to daughter, nobody writes lectures or takes any notice.²⁴

Kipling implicitly refers to prostitution and compares this practice culturally. The West recognizes sex work, but still refuses to accept it as a true form of labor. The antithetical patriarchal qualities manifest themselves in the circulated literature condemning this labor, criticizing it for its lack of *morality*. These intruding patriarchal concepts, however, do not reach the East and are regarded as natural and part of society. This depicts the subjectivity of prostitution internationally. Perhaps it is not regarded as the most luxurious or enviable job, but there are many established jobs in the labor market that are much less enviable than others. If this is an opportunity that is available for people to make ends meet and has precedent to be afforded the designation of labor, why prohibit it?

Interestingly, while the “whore” stigma contaminates the field of sex work, sex is flagrantly flaunted in Western media through advertisements, movies, and television shows. Americans seem to wipe away the taboo nature of sex when it is for their own entertainment, but when it becomes another person’s way of life, it is suddenly problematic. This emphasizes the little respect for sex that Americans have, only deeming it acceptable for leisurely and procreational purposes, but not for health or societal relevance.

Emily van der Muelen conducted a series of interviews with sex workers and allies advocating for a fundamental shift in understanding sex work as labor. They argued that the only way to establish workplace rights and protections in the best interest of the sex worker would have to come from a transformation in the conceptualization of sex work. Justice can be found by recognizing that sex work is a means for individuals to provide for themselves and offer the same types of regulations and protections as other forms of work. At the core of the “sex is work” paradigm sits the decriminalization and removal of prostitution-related offenses.²⁵

The Sexual Contract

Carol Pateman, author of *The Sexual Contract*, used contractarian philosophy to explain the element of free exchange between prostitute and customer and described the prostitution contract as any other employment contract. The prostitute owns her property and contracts part of that property in the market. She is not selling herself, or sexual parts, but contracts out her sexual services. Contractarians also believe that people do have a

²⁴ Kipling, Rudyard, “On The City Wall,” *University of Adelaide eBooks*, accessed 16 November 2019, <https://ebooks.adelaide.edu.au/k/kipling/rudyard/soldiers/chapter27.html>.

²⁵ Van der Meulen, “When Sex is Work.”

human right to engage in commercial sex.²⁶

“Sound prostitution” upholds the freedom of contract and equality of opportunity to any individual who wants to buy or sell services on the market. Prostitution then likens to therapy, social work, or nursing. Pateman interestingly points out that a social acceptance of contractual freedom for the use of one’s body will eliminate marriage and will favor the economic arrangement of prostitution because this practice systematizes sex, clearly determining the benefits of the exchange. In marriage, sex is typically not associated with a monetary benefit, so, in comparison, contracted sex trumps marital sex. The only restriction upon these contracts would be the willingness of another party to voluntarily make services available outside of their contracted time.²⁷

Carol Pateman expertly emphasizes the various ways in which prostitution is labor but is restricted in settling its roots in the labor market because many people believe this work to be drastically different than established labor. From a contemporary perspective, Hendrik Wagenaar shows that prostitution is viewed as a form of deviancy and “inexplicable within the regular discourse on work, body, and sexuality,” raising the question, “how can someone sell her body?”²⁸ To many, this resembles sex trafficking and, by association, deems it dangerous, repugnant, and immoral. Any means of labor, however, involves corporal affect. Sure, the “product” in sex work may not equate to an inanimate object, but the same goal exists: consumer satisfaction. All workers consent to completing their jobs in the labor market through contractual means, and prostitutes utilize this same process. At what point do we realize that we are invoking double standards here that are restricting freedom for bodily autonomy?

Conceptualizing sex work as labor work finds its footing in the sexual and reproductive justice movement. This movement is setting fair and reasonable standards for members of our society who use sex work as a legitimate way to make ends meet. Opponents would support criminalization to discourage the practice out of safety concern for potential bodily harm and/or the criticism of immoral lifestyle choices, however, we have everyday examples of individuals practicing various forms of hazardous behavior, such as tobacco usage, alcohol consumption, and reckless driving. It begs two questions. First, how has patriarchal influence shaped American society? Second, is this influence preventing freedom and liberty in the United States?

