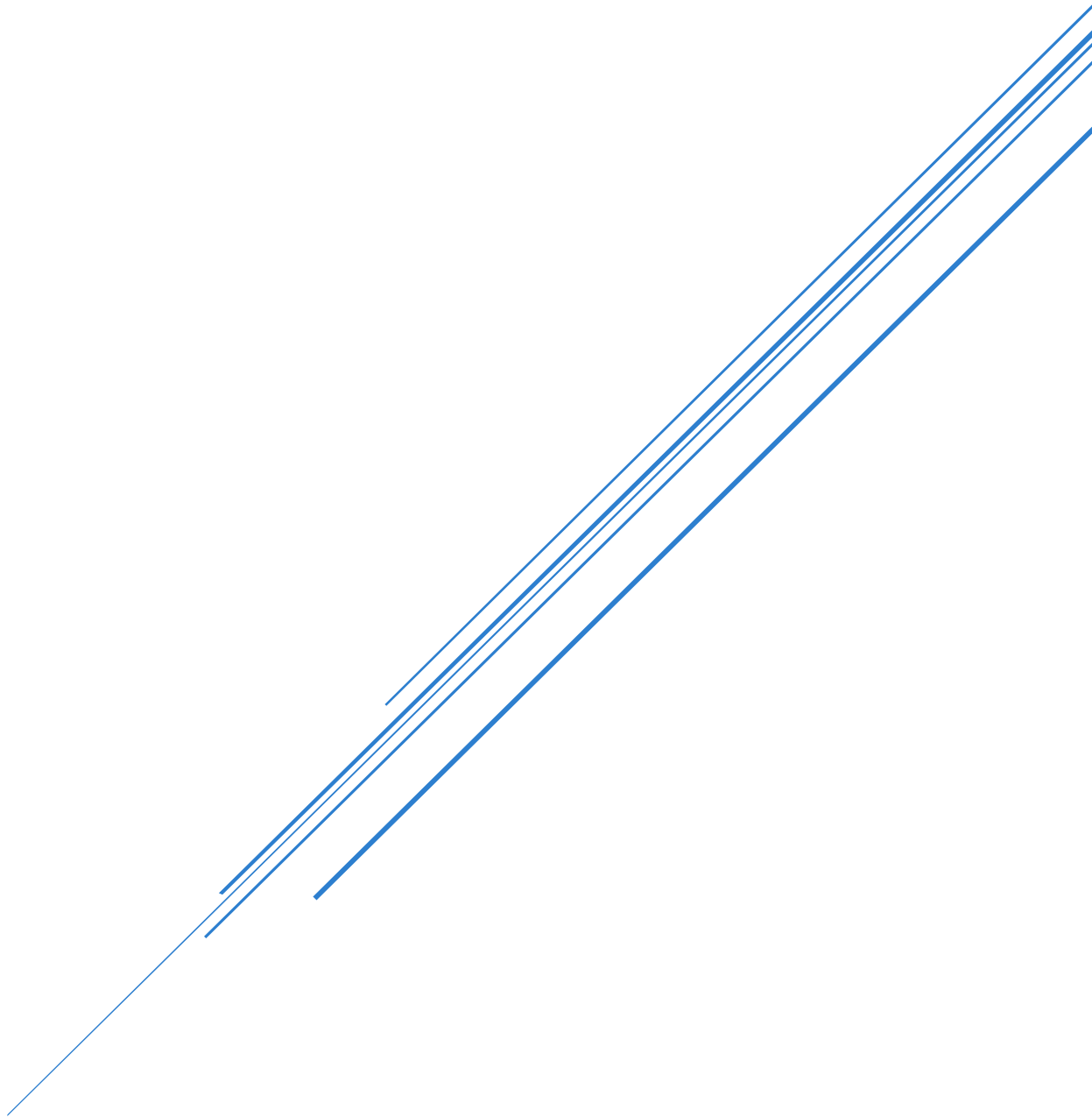


# THE POLITICS OF CHOICE: A COMPARATIVE EXPLORATION OF ABORTION LEGISLATION

*WHEN AMERICA SNEEZES, THE WORLD CATHEs A COLD*



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Kirsten Vejby

## Abstract

The debate surrounding abortion law and reproductive rights in the United States and France serves as a microcosm of broader cultural, political, and social differences. This task carries out a comprehensive analysis of abortion laws and varying discourses in both countries in order to shed light on this controversial issue. In the United States, the abortion debate has been characterized by changing legislation and deep-seated ideological divisions. From the seminal 1973 *Roe v. Wade* decision that secured federal abortion rights to the recent overturn of that decision in the 2022 case of *Dobbs v. Jackson Women's Health Organization*, abortion has remained a battleground for political and ideological forces. These legal changes have had profound implications for women's access to abortion services and have created a fragmented and unstable legislative landscape in which access to abortion varies significantly depending on state laws and political conditions. In contrast, France has chosen a different approach to abortion regulation. Since the legalization of abortion in 1975 with the Veil Law, France has worked to ensure women's right to abortion through constitutional protections.

The recent addition of abortion rights to the French constitution here in 2024 marks a significant commitment by the French state to protect women's autonomy over their bodies. This constitutional change reflects a broader European trend to institutionalize reproductive rights as basic human rights. This research highlights the interplay between nations in shaping abortion laws and policies, and France's response to political and legal challenges in the United States by enshrining abortion rights in its constitution is an example of this. While such legislative activism may raise concerns about a potential spiral of backlash and polarization between countries, it also underscores how nations can learn from each other and work together to advance human rights and equality. The different positions on abortion in France and the United States are influenced by a number of factors, including cultural, religious, political, and historical conditions. In the United States, abortion has become a focal point of political polarization and cultural clashes, with religious beliefs and ideological convictions shaping public debate. In contrast, France's more secular approach to abortion law has enabled the passage of progressive laws on abortion and sexual as well as reproductive health.

It is crucial to recognize that the abortion issue goes beyond mere politics; it reflects deeper societal tensions and value conflicts. It is therefore essential to find common ground and promote respect for individual rights and freedoms. In a time of increasing polarization and societal division, it is more important than ever to address issues of reproductive rights.

Abortion is therefore not just a political issue, but also about fundamental rights and freedoms. Is it time to move away from polarization and conflict and towards a future where all women have the right to autonomy over their bodies and futures? In conclusion, this assignment highlights the complex nature of the abortion issue and its many-faceted impact on society. By understanding the underlying factors that drive divergent approaches to abortion regulation, fostering dialogue and respecting human rights, the opportunity to work towards a more just and equal world where reproductive rights are upheld for all women, regardless of geographic location or cultural background, increases.

## Table of Contents

<b><i>Introduction</i></b> .....	<b>4</b>
<b><i>Methodology</i></b> .....	<b>6</b>
<b>What's The Problem Represented To Be?</b> .....	<b>6</b>
The origin of WPR.....	8
Elaboration of the questions .....	11
<b>Comparative Method</b> .....	<b>14</b>
<b>Ontology and Epistemology</b> .....	<b>17</b>
<b><i>Literature review</i></b> .....	<b>19</b>
<b><i>Theory</i></b> .....	<b>22</b>
<b>Reproductive Justice: An Introduction</b> .....	<b>22</b>
<b>A Theory of Gradual Institutional Change</b> .....	<b>28</b>
<b><i>Analysis</i></b> .....	<b>32</b>
1. What's the problem?.....	32
2. What deep-seated presuppositions or assumptions underlie this representation of the problem? .....	35
3. How has this representation of the problem come about? .....	38
4. What is left unproblematic in this problem representation? Where are the silences? Can the problem be conceptualized differently? .....	42
5. What effects are produced by this representation of the problem?.....	45
6. How and where has this representation of the problem been produced, disseminated and defended? How has it been and/or how can it be disrupted and replaced? .....	49
7. Apply this list of questions to your own problem representations.....	53
<b>Comparative discussion with a theoretical foundation</b> .....	<b>54</b>
<b><i>Conclusion</i></b> .....	<b>59</b>
<b><i>Bibliography</i></b> .....	<b>62</b>

## Introduction

Abortion is hotly debated and arouses intense emotions and deep convictions in modern political and societal contexts. These debates stem from fundamental values of life, liberty, and morality, which are deeply rooted in society. When abortion is discussed, it goes beyond mere health policy and becomes a reflection of a society's values and identity as well as its views on women's rights. The issue of abortion is also about the balance between state control and the individual's freedom to make personal choices, which makes it a subject of great importance for society's self-understanding and structure. In the United States, the abortion debate has been a continuous topic over the past decades, characterized by significant changes in legislation and political rhetoric. An important event in this debate was the historic *Roe v. Wade* decision in 1973, in which the United States Supreme Court established women's right to abortion at the federal level. This decision was seen as a victory for women's liberation and was considered to secure fundamental reproductive rights.<sup>1</sup> However, the debate on abortion in the United States has been characterized by considerable polarization since then. The political battle over the abortion issue has led to a number of legal challenges and changes in legislation. An example of this is the recent case of *Dobbs v. Jackson Women's Health Organization* in 2022, where the Supreme Court overturned certain aspects of the *Roe v. Wade* decision, giving state governments greater power to regulate or restrict access to abortion.<sup>2</sup>

These legal changes have had profound implications for women's access to abortion services in the United States, and access to abortion now varies significantly across states and is highly dependent on the political makeup of local legislatures. In more liberal states, there is often greater protection of abortion rights and easier access to abortion services, while more conservative states tend to pass restrictive laws that limit or prevent access to abortion. The political battle over the direction of abortion laws continues to shape American society's view of reproductive rights and the role of women in society. In contrast to the American development, France has followed a different path in relation to the abortion issue. Following the legalization of abortion in 1975 with the Veil Law, named after the then Minister of Health Simone Veil, France has continued to strengthen women's right to abortion through

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<sup>1</sup> D. Kelly Weisberg, ed., "ROE v. WADE," in *Applications Of Feminist Legal Theory* (Temple University Press, 1996), 953–61, <http://www.jstor.org.zorac.aub.aau.dk/stable/j.ctt14bs8md.70>.