26 Carol Pateman, *The Sexual Contract* (California: Stanford University Press, 1988), 190–218.

27 Ibid.

28 Hendrik Wegenaar et al., “Designing Prostitution Policy: Intention and Reality in Regulating the Sex Trade,” *Bristol University Press Policy Press*, (2017): 29, <https://www.jstor.org/stable/j.ctt1wf4c8r.5>.

Fertility and Abortion Rights

The reproductive justice movement calls for the right to have a child and the right to parent any children an individual has. Reproductive justice demands that the government exercise less interference in an individual's right to freedom, while also ensuring that social justice is maintained to promote human flourishing.²⁹ Practically, this looks like the government providing the means to maintain a healthy life while allowing individuals to choose to partake in those opportunities as they see fit. If a woman believes that she cannot support a child, it is ultimately her choice to continue to carry the fetus to full-term and should not be the lack of access to an abortion that makes this decision.

During the period between antiabortion and anticontraception laws and their reversion in the 1960s and 1970s, it was well established in medical practice and law that women with private physicians could obtain abortions and contraceptives, with clinical certification declaring that a potential pregnancy will be dangerous to their health.³⁰ Yet again, we see how reproductive justice is based on access, not choice. Women of color or poor women disproportionately do not have access to private physicians, so an entire demographic is being excluded from this fundamental right. This well-established practice is antithetical to the societal need for bodily autonomy.

While efforts were made to increase the fertility of native-born white women, the proliferation of attempts to deter the fertility of people seen as unfit to produce took place during the first half of the twentieth century. The practice of sterilization, prominent between 1900 and the late 1970s, exists as a repugnant spot in history, legally used by thirty states to prevent individuals deemed as “degenerates” and “hereditarily insane” from procreating.³¹ Prior to 1927, criminal and civil sterilization statutes were overturned based on cruel and unusual punishment grounds and due process grounds, respectively. Supreme Court Justice Oliver Wendell Holmes' stated, however, in *Buck v. Bell* (1927):

It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to tell them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes.³²

29 Luna and Luker, “Reproductive Justice,” 328–335.

30 *Ibid.*, 332.

31 *Ibid.*

32 *Ibid.*

The Court majority decided that sterilization was a benefit to the community and to the individual herself. *Buck v. Bell* legitimated eugenic sterilization for civil reasons and led to Carrie Buck's—of *Buck v. Bell*—sterilization. Such laws were not removed from Virginia statutes until 1984.³³

The continuous struggle to fight for corporeal control has been enduring as reproductive laws were being determined by population control, desired demographic composition, and “assessments” of mental capacity. Justice was found more in the bare biological bones of reproduction, harkening to Darwin-esque theory. Should our reproductive laws be focused purely on the state of the community or based purely in autonomous use of one's body? And should sexual and reproductive justice purely be constructed by male configuration? Justice implies equity and can only achieve this standard if it is formed and enforced with consideration from everyone involved, and in this case, anyone with a body.

Struggle in the 21st Century

One of our modern-day reproductive struggles disputes the constitutionality of the Supreme Court's 1973 decision in *Roe v. Wade*, which declared that a woman's right to choose to have an abortion is a fundamental “right to privacy.”³⁴ Commonly missed by many Americans is the Court's declaration that this fundamental right is balanced by state interest in women's health and the “potentiality of human life.”³⁵ A state law that broadly prohibits abortion without respect to the stage of pregnancy or other interests violates that right. State interest, however, changes over the course of pregnancy, becoming progressively more involved as the pregnancy goes on, and so the law must be flexible as well. During the first trimester, *Roe* states that the state cannot regulate an abortion decision, only the pregnant woman and her attending physician can make that decision. During the second trimester, states can impose regulations related to maternal health. During the third trimester, once considered “viable,” a state may regulate abortions or prohibit them entirely. Viability is determined if a fetus can live *ex utero*, survive into the neonatal period and attain “independent moral status.” There is no universal gestational age to determine viability, so approximately twenty-four weeks has been determined as viable gestational age in the United States.³⁶ The laws must also contain exceptions when abortion is necessary to save the life of the mother.³⁷ The controversy behind this decision comes from the life-for-life