<sup>2</sup> "Dobbs v. Jackson Women's Health Organization | Constitution Center," National Constitution Center – constitutioncenter.org, accessed May 30, 2024, <https://constitutioncenter.org/the-constitution/supreme-court-case-library/dobbs-v-jackson-womens-health-organization>.

constitutional protections and legislation. The recent addition of abortion rights to the French constitution in 2024 marks a significant step and a commitment by the French state to protect women's right to decide over their own bodies.<sup>3</sup> This constitutional amendment reaffirms France's commitment to ensuring reproductive rights as fundamental rights for all women in the country. The French approach to abortion law and reproductive rights reflects a broader European trend to institutionalize women's rights and protect them as fundamental human rights. France has been a leader in this regard and has worked actively to integrate reproductive rights into its national legislation and policy.<sup>4</sup>

This progression in France towards a more robust protection of abortion rights is an example of the European commitment to promoting equality and respect for individual choice and autonomy. Therefore, the French approach to abortion law and reproductive rights illustrates not only a legal issue, but also a deeper commitment to respect women's rights and freedoms. This constitutional protection of abortion rights in France underlines the country's commitment to ensuring equality and respect for individual choice and autonomy. The marked difference in approaches between the United States and France raises several important questions about how different political systems, cultural values, and social movements shape legislation and public discourse around abortion. In trying to understand these complex dynamics that shape abortion law and reproductive rights, it is necessary to delve deeper into the specific factors that play a role in different national contexts. The United States and France offer two striking examples of how cultural, political, and social conditions can influence both legislation and public discourse around abortion. The United States' fragmented political landscape and decentralized legislative system create a situation where abortion rights are constantly debated and under pressure from various state policies. The recent overturn of *Roe v. Wade* illustrates how changes in Supreme Court decisions can have far-reaching consequences for access to abortion across the country.<sup>5</sup>

In contrast, France has taken a more unidirectional and centralized approach, where abortion rights have been protected through constitutional amendments, reflecting a stronger

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<sup>3</sup> Simone Veil, "Human Rights, Ideologies, and Population Policies," *Population and Development Review* 4, no. 2 (1978): 313–21, <https://doi.org/10.2307/1972282>.

<sup>4</sup> Eleonora Bottini, Margaux Bouaziz, and Stéphanie Hennette-Vauchez, "Enshrining Abortion Rights in the French Constitution: A Global Statement with Little Domestic Substance?," *Verfassungsblog*, March 9, 2024, <https://verfassungsblog.de/enshrining-abortion-rights-in-the-french-constitution/>.

<sup>5</sup> *Abortion in America After Roe: An Examination of the Impact of Dobbs v. Jackson Women's Health Organization on Women's Reproductive Health Access*, Trinity College Student Theses. Trinity College (Trinity College Digital Repository), accessed May 30, 2024, <https://jstor-org.zorac.aub.aau.dk/stable/community.36794810>.

national consensus on women's right to self-determination. However, this approach is not without opposition, particularly from conservative and religious groups who challenge the legal framework and its ethical implications. These differences raise important questions about what factors drive these divergent approaches and how they affect women's rights and society's views on abortion. Through a comparative analysis, I want to examine how political rhetoric, legal frameworks, cultural norms, and social movements contribute to the policies and public discourse of the respective countries. Using a combination of methodological frameworks, empirical data and relevant theories, this study aims to illuminate the underlying mechanisms that shape abortion legislation. This seeks not only to contribute to academic understanding, but also to inform political and social reforms that can advance more equitable and inclusive reproductive rights.<sup>6</sup> In order to capture the various aspects of abortion policy and reproductive rights, this research will focus on answering the following research questions:

***What are the underlying factors shaping the representation and regulation of abortion in the United States and France, and how do these factors influence public discourse, women's rights, and legislative outcomes in each country?***

## Methodology

### What's The Problem Represented To Be?

The policy researcher Carol Bacchi has made a significant contribution to a critical and relevant turn of policy research and with her approach called: *'What's the Problem Represented to be?'* she has developed a popular methodology, which questions the rationales or problem constructions to which policy offers answers. According to Bacchi, these problem constructions are neither given nor neutral, but instead represent certain perceptions of reality that privilege some groups and exclude others. Since 2009, Bacchi's approach has gradually become more popular within educational research as well as within related areas such as evaluation research. The WPR approach can generally be understood as a discourse analytical methodology based on a Foucault-oriented approach to governance. As an introduction to the WPR approach, one can advantageously start by forming an understanding of how Bacchi understands and analyses contemporary governance, as her main point is that we are currently governed via problematizations. Problematizations have direct consequences for population

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<sup>6</sup> Veil, "Human Rights, Ideologies, and Population Policies."

groups, as the problematizations help to define how these groups are perceived and treated, as well as how they are invited to reflect on themselves. With the concept of problem representation, Bacchi shifts the focus from the policy problems for which traditional policy analysis is concerned with finding effective solutions, to the problematizations that cause social conditions to be defined as policy problems in the first place.<sup>7</sup>

Based on a combined social constructionist and poststructuralist perspective, Bacchi perceives policy problems as constructions that are not self-evident, but instead can and should be negotiated, as they benefit some population groups rather than others. According to Bacchi, any problem representation is based on certain ontological and epistemological assumptions, which can both be examined as well as challenged. Problem representations should thus not be understood as expressions of political interests or attempts at manipulation, but rather as certain discursive truths that have been built up through the production of knowledge and which therefore appear natural and are reproduced by the actors involved in formulating policy. Thus, these actors include not only the state, but also researchers who administer and substantiate a given problematization. In line with the social constructionist starting point, truths are produced everywhere in society and, according to Bacchi, it is particularly important to examine the truths produced by those in power, because these truths are particularly durable and effective, as they are built into legislation, reports, and management technologies. Based on this understanding of policy, Bacchi proposes a critical discourse analytical approach to policy analysis, which aims to analyze problem representations by basically deconstructing them. In short, the WPR approach therefore involves identifying problem representations and examining both the underlying premises as well as the effects and consequences of these problem representations.<sup>8</sup>

In this approach, problem representations are not evaluated based on how correct they are, but rather based on what effects they have for, for example, certain population groups. Although the approach is discourse-analytical and social constructionist, in this case policy is evaluated not only on its effects on the discursive level but also on the concrete effects in people's lives. Concretely, the approach consists of six questions plus a subsequent reflection exercise. The progression of the questions follows a principle of moving backwards from the

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<sup>7</sup> Carol Lee Bacchi, *Analysing Policy: What's the Problem Represented to Be?* (Frenchs Forest, NSW: Pearson Australia, 2009).

<sup>8</sup> Carol Lee Bacchi and Susan Goodwin, *Poststructural Policy Analysis: A Guide to Practice*, Palgrave Pivot (New York, NY: Palgrave Macmillan, 2016).



concrete solution proposals that policy typically consists of, to implicit problem representations and their background and consequences. The 7 questions/tasks are:

1. What's the problem (e.g., of "gender inequality", "drug use/abuse", "economic development", "global warming", "childhood obesity", "irregular migration", etc.) represented to be in a specific policy or policies?
2. What deep-seated presuppositions or assumptions underlie this representation of the "problem" (problem representation)?
3. How has this representation of the "problem" come about?
4. What is left unproblematic in this problem representation? Where are the silences? Can the "problem" be conceptualized differently?
5. What effects (discursive, subjectification, lived) are produced by this representation of the "problem"?
6. How and where has this representation of the "problem" been produced, disseminated, and defended? How has it been and/ or how can it be disrupted and replaced?
7. Apply this list of questions to your own problem representations.<sup>9</sup>

Generally, these questions can be characterized as approaches to critical explorations of policy in order to problematize and reveal the hidden power structures built into the concrete policy. In this context, Bacchi thus offers a method that enables a critical awareness of policy. As a continuation to an analysis based on the six questions, Bacchi also encourages you to reflect on your own analysis by applying the same questions to your own problematizations of the problem representations you have analysed. The approach thus acknowledges that a deconstruction cannot take place from a neutral position, but instead rests on certain ontological and epistemological assumptions which are not self-evident.<sup>10</sup>

## The origin of WPR

Bacchi developed the WPR in connection with her own teaching of policy at undergraduate level at the University of Adelaide in Australia. The development occurred as a reaction to what Bacchi saw as a deficient focus on problem solving in policy analyses. In her research on women's equality, she was concerned with what is taken for granted and how policy, through problematisation, helps to create understandings of women and equality, which it is

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<sup>9</sup> Bacchi and Goodwin.

<sup>10</sup> Bacchi and Goodwin.

necessary to deconstruct and not least challenge. She was therefore concerned with how problems should not be seen as being outside of policy. Policy does not emerge, as assumed in traditional policy research, with a rational solution to problems that can be objectively identified in a society. The approach does not reject societal problems but draws attention to the fact that policy must be understood as actively co-creating social problems as a specific type of problem that requires specific solutions. The focus in WPR is thus on developing a critical view of policy and de-naturalizing what is taken for granted or naturalized. Bacchi thus created an explicit interest in uncovering how policy has effects on the groups it is aimed at, and not least in enabling alternative ways of representing a problem.<sup>11</sup>

Bacchi became interested in understanding power relations, but not in the traditional understanding where power is localized and not least centred. So, the theoretical starting point for WPR became Michel Foucault's concepts of governmentality, problematization and dividing practice. Bacchi transfers Foucault's deconstruction of Western society's thinking to a deconstruction of policy and thus she focuses on policy as discourse and thereby demarcates herself from politics as a field with actors who have agency and want something specific with the field. Where Stephen J. Ball advocates that the study of policy operates with two ontologies, policy as discourse and policy as text, since in his view it is essential to keep an eye on both the discursive framework and the intentions of the actors and not least the enactment of policy, Bacchi delimits herself from political interests and intentions. Just as she opposes traditional approaches to policy analysis, she also opposes discourse approaches that have a linguistic starting point, as is the case with for example, Fairclough's critical discourse analysis. Bacchi's 1999 book: 'Women, Policy and Politics: The Construction of Policy Problems' introduced a new approach to policy analysis while also contributing to alternative ways in which policy, political processes and policy analysis could be conceptualized within gender studies.<sup>12</sup>

In 2009, Bacchi published the book: 'Analysing Policy: What's the Problem Represented to be?' which was a further development of her approach from 1999, where the questions were now expanded and systematized. The book was aimed at students at bachelor's and master's level and thereby provided a basic introduction to the approach. Whereas in 1999 Bacchi focused on positioning her approach among other policy approaches, the aim of this book was to introduce WPR, its theoretical basis and not least

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<sup>11</sup> Bacchi, *Analysing Policy*.

<sup>12</sup> Carol Bacchi, *Women, Policy and Politics: The Construction of Policy Problems* (London, 2024), <https://doi.org/10.4135/9781446217887>.

examples of how the approach had been developed in research within various policy areas and thereby no longer only in gender research. In 2009, WPR was written against the prevailing evidence-based focus in policy of the time, which was investigating and challenging how policy could potentially solve social problems most effectively.<sup>13</sup>

In 2016, in collaboration with Susan Goodwin, Bacchi published another guide to WPR: 'Poststructural Policy Analysis - A Guide to Practice' and this book is based on research using a WPR perspective. Bacchi and Goodwin evaluated the research with a focus on how policy helps to constitute problems, subjects, objects, and places. Once again the WPR is further developed and on the very low practical level the seven questions become steps and theoretically the approach is increasingly anchored in a more performative perspective with an importance on the ontology of becoming, where Annemarie Mol's work in particular has been an inspiration. In this book, WPR is once again positioned as an approach that challenges other approaches to policy research. Bacchi and Goodwin present the positioning of the WPR approach as different from traditional policy research and instead draw on policy anthropology, policy sociology and studies of governmentality, which also provide critical perspectives on policy. The WPR approach is further developed in the direction of a performative understanding of policy, where emphasis is placed on how concepts are in constant creation and that policy plays a significant role in the creation of social problems.<sup>14</sup>

The study of policy with this book thus becomes a study of the performative effects of policy, namely how policy helps to produce understandings of problems, objects, subjects, and places that come through in practice. In this connection, the focus on governance technologies is further developed in the book from 2016. Where policy in the book from 2009 is seen as governance, in 2016 Bacchi and Goodwin put an analytical focus on how policy is implemented through different technologies and in this work also draw on Mitchel Dean's governance regime analysis. The WPR approach thus differs from traditional approaches in that, in addition to simply focusing on how people create policy, it also examines how policy creates people.<sup>15</sup>

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<sup>13</sup> Bacchi, *Analysing Policy*.