33 Ibid.

34 Oyez, “*Roe v. Wade*,” accessed November 16, 2019, www.oyez.org/cases/1971/70-18.

35 Ibid.

36 Grzegorz H. Breborowicz, “Limits of Fetal Viability and Its Enhancement,” *Early Pregnancy* 5, no. 1 (2001): 1, <https://www.ncbi.nlm.nih.gov/pubmed/11753511>.

37 Oyez, “*Roe v. Wade*.”

argument, where a woman should not take the life of another (fetus) for her own personal gain. This assumes that a fetus is a person with a life and would implicate the mother for murder, hence the “potentiality for life” phrase offered by the court.

In May 2019, the Alabama Senate approved the nation’s strictest abortion measure that banned abortions in almost all circumstances, including rape and incest. Designed to challenge *Roe*, Alabama Governor Kay Ivey signed the bill into legislation and remarked that it is a “powerful testament to Alabamians’ deeply held belief that every life is precious and that every life is a sacred gift from God.”³⁸ Many states that are conservative on this issue are attempting to do the same in order to challenge *Roe* at the Supreme Court level with the hopes of overturning the precedent. Given the 10th Amendment, states have the right to create laws that are not delegated in the Constitution to only affect their state. *Roe* is legal in all U.S. states, but if it is overturned at the Supreme Court, only states legalizing abortion will provide it, while other states can choose to not. Even if *Roe* were to be overturned, however, women would still have a constitutional right to abortions, vested in her right to privacy. The issue expanded in breadth when states pushed to offer abortions services, yet they did not have any affirmative obligation to do so.³⁹ As discussed in the *Sanger* case, Crane ruled that providing options for women who had a medical need to avoid pregnancy was a public health concern, and thus we can see where states found their opportunity to involve themselves.

Jessica Shaw, professor of Social Work at the University of Calgary, takes an interesting approach connecting the relationship between birth activism and abortion activism. She explores the idea of de-medicalization of women’s health, meaning the need to recognize how the patriarchal ideology has appropriated women’s body, usurping their control, and must return power back to women. She specifically refers to the transfer of control from woman to medical professional during the birthing experience. At this time, women are no longer experts of their own needs and are simply bodies, rather than full participants in this process. Shaw reasons that medicalization, defined as the “biomedical tendency to pathologize otherwise normal bodily processes...whereby an expert-based biomedical paradigm dominates discussion of health and frames it in negative ways, usually as illness,” views women’s pregnancies as conditions to be

38 Emily Wax-Thibodeaux and Chip Brownlee, “Governor signs Alabama abortion ban, which has galvanized support on both sides, setting up a lengthy fight,” *Washington Post* (2019): 1, https://www.washingtonpost.com/national/alabama-abortion-ban-galvanizes-support-on-both-sides-sets-up-lengthy-fight/2019/05/15/c60eb9a4-7729-11e9-b7ae-390de4259661_story.html.

39 Luna and Luker, “Reproductive Justice,” 333.

treated rather than natural processes.⁴⁰ Having control over one's health care decisions is critical, and it is important that women have absolute control over their pregnancies and births in order to have positive birthing experiences.

The common thread of control connects abortion activism to birth activism. Activists for abortion advocate that a women's self-determination is largely defined by having control of her own reproductive health.⁴¹ A woman who chooses to have an abortion—take the life of a fetus—and a woman who chooses a less medicalized birth—choosing to give birth at home—face the same pressure of social stigma and harassment.

Moreover, the pro-choice perspective becomes problematic by utilizing the term “choice” to establish this position. Choice is determined by having available resources and the ability to exercise status, whereas *rights* ought to be benefits accessible by all people. Poor women and women of color suffer the brunt of this dilemma that continues to marginalize them because pro-choice proponents negligently do not consider the social, economic, and political decisions of this so-called choice model.⁴² Shaw lists four ways to combat reproductive oppression: abortion must be universally advocated; health services must be of equal access to all; maternal rights must be recognized and legitimated; there must be a better understanding of the relationship between women's empowerment and reproductive health.⁴³ These four ways expand health care access for all women because the “choice” issue becomes resolved as women's reproductive health is viewed as a general right available to all women universally, offering accessible resources and support without the exclusive barriers.

Transgender Rights

The fight for transgender rights stands as another form of resistance to corporeal control. Based on a fight for identity and self-actualization, individuals strive to be successful and healthy, common needs all humans work to achieve throughout their life. The concept of gender identity is a social construct based on sex and gender stereotypes and has shaped our social and medical view of human beings. Across the world, discussions about transgender people are entering mainstream discourse. The combination of media focus on the transgender community and growing acceptance of transgender identities still does not remove the systemic and societal barriers, including access to health insurance, stigmatization

40 Jessica Shaw, “Full-Spectrum Reproductive Justice: The Affinity of Abortion Rights and Birth Activism,” *Studies in Social Justice* (2012): 145–155, <https://journals.library.brocku.ca/index.php/SSJ/article/view/1059>.

41 Ibid., 155.

42 Ibid., 154.

43 Ibid., 155.

from outsiders, harassment, and violence. Just as poor women and women of color struggle for access to abortion services and contraception, transgender communities, specifically individuals of low socio-economic status and people of color, face many barriers to healthcare access, causing unreasonable burdens to preventable morbidity and mortality.⁴⁴

Recently, Donald Trump's administration has explicitly acted against transgender individuals. The most explicit decisions include the Department of Justice's withdrawal of landmark 2016 guidance detailing school administration efforts to protect transgender students under Federal Title IX law as well as the Administration's plan to discharge transgender military service members.⁴⁵

The reproductive justice movement advocates for transgender-specific healthcare and providing medical students with the appropriate gender-affirming training in order to increase professional competency in healthcare providers.⁴⁶ This will help practitioners normalize transgender health so it can be included in their general knowledge and dismantle any bias they may have in their assessments. Diana Feliz Olivia, a Transgender Health Program Manager at St. John's Well Child and Family Center, advocates for reform in the medical community to address transgender social and physical needs through patient-centered models of care.⁴⁷ Obstruction of access to healthcare has marginalized transgender individuals because some practitioners hold the view that individuals in this community are difficult or different to care for.

We can connect this to the values of anti-prostitution activists. They believe prostitution is drastically different from regular labor because of its sexual nature and should not be afforded the same rights. Deeming a person's way of life as "different" or "too difficult to understand" discourages constructive conversation that can help to dispel preconceived notions and propel diversity of thought. When sex is labeled as taboo, not only does it condemn sexual intercourse, but anything related to the use of the body and the control over it. It minimizes the body to an inanimate object instead of embracing it for its myriad organic functions, natural beauty, and inexplicable capabilities. In short, simplifying the intricacies of the body dilutes its power and thus dilutes the power we have over it.

44 Diana Feliz Olivia et al., "In transition: ensuring the sexual and reproductive health and rights of transgender populations. A roundtable discussion," *Reproductive Health Matters* 26, no. 52, (2018): 23, https://www.jstor.org/stable/pdf/26605061.pdf?ab_segments=0%252Fbasic_SYC-4222%252Ftest&refreqid=excelsior%3A6404d1f82de881c96ac2ce62e5ecdb57.

45 "Trump's record of action against transgender people," National Center for Transgender Equality, accessed December 11, 2019, <https://transequality.org/the-discrimination-administration>.

46 Feliz Olivia et al., "In transition."

47 Ibid., 23.

Transgender rights challenge many classical theorists' observations about the attributes of the human body and its articulation into social and political power. Carol Pateman, using contractarian philosophy, points out that classical theorists believe women lack the attributes and capacities of their male counterparts. In effect, sexual difference becomes political difference, creating the determinant between freedom and subjection.⁴⁸ The structure of our society and our everyday lives incorporates the patriarchal conception of sexual difference established in gender norms. If we look at men and women in their natural state and already see an inherent power disparity, such as in familial or romantic relationships, the freedom to alter one's gender and sex challenges the social structures in place that determine our political and social power. Suddenly, inherent female disadvantage becomes a fluid and modifiable quality.