<sup>14</sup> Bacchi and Goodwin, *Poststructural Policy Analysis*.

<sup>15</sup> Bacchi and Goodwin.

## Elaboration of the questions

Now to dive a bit deeper into the concrete practice of the method, WPR as we know it is presented as a set of questions or steps for a policy analysis. However, a closer examination of the questions shows that there are actually many more questions than first anticipated. Not least in the 2016 edition, Goodwin and Bacchi open up even more questions that can be usefully included in a policy analysis. For example, they open up a new set of questions in the deconstruction of places where a new list of four questions is drawn up, which focuses on how the understanding of places as stable units can be challenged. But initially, WPR is presented as an analysis strategy consisting of six questions and an associated reflexive exercise, where you repeat the six questions on your own research and these six questions are connected and mutually overlapping. A progression and systematicity is envisaged from question 1 to question 6, although Bacchi also encourages the analysis strategy to focus on a selection of WPR questions depending on the research question.<sup>16</sup>

1. The first question focuses on how problems are represented in a policy and this question is thereby the starting point for the subsequent analysis and the following questions. Bacchi herself describes how WPR is based on the premise that what one proposes to do about something reveals what one thinks is problematic. Question 1 is thus the initial point for the analysis with its focus on problem representations and the interest in uncovering how policy produces certain understandings of problems. WPR is interested in questioning the construction of problems and is thus opposed to approaches that would identify solutions. This first question is unavoidable in a WPR analysis and Bacchi herself describes question 1 as a clarification exercise. This fundamental step for the analysis can be based on a single policy document that is read through in order to identify problem representations. As described above, however, it is only the initial point, and the overall analysis will typically require the inclusion of several related documents. Often, but not always, the problem representations will be able to be understood directly from the policy document. There will often also be several problem representations at play in a single policy document and these do not necessarily have to be mutually consistent.<sup>17</sup>

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<sup>16</sup> Bacchi and Goodwin.

<sup>17</sup> Bacchi and Goodwin.

2. The second question partly overlaps with the first question and within the identification of problem representations underlying assumptions often become visible; it will therefore frequently be difficult to separate the two questions in terms of the analytical focus on assumptions. At the same time, the second question also sets the stage for a discourse analysis based on the policy's concepts, categories and binaries and it thus also becomes close to the text.<sup>18</sup>
3. The third question focuses on the genealogy of the problem representations identified, for example by considering how it has become possible to represent a problem in a given way. The answer to this third question therefore requires a comprehensive analysis of how problem representations have developed over time.<sup>19</sup>
4. The fourth question is also closely linked to the second question and in some examples also the third question, as the focus is on the silences in a policy, namely everything that is not spoken. This question can therefore often be the cause of a more speculative analysis, especially if one does not have the necessary insight into the subject area being analysed. One way in which silences can be analysed in connection with question number 4 is to compare policy across countries, sectors, organizations, et cetera, with the aim of spotting differences and similarities across comparable objects, which requires systematic considerations around comparison. However, WPR does not offer methodological tools for comparison and therefore cannot stand alone as an analysis strategy in this regard. Comparative analyses are extensive and require extensive knowledge not only of policy in two countries but also of these countries' political, social, and economic conditions in a historical perspective. Bacchi's request to the users of WPR to be inventive can possibly be problematic in an academic context, as an analysis naturally requires evidence.<sup>20</sup>
5. The fifth question is actually a three-part question, which can form the initial point for an independent analysis. The first part of the question concerns the discursive effects of a problem representation, which suggest how a dominant problem representation determines the limits for the articulation of a phenomenon, who can legitimately speak out and in which contexts. This first part of the fifth question is closely linked to the subsequent question number 6, where the focus is on the dissemination of a specific problem representation and whether discourses that contest this can be

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<sup>18</sup> Bacchi and Goodwin.

<sup>19</sup> Bacchi and Goodwin.

<sup>20</sup> Bacchi and Goodwin.

identified. The second part of the fifth question focuses on the effects of subjectivation of a problem representation and this part can also in itself form the initial position for an independent policy analysis. Thus, this part of the fifth question is connected to question 2 and its focus on people's categories. The boundaries between the different questions are thus more fluid than appears from the linear way in which the questions are set. The last part of the fifth question focuses on the lived effects of a policy, where Bacchi encourages, for example, to investigate how funds are distributed and what effects this can have on the groups affected by a policy. But she also views this question as an opportunity to examine how a policy is implemented in practice. In the answer to this part of question number 5, both qualitative and quantitative material can be included and thus this question can also constitute a study in itself. However, it again requires consideration of which methods are best suited in terms of elucidating and answering one's problem formulation, and WPR can thus be combined with other methodological and theoretical approaches.<sup>21</sup>

6. The sixth question focuses on where a problem representation is produced, from where it is conveyed and defended, and how it can be challenged, disrupted, and replaced. This question is closely connected with the other questions, which should have led to the answer to the first part of the sixth question about how a particular discourse becomes dominant. Not least here, the answer to question 3 and the genealogical analysis are extremely relevant. On the other hand, the second part of question 6, about how the problem representation is contested, requires some consideration. If the cognitive interest is to investigate which problem representations are at play in relation to a policy, the sixth question can form the initial position for one's analysis. In this case, question 6 is related to question 1 in an investigation of which problem representations become dominant and how they are contested, as well as to the fourth question's focus on silences and what is taken for granted. Bacchi explicitly writes once again that she has no interest in actors or agents in WPR, but that the focus in WPR, according to Bacchi, is on discourses that are diverse, complex, and sometimes contradictory and thus on how different discourses can stand in opposition to each other. At the same time, she also describes that question 6 ensures that attention is paid to the battles that take place over knowledge and as potential resistance to a dominant problem representation. Question 6 thus appears to be more easily unsolved

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<sup>21</sup> Bacchi and Goodwin.

in WPR in contrast to the other questions, as Bacchi does not develop the question any further or how it can be translated analytically into a concrete analysis.<sup>22</sup>

7. Finally, there is the seventh question or step as this is called, which involves using the analysis strategy on one's own problem representation. According to Bacchi, this step is one of the most important, but also a step that Bacchi herself does not unfold and it is also a very extensive task considering how many possibilities open up under each question.<sup>23</sup>

As we know, WPR is therefore initially presented as an analysis strategy with just 6 rather superficial questions, but as Bacchi's own review of the approach shows in '*Poststructural Policy Analysis - A Guide to Practice*', there are many supplementary questions embedded in WPR. The WPR therefore primarily appears like an easily accessible recipe for a policy analysis, where the questions simply just have to be answered and then the task is successfully completed. But as this elaboration of the questions shows, WPR as an analysis strategy is far more complex and requires reflection on which choices are made in the preparation. The questions are intertwined, and many of the individual questions actually contain several questions that call for different considerations and approaches.<sup>24</sup>

## Comparative Method

The comparative method is a research method used to compare and analyse different entities or phenomena to identify similarities and differences between them. This method is often used in various disciplines such as social science, literary analysis, and anthropology.

Comparative approach to research is thus a method that focuses on comparing different units or phenomena in order to identify patterns, similarities, and differences between them. These can be entities such as countries, organizations, cultures, or individuals and by comparing such different entities we can gain a deeper understanding of what is being investigated.

Comparative method is important because it allows to examine and analyse different aspects of a topic across different units.<sup>25</sup> By comparing different units, patterns and trends can be identified that would not otherwise be apparent. This can contribute to generating new knowledge and understanding in various areas of research. Comparative method can therefore

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<sup>22</sup> Bacchi, *Analysing Policy*.

<sup>23</sup> Bacchi.

<sup>24</sup> Bacchi and Goodwin, *Poststructural Policy Analysis*.

<sup>25</sup> "The Comparative Method," *History and Theory* 2 (1963): 40–45, <https://doi.org/10.2307/2504222>.

be defined as a research method that involves comparing different entities or phenomena to identify similarities and differences between them. This method is used to generate new knowledge and understanding within various disciplines. The comparative method has a long history and has been used in various disciplines for many years. This approach to research can be traced back to antiquity when philosophers such as Aristotle and Plato used comparative methods in their work. Since then, the comparative method has been refined and developed by researchers in various disciplines.<sup>26</sup>

The first step in the comparative method is to identify the research areas to be investigated. This involves selecting the entities or phenomena to be compared and defining the specific questions to be answered through comparison. After identifying research areas, the relevant units to be compared must be selected. As mentioned, this can be countries, organizations, cultures, or individuals, depending on the specific research topic. The next step is to collect data about the selected entities, which may include quantitative data such as statistics and numbers, as well as qualitative data such as interviews, observations, and text analysis. Data collection must be careful and comprehensive to ensure reliable results. After collecting data, this must be analysed and compared to identify similarities and differences between the selected entities.<sup>27</sup> This can be done using different analytical methods such as statistical analysis, qualitative analysis, or comparative case study analysis. The comparative method has several advantages, including the fact that it provides the opportunity to investigate complex phenomena and relationships. It also allows for identifying patterns and trends across different entities. It can also generate new knowledge and understanding within various areas of research. There are also challenges associated with comparative methodology, including the fact that selection of relevant units and data collection can be complex and time-consuming. There may also be differences in data quality and availability between the selected devices. Interpretation of results can also be subjective and influenced by the researcher's bias. In a social science context, comparative method can be used to compare different societies, political systems, or economic models to identify similarities and differences between them. This can help to understand how different factors influence societies and political decisions.<sup>28</sup>

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<sup>26</sup> Charles C. Ragin, *The Comparative Method* (University of California Press, 1987), <http://www.jstor.org/stable/10.1525/j.ctt1pnx57>.

<sup>27</sup> Ragin.

<sup>28</sup> Arend Lijphart, "Comparative Politics and the Comparative Method," *The American Political Science Review* 65, no. 3 (1971): 682–93, <https://doi.org/10.2307/1955513>.