Sari L. Reisner, assistant professor in the Department of Epidemiology at the Harvard University T. H. Chan School of Public Health, shifts the conversation from healthcare to gender affirmation in the social sphere. Gender affirmation is the process of being affirmed in one's identified gender identity or expression. Gender affirmation can manifest in four dimensions. Socially, individuals will recognize and use a transgender person's name and pronouns. Psychologically, people will recognize any internalized transphobia they may have to be aware of any difference in treatment they may exhibit towards a transgender person. Medically, transgender people will be able to transition with hormones and surgery. Legally, transgender people can change their name and gender marker on their identification documents. Some transgender individuals medically affirm their gender, while others socially affirm.⁴⁹

The concept of fair and reasonable treatment for transgender individuals is based on the right to your life and body. The identity of an individual should not be vulnerable to outside interference or antithetical societal values. One could argue that the individual autonomy one has over their body is weaker for transgender individuals because it is not solely up to the individual to transition, but that they must be provided with the specific medical care to physically transition, as well as receive acceptance from their community to socially affirm. This argument leaves out one crucial point. Our society has gradually grown to accommodate the needs for different identities, such as the legalization of gay marriage, spaces to celebrate various cultural values, less restrictions on reproduction (i.e. adoption, surrogacy). These developments work to offer resources and choices that were not already part of society to allow groups to enjoy the

48 Pateman, *The Sexual Contract*, 190–218.

49 Sari L. Reisner et al., "Integrated and Gender-Affirming Transgender Clinical Care and Research," *Journal of Acquired Immune Deficiency Syndromes* 72 (2016): 1, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4969060/>.

same rights. If transgender individuals are offered resources to fully enjoy their rights, then they can truly claim autonomy over their body.

The effect of social advocacy, education, and exposure disseminates information and creates discussions to help us recognize other needs. Collectively, LGBTQ+ rights in the U.S. have substantially expanded because the realization occurred that society was neglecting this community and failing to respond to their needs. LGBTQ+ rights in the U.S. are not fully accepted by everyone, but a space has been created for them at the table. The transgender community is part of this coalition but is currently facing many roadblocks to freedom. Expansive accommodations to normalize transgender individuals can help foster greater power in their bodily autonomy. Then, we can create an all-inclusive push for bodily autonomy that frees all individuals stuck in this cage. To get there, we must normalize the topic of sex, be open to different forms of bodily autonomy and transitions, and thus strengthen the sexual and reproductive justice movement.

The Future of the Movement

Healthcare reform in the United States has typically walked on partisan lines. With a divided legislature, conservative lawmakers are trying to dismantle the Affordable Care Act (ACA) and progressive lawmakers are working to expand and extend the ACA in incremental and comprehensive ways.⁵⁰ The ACA works to lower out-of-pocket health care costs to make healthcare more affordable. For example, the ACA offers contraceptive coverage which requires new private insurance plans to provide coverage for a wide range of preventive services, such as mammograms and contraceptives without co-payments. This means that women will have “access to oral contraception (the Pill), the shot (Depo-Provera), the ring (NuvaRing)... and permanent contraceptive methods like tubal ligation without paying a co-payment or having the costs applied to her deductible.”⁵¹

The ACA also prohibits discrimination on the basis of sex and includes transgender and gender non-conforming people. This means that any individual and group within the health care system cannot discriminate against “an individual’s internal sense of gender...which may be different from an individual’s sex assigned at birth.”⁵² Physicians and insurance

50 Leah H. Heller and Adam Sonfield, “More to Be Done: Individuals’ Needs for Sexual and Reproductive Health Coverage and Care,” last modified February 28, 2019, <https://www.guttmacher.org/gpr/2019/02/more-be-done-individuals-needs-sexual-and-reproductive-health-coverage-and-care>.