Quantitative method focuses primarily on quantification of data and statistical analysis, while comparative method focuses on comparing different entities or phenomena. While quantitative method can provide precise and generalizable results, comparative method can provide a deeper understanding of contextual factors and complex relationships. Qualitative method focuses on understanding and interpreting social phenomena through observations, interviews, and text analysis, while comparative method focuses on comparing different entities or phenomena. While qualitative method can provide a deeper understanding of individuals' experiences and perspectives, comparative method can provide a broader comparative analysis of different entities. Comparative method is thus an important research method that allows comparing and analysing different units or phenomena in order to identify similarities and differences between them. This method can thus also generate new knowledge and understanding within various disciplines and contribute to a deeper understanding of complex contexts. It is important for researchers to be aware of the benefits and challenges of comparative methodology and to apply it in a careful and reflective manner. The application of the comparative method in my analysis of reproductive rights and abortion legislation in the United States and France is crucial to understanding the complex and diverse ways in which these rights are structured and practiced in different political, cultural, and social contexts.<sup>29</sup>

This approach is particularly relevant to my area of interest for several reasons. First, the United States and France represent two markedly different political systems – a federal system in the United States and a unitary state in France. These structural differences affect the implementation and enforcement of reproductive rights in different ways. By comparing these two cases, it becomes possible to identify how decentralization versus centralization affects access to and regulation of abortion and other reproductive health services. The two countries have different cultural and social norms that shape the debate about reproductive rights. The United States is known for its polarized political and social debate on abortion, often influenced by religious and conservative groups, while France generally has a more secular and egalitarian approach. A comparative angle therefore makes it possible to examine how these cultural differences affect the design and implementation of legislation as well as the public's perception and acceptance of reproductive rights. By examining aspects such as political actors and social movements in both countries, the comparative method can reveal how different groups mobilize for or against changes in abortion legislation. This comparison

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<sup>29</sup> "The Comparative Method."

can thus provide insight into which factors promote or inhibit political change in different contexts.<sup>30</sup>

A comparative approach also makes it possible to analyse how race, class, gender, and other identity markers affect women's access to and experiences with reproductive rights in the two countries. By identifying and comparing the intersectional dimensions of inequalities in access to health services, it becomes possible to create a better understanding of the specific challenges that different population groups face and how these challenges are addressed or not addressed in different political and social contexts. Finally, a comparative analysis may also contribute to the development of reproductive rights policy theories and practices by highlighting best practices and identifying areas where policies can be improved. By learning from the experiences of both countries, more effective and fair approaches to securing reproductive rights globally can eventually be developed. The comparative method can thus contribute to a deeper and more nuanced understanding of the factors that shape reproductive rights and legislation in different contexts. This is essential to my area of interest as it not only illuminates the specific challenges and opportunities in the United States and France, but also contributes to a broader understanding of how reproductive rights can be promoted and protected across different societies.<sup>31</sup>

## Ontology and Epistemology

Given my focus on reproductive rights and abortion laws in the United States and France, certain ontological and epistemological assumptions can be identified that underpin my analysis. Ontologically speaking, my task can adopt a social constructionist approach as this approach claims that reality is socially constructed through discourses and social interactions. In my assignment, where I intend to analyse representations of abortion and reproductive rights, it is assumed that these rights and legislation are not fixed and objective, but rather shaped by cultural, social, and political discourses. My assignment also aims to recognize that different groups (e.g. political actors, social movements, different population groups) can have different perceptions and experiences of reproductive rights. This therefore implies an assumption that there is not one single, objective reality, but many realities that exist side by

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<sup>30</sup> Hennie Boeije, "A Purposeful Approach to the Constant Comparative Method in the Analysis of Qualitative Interviews," *Quality and Quantity* 36, no. 4 (November 1, 2002): 391–409, <https://doi.org/10.1023/A:1020909529486>.

<sup>31</sup> Paul S. Gray et al., eds., "COMPARATIVE RESEARCH METHODS," in *The Research Imagination: An Introduction to Qualitative and Quantitative Methods* (Cambridge: Cambridge University Press, 2007), 325–48, <https://doi.org/10.1017/CBO9780511819391.016>.

side.<sup>32</sup> Epistemologically, it can also be argued that my assignment is based on an interpretive approach. My area of interest suggests that knowledge about reproductive rights and abortion legislation is best obtained through the interpretation of discourses, legislative texts, political speeches, and other qualitative data. This implies a subjective approach to knowledge, where in the role of researcher I try to understand opinions and contexts behind political and social phenomena. In addition, it is inevitable in this context to recognize that knowledge is context dependent. My comparative approach assumes that the understanding of reproductive rights must be seen in the light of each country's specific cultural, social, and political context. This means that generalizations across these countries must be cautious and well-founded.<sup>33</sup>

These various ontological and epistemological assumptions and considerations are therefore particularly relevant to my thesis because they shape the way in which I approach and analyse my cases. Social constructionism helps me to create an understanding of how different discourses around abortion and reproductive rights are created and maintained in the United States and France respectively. The awareness that multiple realities exist gives me the opportunity to acknowledge different voices and experiences, especially from marginalized groups, which is central to a nuanced understanding of reproductive rights. The interpretive paradigm supports the use of qualitative data and analysis, which is important for uncovering the complex meanings and contexts behind political decisions and social movements. Contextualism ensures that my comparisons consider the unique circumstances of each country, which is essential to avoid superficial generalizations and ensure a deeper understanding of each country's situation. The ontological and epistemological assumptions that underpin my paper help shape a rich and nuanced analysis of reproductive rights and abortion law in the United States and France. By acknowledging the social construction of these rights and understanding contextual factors, my analysis thus ensures a deeper and more comprehensive insight into the different political and social dynamics that affect reproductive rights in the two countries.<sup>34</sup>

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<sup>32</sup> Ingvar Johansson, "ONTOLOGY," in *Ontological Investigations*, 1st ed., An Inquiry into the Categories of Nature, Man and Society (De Gruyter, 2004), 1–21, <http://www.jstor.org.zorac.aub.aau.dk/stable/j.ctvbkk4h6.5>.

<sup>33</sup> Barry Stroud, "Epistemology, the History of Epistemology, Historical Epistemology," *Erkenntnis* (1975-) 75, no. 3 (2011): 495–503.

<sup>34</sup> Andrew Seth, "Epistemology and Ontology," *The Philosophical Review* 3, no. 5 (1894): 568–82, <https://doi.org/10.2307/2175689>.

## Literature review

In my study of reproductive rights and abortion legislation in the United States and France, I use a number of key sources which aim to both inform and frame my analysis. These sources cover theoretical frameworks, empirical studies, and policy analyses, and are essential for understanding the different dimensions of the subject. One of the key sources is 'Reproductive Justice: An Introduction' by Loretta Ross and Rickie Solinger. This book introduces the concept of reproductive justice, expanding the traditional understanding of reproductive rights by including social, economic, and political factors. Ross and Solinger argue that the right to have children, the right not to have children, and the right to raise children in safe environments are basic human rights. This holistic approach is essential to my analysis as it provides a comprehensive framework for understanding the complexities affecting reproductive rights.<sup>35</sup> This theory expands the understanding of reproductive rights by including a wide range of factors such as social justice, economic stability, and access to health care. Using this framework, my thesis aims to show how reproductive rights are not only about legislation, but also about the wider social and economic conditions that affect women's ability to make decisions about their reproductive lives. This perspective is often relatively under-elucidated in existing literature, which often focuses narrowly on legal aspects. Critically, the strength of Ross and Solinger's work is its breadth and inclusiveness, however applying their framework requires context-specific adaptation, which can be a challenge when comparing two countries as different as the United States and France.<sup>36</sup>

Another important source in my work with my area of interest is 'A Theory of Gradual Institutional Change' by James Mahoney and Kathleen Thelen. This work offers a theoretical framework for understanding how institutions change gradually over time. Mahoney and Thelen identify mechanisms such as displacement, stratification, operation, and conversion that aim to explain how institutional change occurs. This theory is particularly relevant to my analysis of abortion law as it helps to understand the subtle and often gradual changes in law and policy that both the United States and France have undergone. By looking at mechanisms such as displacement, stratification and conversion, my desire is to contribute a nuanced understanding of the dynamics that drive changes in reproductive rights. The aim

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<sup>35</sup> Loretta J. Ross and Rickie Solinger, *Reproductive Justice: An Introduction*, Reproductive Justice 1 (Oakland, Calif: University of California press, 2017).

<sup>36</sup> Loretta J. Ross and Rickie Solinger, *Reproductive Justice*, 1st ed. (University of California Press, 2017), <http://www.jstor.org/stable/10.1525/j.ctv1wxsth>.

of this is to contribute to a deeper understanding of how policies are developed and implemented in different contexts, which can help researchers and policymakers to predict and manage future changes. A particular strength of this theory is its flexibility and ability to explain complex institutional dynamics. However, a potential weakness is that it may be too general and thus require additional empirical data to be fully applicable to specific national contexts.<sup>37</sup>

To understand the specific context of abortion law in the United States following *Dobbs v. Jackson Women's Health Organization*, court opinions and analysis from legal journals are paramount to my preparation. After this decision, which overturned *Roe v. Wade*, access to abortion has become significantly more fragmented, depending on the individual state. Legal analyses provide insight into the legal arguments and implications of this decision. These sources are important because they provide a detailed understanding of the legal framework and practical implications for women's access to abortion. This repeal of *Roe v. Wade* has created significant consequences for women, especially in states with restrictive abortion laws. How these changes affect different populations, especially marginalized groups, is important to understanding the real consequences of these legislative shifts. A key strength of these sources is their in-depth legal position, but a weakness is that they are often written from a legal perspective, which may lack a wider social context.<sup>38</sup>

In relation to France, official documents, legislative texts, and policy statements of the French government are some of the most central sources for my thesis. These documents, such as the recent constitutional amendment making abortion a constitutional right, are thus absolutely essential to understanding the legal framework and the political intentions behind the legislation. Political analysis provides further insight into how legislation such as these comes into being, as well as how they affect society. These sources contribute to creating a clear understanding of the legal and political context in France.<sup>39</sup> By examining how this constitutional amendment affects different populations' access to reproductive health services, my paper contributes to a better understanding of how legislation can protect and promote women's rights in a unitary state. This is particularly relevant at a time when many countries are considering revising their own laws regarding abortion and reproductive rights. My area of interest relates to the field of research by integrating these diverse sources and perspectives

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<sup>37</sup> James Mahoney and Kathleen Thelen, "A Theory of Gradual Institutional Change," *Explaining Institutional Change*, 1-37 (2010), January 1, 2010, <https://doi.org/10.1017/CBO9780511806414.003>.

<sup>38</sup> Weisberg, "ROE v. WADE."

<sup>39</sup> Angus McLaren, "Abortion in France: Women and the Regulation of Family Size 1800-1914," *French Historical Studies* 10, no. 3 (1978): 461-85, <https://doi.org/10.2307/286340>.

to provide a comprehensive analysis of reproductive rights and abortion law. By applying both methodological guidelines, theoretical frameworks, and empirical data, I thus seek to shed light on the complex dynamics that shape policy and practice in the United States and France. By comparing these two countries, my study contributes to a better understanding of how national contexts and political systems affect reproductive rights, thus offering new perspectives on an important global issue.<sup>40</sup>

My thesis thus contributes to the existing literature by offering a comparative analysis of reproductive rights and abortion legislation in the United States and France, based on Carol Bacchi's methodological foundations.<sup>41</sup> By applying theories from reproductive justice and institutional change, as well as analysing legal, social, and political frameworks, I bring an in-depth understanding of how different national contexts and political systems affect women's reproductive rights. My area of interest is thus relevant because it addresses key questions about women's rights, health, and autonomy at a time of significant legal and political change. By comparing the United States and France, my assignment can identify both challenges and best practices, which can potentially contribute to informing policymaking and activism across different contexts. This contribution to the literature can help promote a more holistic and equitable approach to reproductive rights globally. However, there is also a wide range of existing literature in the area, which is relevant and interesting in relation to my field of reproductive rights and abortion legislation in the United States and France.<sup>42</sup>

An important source is Joan C. Tronto's 'Moral Boundaries: A Political Argument for an Ethic of Care' which explores ethical dimensions of care and rights, relevant to discussions of reproductive rights. Tronto's work contributes to creating an understanding of how the ethics of care can be used to argue for women's right to choose.<sup>43</sup> Another important source is Faye Ginsburg's 'Contested Lives: The Abortion Debate in an American Community' which provides an ethnographic study of the abortion debate in the United States. Ginsburg's book offers an in-depth insight into the social and cultural dimensions of the abortion debate, which helps to illuminate the perspectives of the various actors and the

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<sup>40</sup> Veil, "Human Rights, Ideologies, and Population Policies."

<sup>41</sup> Bacchi and Goodwin, *Poststructural Policy Analysis*.

<sup>42</sup> James Mahoney and Kathleen Ann Thelen, *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press, 2010).

<sup>43</sup> Joan C. Tronto, *Moral Boundaries: A Political Argument for an Ethic of Care* (New York: Routledge, 1993).

deeper conflicts in the United States.<sup>44</sup> In relation to France, Élizabeth Badinter's 'The Conflict: How Modern Motherhood Undermines the Status of Women' is relevant in this context. Badinter discusses the social expectations of motherhood and women's rights, and her analysis contributes to understanding how the rights and roles of French women are affected by societal norms and policies.<sup>45</sup> Furthermore, Kristen Luker's 'Abortion and the Politics of Motherhood' offers a comprehensive analysis of how the abortion issue is intertwined with conceptions of motherhood and women's roles in society.<sup>46</sup>

One who takes a more legal approach to the subject is Catharine MacKinnon with her work 'Toward a Feminist Theory of the State'. MacKinnon discusses how legislation and state structures often reflect and reinforce patriarchal power relations, contributing to an understanding of how abortion legislation can function as a mechanism for control over women's bodies.<sup>47</sup> Additionally, the book 'Global Reproductive Health and Rights' by Laura Reichenbach and Mindy Jane Roseman offers an international perspective on reproductive rights and focuses on putting the national discussions in a global context. This work also provides insight into how international norms and policies influence national legislation and practices.<sup>48</sup>

## Theory

### Reproductive Justice: An Introduction

Loretta Ross and Rickie Solinger's are the authors of 'Reproductive Justice: An Introduction' which is a comprehensive and influential work that redefines the understanding of reproductive rights through a broader lens of social justice. The book, published in 2017, builds on the concept of reproductive justice developed by black feminists in the 1990s and integrates it with historical, social, and political analysis to promote a more holistic approach

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<sup>44</sup> Faye D. Ginsburg, *Contested Lives: The Abortion Debate in an American Community*, Updated ed. with a new introd (Berkeley: University of California press, 1998).

<sup>45</sup> E. Badinter, *The Conflict: How Modern Motherhood Undermines the Status of Women* (Henry Holt and Company, 2012), <https://books.google.dk/books?id=YO5CR1B5wtMC>.

<sup>46</sup> K. Luker, *Abortion and the Politics of Motherhood*, California Series on Social Choice and Political Economy (University of California Press, 1984), <https://books.google.dk/books?id=S6lwDwAAQBAJ>.

<sup>47</sup> C.A. MacKinnon, *Toward a Feminist Theory of the State* (Harvard University Press, 1989), <https://books.google.dk/books?id=Shn5xHywtHIC>.

<sup>48</sup> Laura Reichenbach, "Chapter 2. The Global Reproductive Health and Rights Agenda: Opportunities and Challenges for the Future," in *The Way Forward*, ed. Laura Reichenbach and Mindy Jane Roseman (Philadelphia: University of Pennsylvania Press, 2009), 21–39, <https://doi.org/doi:10.9783/9780812206104.21>.

to reproductive rights. Their work begins by defining the concept of 'reproductive justice' in a way that significantly expands the traditional understanding. Ross and Solinger underline that reproductive justice is an interconnection of reproductive rights and social justice principles, which means that the right to reproductive choices cannot be considered in isolation from the wider social and economic contexts in which individuals live.<sup>49</sup>

Ross and Solinger describe that reproductive justice includes three main components, firstly it involves the right to have children under desired circumstances which focuses on the ability of individuals to decide when and under what conditions they wish to become parents. This part stresses the need for access to the necessary resources and support measures that enable people to fulfil their wishes to have children in a healthy and safe way. Secondly, reproductive justice includes the right not to have children by having access to contraception and abortion, and this component recognizes the importance of individuals having control over their reproductive health and choices, including the ability to prevent unwanted pregnancies. It also implies that there must be available and affordable options for contraception as well as safe and legal access to abortion. For the third and final component, reproductive justice includes the right to raise children in safe and supportive environments. This aspect accentuates the need for parents and their children to have access to the resources and support measures necessary to raise children in a healthy and safe manner. This can include everything from health care and education to financial support and protection from violence and discrimination.<sup>50</sup>

Ross and Solinger highlight that these three components are inextricably linked and cannot be separated from the social and economic conditions under which people live. Reproductive choices are thus influenced by a wide range of factors, including access to health services, economic security, educational opportunities, and social norms and structures, and therefore the promotion of reproductive justice requires a holistic approach that addresses the underlying social inequalities and structural barriers that affect individuals' ability to make free and informed reproductive choices. By highlighting these connections, Ross and Solinger offer a framework for understanding reproductive rights as part of a larger struggle for social justice. Their definition of reproductive justice challenges the narrow focus on individual rights and thus accentuates the necessity of collective action and policy change

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<sup>49</sup> Ross and Solinger, *Reproductive Justice*, 2017.

<sup>50</sup> Ross and Solinger, *Reproductive Justice*, 2017.



to ensure that all individuals have real opportunities to make and implement their reproductive choices.<sup>51</sup>

Ross and Solinger place the concept of reproductive justice within a historical framework by describing the development of reproductive rights in the United States, and here they draw on experiences from the civil rights movement, the women's movement, and the LGBTQ+ community to show how the struggle for reproductive rights has been shaped and influenced by social justice movements. Each of these movements has contributed to the understanding of rights, freedom, and equality that are also essential to reproductive justice. The authors describe how black feminists in the 1990s developed the concept of reproductive justice as a response to the shortcomings of the mainstream feminist movement, which often overlooked the specific needs and challenges faced by women from marginalized groups. Black feminists felt that mainstream feminism was too focused on rights and not sufficiently aware of the social and economic conditions that affect women's opportunities and choices.<sup>52</sup>

By integrating aspects from the civil rights movement, which fought for equal rights and against racism, as well as the LGBTQ+ community, which fought for the recognition and rights of sexual minorities, the concept of reproductive justice was expanded to include a broader understanding of what it means to have control over one's own body and one's own life. Ross and Solinger thus emphasize that the fight for reproductive rights cannot be isolated from the fight for social justice in general and the historical roots show that discrimination and inequality based on race, class, gender, and sexual orientation all have significant consequences for access to reproductive health services.<sup>53</sup> By including these dimensions in the concept of reproductive justice, the authors show how a cross-cutting approach can address the complex and interwoven forms of inequality that many women experiences. In doing so, Ross and Solinger highlight the importance of understanding reproductive rights in a broader social and political context, where access to health services, economic security and social support systems play a crucial role in ensuring that all women have the opportunity to make free and informed choices about their reproductive lives.<sup>54</sup>

Intersectionality is a central element in their work and by using an intersectional perspective, the authors show how different identity markers such as race, class, gender, and

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<sup>51</sup> Ross and Solinger, *Reproductive Justice*, 2017.

<sup>52</sup> Ross and Solinger.

<sup>53</sup> "The Civil Rights Movement: An Introduction (Article)," Khan Academy, accessed May 30, 2024, <https://www.khanacademy.org/humanities/us-history/postwarera/civil-rights-movement/a/introduction-to-the-civil-rights-movement>.

<sup>54</sup> Ross and Solinger, *Reproductive Justice*, 2017.

sexuality affect women's access to and experiences with reproductive rights. They argue that to fully understand reproductive justice, it is necessary to analyse how these various factors interact and create unique challenges for different groups. Ross and Solinger highlight that women's experiences with reproductive rights cannot be understood through a one-sided approach that only looks at gender and, for example, black women, poor women, and women from the LGBTQ+ community often experience various forms of discrimination and inequality that affect their access for reproductive health services. Black women may face systemic racism in health care, which can result in poorer treatment and poorer health outcomes. Women from low-income groups may have limited access to health services due to financial barriers, making it difficult for them to receive the necessary care and support. LGBTQ+ women may experience stigmatization and a lack of understanding from health professionals, which can prevent them from seeking help or getting the right treatment.<sup>55</sup>

The authors also show how legislation and policies that seem neutral at first glance can actually have different consequences for different groups. For example, restrictive abortion laws may have a more severe impact on women from marginalized communities, as these women may not have the financial means or the necessary access to travel to places where abortion is permitted. Similarly, policies that limit access to contraception may disproportionately affect young and low-income women who already have limited resources. By integrating an intersectional perspective, Ross and Solinger highlight that reproductive justice requires more than just formal legal rights. It requires a deeper understanding of how structural inequalities and various forms of discrimination affect women's lives and their ability to make free and informed choices about their reproductive health. By recognizing and addressing the unique challenges that diverse groups face, Ross and Solinger's work contributes to a more holistic and equitable understanding of reproductive rights and supports efforts to create more inclusive and effective health policies.<sup>56</sup>

Ross and Solinger also criticize the traditional feminist movement for being overly focused on the experiences and needs of white, middle-class women, and they argue that this narrow focus has meant that the movement has often overlooked the specific challenges faced by women from low-income groups, women of colour, and other marginalized groups face. According to Ross and Solinger, traditional feminism has often failed to recognize the complex and intertwined forms of inequality experienced by many women, creating a

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<sup>55</sup> Ross and Solinger.