51 “Contraceptive Coverage in the New Health Care Law: Frequently Asked Questions,” National Women’s Law Center, accessed February 24, 2020, https://www.nwlc.org/sites/default/files/pdfs/contraceptive_coverage_faq_11.9.11.pdf.

52 “Affordable Care Act Fact Sheet,” Transgender Law Center, accessed February 24, 2020, <https://transgenderlawcenter.org/resources/health/aca-fact-sheet>.

firms can no longer explicitly refuse to work with transgender individuals on the basis of their identity, thus removing barriers to health care access.

The ACA is working towards a more progressive and inclusive society where individuals can feel more comfortable with their bodies and have access to greater reproductive choices. This is an incredible next step because sexual and reproductive health needs are often discounted by policymakers, yet these rights have far-reaching implications for people's overall health. Weak representation at the government level showcases the political sensitivities regarding crucial topics like sexuality, reproductive health, and gender inequality. Although the ACA is not perfect, complete repeal without immediate policy replacement will result in medical catastrophes for many Americans.

The Guttmacher Institute focused on ways to accelerate progress in sexual and reproductive health and rights (SRHR). Their recent report proposes a comprehensive and integrated definition of SRHR and recommends an essential package for SRHR services and information that should be universally available. The package includes an extensive list, such as contraceptive services, abortion care, infertility treatment, and sexual health and wellbeing counseling, to name a few. The cost of meeting all women's needs for contraceptive, maternal, and newborn care comes to an estimated US\$9 per capita annually in developing regions. Such an investment would yield enormous returns, from greater access to sexual and reproductive health services, promotion of gender equality, multigenerational benefits to improve children's health and wellbeing, and greater household income.⁵³

The fight for sexual and reproductive justice requires strength from financial and social sources. Its' future relies on guaranteeing transparency and accessibility to individuals everywhere. We must reconstruct the values in our society, so the inherent patriarchal values do not predetermine our biological and social lives. Justice is lost when we do not challenge and reform these ideas when our society is yearning for it.

Conclusion

Sexual and reproductive justice promotes autonomy over one's body to provide an individual with the right to have options to determine their course of life. We need to continue to have critical discussions about corporal control, reproductive rights, and affordable health care because this will allow us to see the different needs in every community and the failures to address these issues in our healthcare system. Justice is found when a society devotes their time and resources to seeking the truth and creating

53 Ann M. Starrs et al., "Accelerate progress – sexual and reproductive health and rights for all: report of the Guttmacher-Lancet Commission," *The Lancet* 391, no. 10140, (2018): 2643, [https://doi.org/10.1016/S0140-6736\(18\)30293-9](https://doi.org/10.1016/S0140-6736(18)30293-9).

solutions, and when a government supports the needs of its citizens and grows with the changing society.

As the power of the sexual and reproductive movement continues to grow, it is vulnerable to outside pressure. When new modes of thinking try to permeate the mainstream, people will become uncomfortable. They will be forced to think outside of their “norms” and consider how those ideas may be restricting the freedom of others. It is not an easy transition and those wishing to conserve the “natural” order of things will fight the movement. In order to push our society forward, though, we have to be willing to acknowledge that our world is built on preconceived notions of sex, gender, and sexual orientation. Only then can we see how structured and exclusive our society can be. Differing views in lifestyles are completely natural and necessary for an egalitarian community, however laws and justice need to recognize and address changing social values. If the United States continues to view sex as taboo and conform to old patriarchal values, this will only weaken sexual and reproductive justice, generating more bodily restrictions.

Advocating for less corporeal control begins by analyzing the inherent power structures in place that are obstructing sexual and reproductive autonomy and observing the effects of these restrictions on different communities. Without the infringing social and cultural norms, sex work is just like every other form of labor and exchange, thus sex workers need to have proper labor rights because their profession does put them in vulnerable positions, as does any career that involves bodily work and human interaction. Restrictions on fertility, abortion, and transgender rights prevent individuals from attaining full control over their reproductive organs. The pathway to achieving complete and comprehensive sexual and reproductive justice brings us one step closer to the freedom our nation promises.