<sup>56</sup> Ross and Solinger.

movement that is insufficiently inclusive or representative. The authors argue that the traditional feminist movement has tended to focus on legal and political rights, such as the right to abortion and contraception, without considering the economic, social, and cultural barriers that prevent many women from exercising these rights. They argue that reproductive justice must include a recognition of the structural barriers that many women face and an effort to create more inclusive policies and practices. This means that feminism must consider the economic, social, and cultural contexts in which women live and work to remove the obstacles that prevent them from exercising their reproductive rights.<sup>57</sup>

Another significant part of their work is dedicated to discussing different strategies of political activism and mobilization. The authors describe how activists have worked to advance reproductive justice through a variety of tactics, including legislative work, grassroots organizing, and public education. Once again, they highlight the importance of a holistic approach, where legal, social, and cultural aspects of reproductive rights are addressed simultaneously. Ross and Solinger also emphasize the importance of legislative work as a central strategy in the struggle for reproductive justice. They describe how activists have worked to influence and change laws and policies at both the state and federal levels to ensure better access to reproductive health services, protect women's rights, and address the structural inequalities affecting marginalized groups. Examples of successful legislative initiatives include work to expand Medicaid coverage for contraception and abortion, as well as campaigns to pass laws protecting the rights of pregnant workers. Grassroots organizing is another important tactic that has mobilized the community and created change through direct action, local education, and community building. These movements have often been successful in raising awareness of reproductive rights and justice by engaging local residents, educating the public, and pressuring policymakers.<sup>58</sup>

Public education and awareness also play a central role in activists' strategies, according to Ross and Solinger, and they describe how campaigns and initiatives have worked to change the public discourse around reproductive rights by challenging stigma, misinformation, and negative narratives. Through awareness campaigns, media engagement, and education programs, activists have worked to create a more informed and empathetic public that supports reproductive justice. However, Ross and Solinger also acknowledge the challenges activists face in a changing political landscape. They describe how political

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<sup>57</sup> Ross and Solinger.

<sup>58</sup> Ross and Solinger.

changes, opposition from conservative groups, and economic barriers can impede progress and create difficult conditions for activism. The authors discuss strategies to overcome these challenges, including the importance of persistence, adaptability, and collaboration across diverse movements and societal groups. They stress that political activism and mobilization are also essential to ensure that all women, regardless of their background, have access to their reproductive rights and can live in just and supportive societies.<sup>59</sup>

Ross and Solinger manage to provide a global perspective on the concept of reproductive justice, although their main focus is on the United States. They argue that the principles that form the basis of reproductive justice are universal and can be applied to address reproductive rights in different cultural and political contexts around the world. The authors draw on international examples to illustrate how different countries and regions face similar challenges and can benefit from an approach that combines reproductive rights with social justice principles. In their global perspective, Ross and Solinger examine how different countries have implemented policies and legislation that promote or limit reproductive rights. They discuss examples from Latin America, where women's rights have often been suppressed by strong religious and cultural norms, but where there has also been remarkable progress as a result of sustained activism and legal battles. They also refer to experiences from Africa, where economic barriers and lack of health services pose significant challenges, but where community-based initiatives have proven effective in improving women's access to reproductive health. Ross and Solinger also highlight how global organizations and movements play a crucial role in promoting reproductive justice. They discuss the UN's Sustainable Development Goals, which include goals to ensure universal access to reproductive health and rights, and how international treaties and conventions can be used to hold governments accountable to their commitments.<sup>60</sup>

The authors also argue that a global approach to reproductive justice requires cultural sensitivity and an understanding of the local contexts in which these rights must be implemented. They highlight the importance of listening to and collaborating with local activists and community groups who have the necessary insight into their own communities' unique challenges and needs. This perspective recognizes that while the basic principles of reproductive justice are universal, the strategies to promote these rights must be adapted to the specific cultural and political realities of different regions. By including a global

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<sup>59</sup> Ross and Solinger.

<sup>60</sup> Ross and Solinger.

perspective in their analysis, Ross and Solinger demonstrate that the struggle for reproductive justice is not limited to a single country or culture. Their work is thus a significant contribution to the literature on reproductive rights and social justice. They manage to connect theoretical concepts with practical examples and strategies, making their work a valuable resource. Their holistic approach and focus on intersectionality make it possible to understand the complex realities experienced by women from diverse backgrounds and paves the way to promote a more equitable and inclusive approach to reproductive rights.<sup>61</sup>

## A Theory of Gradual Institutional Change

'A Theory of Gradual Institutional Change' by James Mahoney and Kathleen Thelen is a major contribution to understanding how institutions change and evolve over time. This work presents a comprehensive theoretical framework that underlines the gradual and incremental nature of institutional change, as opposed to more revolutionary or abrupt changes. In recent decades, institutional theory has been the centre of considerable debate within the social sciences, and traditionally institutions have often been perceived as stable and resistant to change. However, research since then has shown that institutions do indeed change over time, but often in a gradual and incremental manner. Mahoney and Thelen's work breaks with the traditional view of institutional change as being revolutionary or sudden and instead emphasizes the gradual and incremental nature of institutional change.<sup>62</sup> This means that changes in institutional structures often occur in small steps over time, as a response to new challenges or pressures. A central part of Mahoney and Thelen's approach is the focus on political processes in institutional change, here they examine how political actors navigate through complex political landscapes to promote or resist institutional change. This involves looking at political power, interest groups and political institutions as central driving forces behind institutional change. One of the most significant features of Mahoney and Thelen's work is their historical and comparative approach and by examining institutional change across different times and geographical contexts they identify patterns and dynamics in institutional developments. This provides a deeper understanding of the factors that shape institutional change and allows more nuanced analyses of specific cases.<sup>63</sup>

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<sup>61</sup> Ross and Solinger.

<sup>62</sup> Mahoney and Thelen, "A Theory of Gradual Institutional Change."

<sup>63</sup> Mahoney and Thelen.

Mahoney and Thelen's theory have broad relevance and applicability across different political and societal contexts and their approach to institutional change offers a useful analytical toolkit for understanding how institutions develop over time and how political actors can shape and influence this development. Mahoney and Thelen thus argue that institutional change often occurs gradually over time through a process of incremental adaptations and accumulated changes, and they thus challenge the traditional view of institutional change as being primarily the result of crises or revolutionary moments and emphasize instead the continuous and gradual nature of changes in institutional structures. Taking this view, they argue that this often involves institutional structures changing little at a time rather than sudden or dramatic transformations. According to Mahoney and Thelen, gradual institutional change also involves continuous adaptation of existing institutional structures to meet new challenges or pressures. This may include changes in policy rules, norms, procedures, and practices to accommodate changing political, economic, or social conditions. These incremental changes can therefore accumulate over time and thus lead to significant institutional transformations. Mahoney and Thelen's approach have great significance for policy analysis as it offers an alternative perspective on institutional change that focuses on the gradual and incremental. This provides a more nuanced understanding of how political institutions develop over time and how political actors can shape and influence this development.<sup>64</sup>

A central part of Mahoney and Thelen's theory is the understanding of institutional contexts and complexity, and they argue that institutions cannot be considered in isolation but must be understood in context with each other and with wider political, economic, and social conditions. This also entails considering and examining how institutional changes affect other institutions and vice versa, and therefore Mahoney and Thelen also accentuate that institutions cannot be seen in isolation from each other. Instead, they see them as being interconnected and influencing each other in different ways, for example changes in one institution can have consequences for other institutions and their functioning.<sup>65</sup> They also argue that institutions are embedded in wider political, economic, and social contexts and this means that institutional changes are often the result of complex interactions between various factors, including political power relations, economic interests and social norms and values. A central part of the understanding of institutional coherence is thus the recognition that

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<sup>64</sup> Mahoney and Thelen.

<sup>65</sup> Mahoney and Thelen.

institutions are not static, but dynamic and subject to constant change. Changes in one institution can trigger feedback loops that affect other institutions and their development over time. By examining institutional contexts and the complexity of institutional systems, researchers and political analysts can thus gain a deeper understanding of how institutions develop over time and how political actors can shape and influence this development. This requires a holistic approach to analysis that considers the various factors influencing institutional change.<sup>66</sup>

The theory also highlights the importance of political processes in institutional change and Mahoney and Thelen illustrate how political actors, including governments, interest groups and other political actors, work together to promote or resist institutional change. Here they emphasize the importance of political power and strategy in shaping institutional development and Mahoney and Thelen focus on how political actors such as governments, interest groups and other political entities are central to institutional change. These actors can be both drivers of institutional change and opponents of it, depending on their interests and goals. They also clarify how political actors interact and cooperate or compete to shape institutional developments and this may include political lobbying, public campaigns, political negotiations, and other forms of political engagement. An important dimension of their approach is thus to a large extent the recognition of political power and strategy in the shaping of institutional development. Political actors use various strategies and tactics to advance their interests and goals, including leveraging political alliances, mobilizing public support, and influencing policy makers. Political processes often involve conflict and negotiation between different interest groups and political actors, and this can lead to compromises and agreements that shape the direction of institutional development, but it can also result in deadlocked political situations. By examining these political processes, one can thus create insight into the dynamics and forces that drive institutional change, and this means looking at how political decisions are made, what interests are at stake, and how political actors react to changes in political landscapes.<sup>67</sup>

A central strength of Mahoney and Thelen's approach is their historical and comparative perspective, as they examine institutional change across different historical periods and geographical contexts to identify common patterns and dynamics. This contributes to a deeper understanding of the processes that drive institutional change and

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<sup>66</sup> Mahoney and Thelen.

<sup>67</sup> Mahoney and Thelen.

allows more nuanced analyses of specific cases. By including a historical approach, Mahoney and Thelen thus examine institutional change over time, and this involves looking at how institutions have developed and changed through different historical periods. By examining past institutional developments, they can in this way identify patterns, trends and causes of change. The comparative approach involves comparing institutional changes across different geographical contexts, such as countries or regions. With this aspect, it becomes possible to use this theory to examine how institutional change manifests itself differently in different social and political environments and in this way factors which may be universal or specific to certain contexts can be identified. By combining a historical and comparative approach, Mahoney and Thelen with their theory thus seek to contribute to the identification of common patterns and dynamics in institutional change and this provides the opportunity to also identify universal features of institutional change that may apply across different times and places. This thus provides an opportunity to understand the complexity of institutional developments and to identify potential causes and consequences of such changes in different contexts.<sup>68</sup>

'A theory of gradual institutional change' thus represents a significant contribution to institutional theory and political analysis. By focusing on the gradual and incremental nature of institutional change and the importance of political processes and institutional coherence, Mahoney and Thelen offer a nuanced and sophisticated understanding of how institutions evolve over time. Their approach has broad applicability across different political and societal contexts and provides a valuable analytical toolkit for examining and understanding institutional dynamics in the world. Mahoney and Thelen's approach contrasts with more traditional conceptions of institutional change that see it as the result of crises or revolutionary moments.<sup>69</sup> By examining gradual changes in institutional structures, their approach provides a more realistic and nuanced understanding of how institutions develop over time. By illuminating the actions and interactions of political actors, Mahoney and Thelen's approach provides a deeper understanding of how political power relations and strategies influence institutional development. Their approach also highlights the importance of understanding institutions in relation to each other and to wider political, economic, and social conditions. This contributes to a more nuanced understanding of how institutional changes affect other institutions and societal dynamics. Mahoney and Thelen's approach have

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<sup>68</sup> Mahoney and Thelen.

<sup>69</sup> Mahoney and Thelen.



broad applicability across different political and societal contexts. By offering an analytical toolkit for investigating institutional dynamics, their approach can help researchers and analysts understand institutional change in different countries, regions, and political systems.<sup>70</sup>

## Analysis

In order to create a comparative analysis of abortion legislation and reproductive rights in the United States and France using Bacchi's method: 'What's the Problem Represented to be?', I initially intend to structure the analysis around the six main questions plus the reflection exercise from the WPR approach. Subsequently, I want to use my findings from this part of the analysis to delve into a more comparative and theoretically grounded discussion.<sup>71</sup>

### 1. What's the problem?

#### The United States

*How is the issue of abortion represented in the United States, especially after the Dobbs v. Jackson Women's Health Organization decision that overturned Roe v. Wade and gave the states the power to regulate abortion?*

*"We hold that Roe and Casey must be overruled. The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of Roe and Casey now chiefly rely—the Due Process Clause of the Fourteenth Amendment." - Justice Samuel Alito<sup>72</sup>*

In the United States, the issue of abortion has been represented in various ways, especially after the decision in Dobbs v. Jackson Women's Health Organization, which overturned Roe v. Wade (1973) and gave the states the power to regulate abortion. In the wake of this decision, the abortion issue has been the subject of intense political debate and has led to a number of legislative changes at the state level. Some states, including Texas and Alabama, have passed restrictive abortion laws that limit access to abortion, including mandatory waiting periods, mandatory counselling, and restrictions on when during pregnancy abortions

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<sup>70</sup> Mahoney and Thelen.

<sup>71</sup> Bacchi and Goodwin, *Poststructural Policy Analysis*.

<sup>72</sup> "Dobbs v. Jackson Women's Health Organization Landmark Decision," <https://www.baptistpress.com/>, June 24, 2022, <https://www.baptistpress.com/resource-library/news/key-quotes-from-dobbs-v-jackson-decision/>.

can be performed.<sup>73</sup> These laws have often been justified with reference to the protection of fetal rights and the promotion of pro-life values. On the other hand, supporters of abortion rights and reproductive freedom have criticized these legislative changes, arguing that they limit women's autonomy and right to reproductive health. They have argued that abortion is a fundamental right for women and that restrictive laws limit women's access to safe and legal abortion, which can lead to unsafe and illegal abortions. We see an example of this in states such as California and New York, where abortion rights have been expanded and further protected. Politicians and interest groups have been active in problematizing the abortion issue through rhetoric, campaigns, and legislative proposals.<sup>74</sup>

Some politicians and interest groups have highlighted abortion as an ethical issue and a struggle for the protection of life, while others have argued for abortion rights as a fundamental right for women and a matter of reproductive freedom and autonomy. The way abortion has been problematized in the United States after the Dobbs decision thus reflects a deep division in society between supporters and opponents of abortion rights, and it continues to be one of the most controversial and polarized political issues in the country. Discussions about how abortion restrictions disproportionately affect poor and minority women are often understated. The way abortion is debated in public can influence the general perception of women's rights and health care. Women may be stigmatized or marginalized based on their choice to have an abortion, especially in conservative societies. Restrictive abortion laws can lead to increased health risks, financial burdens, and psychological stress for women seeking abortion services. The representation has been produced through legislation, court decisions, political campaigns, and media coverage. Conservative groups often defend restrictive laws through political and legal pressure, while liberal and progressive groups challenge these representations through activism, lawsuits, and bills.<sup>75</sup>

## France

*How is the issue of abortion represented in France, especially in relation to the decision to make abortion a constitutional right?*

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<sup>73</sup> MARGE BERER, "Challenging the US Supreme Court's Majority Ruling on Roe v. Wade at the International Human Rights Level," *Health and Human Rights* 25, no. 1 (2023): 195–206.

<sup>74</sup> Weisberg, "ROE v. WADE."

<sup>75</sup> *Abortion in America After Roe: An Examination of the Impact of Dobbs v. Jackson Women's Health Organization on Women's Reproductive Health Access.*

*“(….)whereas in a landmark vote on 4 March 2024, French lawmakers enshrined the guaranteed freedom to have an abortion in the French Constitution; whereas France is the first country in the world to explicitly make abortion a constitutional right; whereas this constitutional revision aims to establish a safeguard in the context of the backsliding on abortion rights in the EU and globally, including in the US, Poland, Hungary and Malta; whereas the work and commitment of feminist organisations and parliamentarians in France was key in ensuring a majority in support of the constitutional protection of the right to abortion(…)” – The French Constitution: Article 34<sup>76</sup>*

In France, the issue of abortion has been represented in a way that reflects the country's progressive views on reproductive rights and women's autonomy over their own health and bodies. The decision to make abortion a constitutional right in 2024 marked a historic milestone in French legislation and societal understanding. This decision was followed by official documents from the French government, as well as statements by political leaders, which clearly highlighted abortion as a central right for women. French government documents, including legislative texts and official statements, stressed the need to protect women's reproductive rights and ensure equal access to abortion services.<sup>77</sup> The decision to enshrine abortion as a constitutional right reflects a deep commitment to respect and protect women's autonomy and right to make decisions about their own bodies and reproductive health. The political leaders in France have also highlighted the importance of recognizing abortion as a fundamental right for women. Their statements have addressed the need to ensure women's access to safe and legal abortion services and to remove barriers that can prevent women from exercising their rights. This issue representation has been supported by legislative texts that establish clear guidelines for access to abortion services and protect women's rights under the Constitution.<sup>78</sup>

Overall, the issue of abortion in France has been represented in a way that prioritizes women's rights and self-determination. The decision to make abortion a constitutional right reflects a wider social and political effort to promote equality and protect individual freedom and rights. Abortion is represented as a fundamental right that is essential for women's autonomy and equality. This is accentuated in official documents and statements where the protection of women's rights is emphasized as a necessity for a modern and just society. There is a focus on abortion as a health service that must be safe and accessible to all women.

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<sup>76</sup> “Inclusion of the Right to Abortion in the EU Charter of Fundamental Rights,” accessed May 30, 2024, [https://www.europarl.europa.eu/doceo/document/TA-9-2024-0286\\_EN.pdf](https://www.europarl.europa.eu/doceo/document/TA-9-2024-0286_EN.pdf).

<sup>77</sup> DOROTHY M. STETSON, “Abortion Law Reform in France,” *Journal of Comparative Family Studies* 17, no. 3 (1986): 277–90.

<sup>78</sup> “France One Step Closer to Enshrining Abortion ‘freedom’ in Constitution after Sénat Vote,” *Le Monde.Fr*, February 29, 2024, [https://www.lemonde.fr/en/france/article/2024/02/29/france-one-step-closer-to-enshrining-abortion-freedom-in-constitution-after-senat-vote\\_6571897\\_7.html](https://www.lemonde.fr/en/france/article/2024/02/29/france-one-step-closer-to-enshrining-abortion-freedom-in-constitution-after-senat-vote_6571897_7.html).

This is reflected in legislative texts and government reports, which highlight the need to ensure access to health services without unnecessary obstacles. The decision to make abortion a constitutional right is also seen as a response to global trends, especially in light of the stricter abortion laws in the United States. Political leaders and debates refer to examples from other countries as an argument for securing abortion rights through the constitution. By enshrining the right to abortion in the constitution, France seeks to protect this right against future policy changes that could limit access to abortion. This is a central theme in the parliamentarians' argument and in the president's statements.<sup>79</sup>

## 2. What deep-seated presuppositions or assumptions underlie this representation of the problem?

### The United States

*What cultural, religious and political assumptions underlie the debate about abortion in the United States and what discourses about moral responsibility, women's rights and the state's role in privacy exist in the debate?*

*“The abortion right is also critically different from any other right that this Court has held to fall within the Fourteenth Amendment’s protection of ‘liberty.’ Roe’s defenders characterize the abortion right as similar to the rights recognized in past decisions involving matters such as intimate sexual relations, contraception, and marriage, but abortion is fundamentally different, as both Roe and Casey acknowledged, because it destroys what those decisions called ‘fetal life’ and what the law now before us describes as an ‘unborn human being.’” - Justice Samuel Alito<sup>80</sup>*

American culture values individual freedom and the right to self-determination highly and this is often seen in arguments for women's right to choose abortion without government interference. On the other hand, there is a strong cultural value around the protection of life, which some groups believe starts at conception, and which must therefore be protected by society. Traditional family values play a large role in the American debate on abortion, with conservative groups often seeing abortion as a threat to the traditional family unit. A significant portion of the American population, especially within evangelical and Catholic circles, views abortion as morally wrong based on the belief in the inviolability of life from conception. These religious groups often see abortion as a sin and a violation of divine will, which influences their strong opposition to abortion rights. At the same time, there is a

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<sup>79</sup> Mahoney and Thelen, *Explaining Institutional Change*.

<sup>80</sup> “Dobbs v. Jackson Women’s Health Organization Landmark Decision.”

perception that anti-abortion legislation may infringe on the religious freedom of those who do not share the same religious beliefs, and therefore legislation must reflect a secular approach.<sup>81</sup>

The United States federal system allows states considerable autonomy in setting their own laws. The decision in *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade*, rests on the assumption that states should be able to determine their own laws regarding abortion. Liberal and progressive groups argue that the right to abortion is part of women's rights and privacy that should be protected by the Constitution. Conservative and Republican groups believe that the state has an obligation to protect unborn life and should therefore be able to regulate or even ban abortion. Abortion is represented as a moral evil and a murder of an unborn child, and this discourse focuses on the unborn child's right to life and the moral responsibility to protect that life.<sup>82</sup> Pro-life supporters often use religious and ethical arguments to highlight the moral responsibility to preserve life from conception. Abortion is seen as a necessary option to protect women's health, autonomy and quality of life and this discourse emphasizes women's right to make their own decisions about their bodies without government interference. Pro-choice supporters often highlight the moral responsibility to support women's rights and freedom to choose. This discourse asserts that access to abortion is essential to women's equality and autonomy. It is addressed that without the right to abortion, women cannot fully participate in society on an equal footing with men. The arguments here centre on the fact that coercion to carry out a pregnancy violates women's rights and self-determination. The focus on women's health and safety in the abortion debate is also prominent.<sup>83</sup>

This discourse argues that safe and legal abortions are necessary to protect women's lives and health. Arguments about health emphasize the risk of illegal, unsafe abortions if legal options are removed. The pro-choice discourse argues that the state should not have power over individual reproductive choices, and this is seen as a violation of privacy and personal freedoms. This perspective is supported by arguments that privacy is a fundamental right that should be protected from state control. The pro-life discourse argues that the state

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<sup>81</sup> BERER, "Challenging the US Supreme Court's Majority Ruling on *Roe v. Wade* at the International Human Rights Level."

<sup>82</sup> Joseph A. Balogun and Friday E. Okonofua, "The Politics of Abortion Rights in the 2022 United States Midterm Election," *African Journal of Reproductive Health / La Revue Africaine de La Santé Reproductive* 27, no. 2 (2023): 9–16.

<sup>83</sup> MARY ZIEGLER, "The Framing of a Right to Choose: *Roe v. Wade* and the Changing Debate on Abortion Law," *Law and History Review* 27, no. 2 (2009): 281–330.

has a legitimate and necessary role in protecting unborn life. This view sees state regulation of abortion as a moral and ethical necessity. The arguments here are supported by the idea that society has a duty to protect the most vulnerable, which includes unborn children.<sup>84</sup>

## France

*Examine the secular and egalitarian assumptions underlying France's decision to make abortion a constitutional right, as well as the various discourses on individual freedoms, women's self-determination and the state's responsibility for health.*

*"Abortion is a fundamental right for all women. We must protect it. I would like to express my solidarity with all those women whose freedoms have today been compromised by the U.S. Supreme Court" – President Emmanuel Macron on Twitter<sup>85</sup>*

France has a strong tradition of secularism in French called *Laïcité*, which implies a sharp separation between religion and state. This tradition underlies the decision to make abortion a constitutional right, requiring decisions about reproductive rights to be based on secular principles rather than religious dogma. Decisions on abortion legislation are based on rational and scientific arguments about health, welfare, and human rights. There is an assumption that legislation should be based on evidence and medical expertise rather than moral or religious considerations. Gender equality is also a very fundamental value in French society. The decision to make abortion a constitutional right assumes that women's access to abortion is crucial for their equality in society, both in terms of economic opportunities and personal freedoms. A central assumption is that women have the right to autonomy over their own bodies and self-determination in relation to reproductive choices. This right to autonomy is considered fundamental to women's freedom and equality. The discourse around individual freedoms emphasizes that each person, especially women, has the right to make decisions about their own bodies without government interference. Abortion as a constitutional right is a manifestation of this personal freedom and the right to choose.<sup>86</sup>

There is a discourse that reproductive choices are part of private life that must be protected from public, or state control and this perspective sees the right to abortion as an integral part of the individual's right to privacy. The discourse on women's self-determination

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<sup>84</sup> Chris Kaposy, "Proof and Persuasion in the Philosophical Debate about Abortion," *Philosophy & Rhetoric* 43, no. 2 (2010): 139–62, <https://doi.org/10.5325/philrhet.43.2.0139>.

<sup>85</sup> "France One Step Closer to Enshrining Abortion 'freedom' in Constitution after Sénat Vote."

<sup>86</sup> Christophe Majastre, "Constituent Politics and the Force of Law. Assessing the Role of Constitutional Discourse in the Debate around EU Legitimacy from a Historical Sociology Perspective," *Historical Social Research / Historische Sozialforschung* 49, no. 2 (2024): 224–46.

focuses on women having full control over their reproductive lives, which includes the right to choose abortion. This right is important for women's health, economic independence, and social participation. Self-determination over reproductive decisions is seen as a prerequisite for equality. Women cannot achieve real independence and equality without control over their reproductive lives, which includes the right to choose abortion. There is a discourse that the state has a responsibility to ensure access to safe and legal abortion as part of the health system. Safe access to abortion is necessary to protect women's health and prevent the health risks associated with illegal and unsafe abortions. The state has a responsibility to promote social justice and welfare by ensuring that all women, regardless of their socio-economic status, have access to abortion services. This helps to reduce inequalities in health and ensure that all women have equal access to necessary health services.<sup>87</sup>

### 3. How has this representation of the problem come about?

#### The United States

*Explore the evolution from Roe v. Wade to Dobbs v. Jackson Women's Health Organization and examine the influence of the pro-life and pro-choice movements on legislation.*

*“Instead of seriously pressing the argument that the abortion right itself has deep roots, supporters of Roe and Casey contend that the abortion right is an integral part of a broader entrenched right. Roe termed this a right to privacy, and Casey described it as the freedom to make ‘intimate and personal choices’ that are ‘central to personal dignity and autonomy.’” - Syllabus<sup>88</sup>*

In 1973, the United States Supreme Court ruled the Roe v. Wade case, which fundamentally changed abortion law in the United States. The court held that a woman's right to privacy under the 14th Amendment to the United States Constitution included her right to choose an abortion. The decision divided the pregnancy into three trimesters. First trimester: Women had the right to choose abortion without government interference. Second trimester: The state could regulate abortions to protect the woman's health. Third trimester: The state could ban abortions except when necessary to protect the woman's life or health. In 1992, the Supreme Court ruled Casey v. Planned Parenthood, which revised some of the principles of Roe v.

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<sup>87</sup> Bottini, Bouaziz, and Hennette-Vauchez, “Enshrining Abortion Rights in the French Constitution.”

<sup>88</sup> “Dobbs v. Jackson Women’s Health Organization Landmark Decision.”

Wade but affirmed the fundamental right to abortion.<sup>89</sup> The decision introduced the concept of an "undue burden" as the standard for evaluating abortion laws. Under this standard, laws that imposed a substantial obstacle to a woman seeking an abortion before the Fetus was viable could be found unconstitutional. In 2022, the Supreme Court ruled the case *Dobbs v. Jackson Women's Health Organization*, which overturned *Roe v. Wade*. The decision shifted the power to regulate abortion back to the individual states, meaning that states could now pass laws that either limited or expanded access to abortion without regard to *Roe's* earlier framework. This decision led to significant differences in abortion laws across the United States, with some states quickly enacting strict restrictions or total bans, while other states strengthened the right to abortion.<sup>90</sup>

The pro-life movement has been a central player in the fight against abortion since the enactment of *Roe v. Wade*. The movement consists of a broad coalition of religious groups, political organizations and activists working to restrict or ban abortion through various strategies. These pro-life groups have worked to elect politicians and appoint judges who support their views. They have been successful in influencing both local, state, and federal elections and nominations, leading to a more conservative Supreme Court. Pro-life activists have also supported legislation that restricts access to abortion, such as mandatory waiting periods, parental consent requirements, and restrictions on abortion clinics. They have led lawsuits that have challenged existing abortion laws and thus tried to restrict access to abortion through court decisions. The pro-life movement has organized marches, protests, and campaigns to change public opinion on abortion. The 'March for Life' is an annual demonstration in Washington, D.C. that attracts tens of thousands of participants. The pro-choice movement, on the other hand, fights for women's right to choose abortion and has worked on several fronts to secure and expand this right.<sup>91</sup>

Pro-choice groups like Planned Parenthood and NARAL Pro-Choice America work to elect pro-choice politicians and oppose nominations of judges who oppose abortion rights. This pro-choice movement has litigated to protect and sought to expand access to abortion and challenged laws that limit abortion rights as unconstitutional. They have worked to change public opinion about abortion through awareness campaigns, educational programs,

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<sup>89</sup> "Planned Parenthood of Southeastern Pennsylvania v. Casey | Summary, Origins, & Influence | Britannica," April 5, 2024, <https://www.britannica.com/event/Planned-Parenthood-of-Southeastern-Pennsylvania-v-Casey>.

<sup>90</sup> David A. Johnson, "Dobbs v. Jackson Women's Health," *Journal of Medical Regulation* 108, no. 4 (2022): 31–34.

<sup>91</sup> "Dobbs v. Jackson Women's Health Organization | Constitution Center."



and the media. Pro-choice organizations run clinics and offer health services, including abortion, and fight to ensure these services are accessible and safe. The historical development from *Roe v. Wade* to *Dobbs v. Jackson Women's Health Organization* shows a movement from federal protection of the right to abortion to a more fragmented regulation at the state level. Social movements on both sides of the debate have clearly played a decisive role in this development. The pro-life movement has worked to limit access to abortion through political and legal pressure, while the pro-choice movement has worked to secure and expand women's right to abortion through political mobilization, legal challenges, and awareness campaigns.<sup>92</sup>

## France

*Examine the evolution from the Simone Veil Act in 1975 to the recent constitutional amendment in 2024 and examine the role of women's movements in advancing reproductive rights.*

*"Today's not the end of the story, it's the beginning of a combat. If France has become the only country in the world whose constitution explicitly protects the right to an abortion in all circumstances, we will not rest until this promise is kept throughout the world." – President Emmanuel Macron<sup>93</sup>*

In 1975, France adopted the so-called 'Veil Law' or in French known as 'la loi Veil', named after the former Minister of Health Simone Veil. This law legalized abortion under certain conditions and represented a significant step forward for women's reproductive rights in France. The law allowed abortion within the first 10 weeks of pregnancy if the woman was in a situation of 'emergency', defined broadly to include social and economic factors. Women had to undergo a one-week waiting period and receive counselling before the procedure. Since 1975, a number of reforms have been implemented to expand and protect women's access to abortion. The 2001 reform increased the limit for legal abortion from 10 to 12 weeks and reduced the mandatory waiting period from one week to two days. It also became easier for minors to get an abortion without parental consent.<sup>94</sup> The 2014 reform abolished

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<sup>92</sup> Friday Okonofua, "Roe Contre Wade," *African Journal of Reproductive Health / La Revue Africaine de La Santé Reproductive* 26, no. 5 (2022): 11–12.

<sup>93</sup> "France One Step Closer to Enshrining Abortion 'freedom' in Constitution after Sénat Vote."

<sup>94</sup> "Freedom in the World 2001 - France," Refworld, accessed May 30, 2024, <https://www.refworld.org/reference/annualreport/freehou/2001/en/95435>.

the requirement that women be in a 'situation of distress' to access abortion. This allowed women to have abortions without having to justify their decision.<sup>95</sup> In March 2024, the French Parliament passed a constitutional amendment making abortion a constitutional right. This change was driven by a fear that women's right to abortion could be threatened in the future, inspired by the backsliding seen in other countries, such as the United States repeal of *Roe v. Wade*. The constitutional amendment ensures that every woman has the right to freely decide to terminate a pregnancy, further strengthening the protections introduced by the Veil Law and subsequent reforms.<sup>96</sup>

Feminist movements played a crucial role in getting the Veil Law passed in 1975. Women's groups such as the 'Mouvement de Libération des Femmes' mobilized public support and pushed for the legalization of abortion. They organized demonstrations, published manifestos, and used the media to raise awareness of women's rights and the need to ensure access to safe abortion.<sup>97</sup> After the passage of the Veil Law, feminist movements continued to fight for further expansion of reproductive rights. In 2001, feminist activists and organizations were central in pushing for the reforms that increased access to abortion and eased restrictions. In 2014, women's movements also worked hard to abolish the requirement that women justify their decision to have an abortion, focusing on women's autonomy and self-determination.<sup>98</sup> The recent 2024 constitutional amendment was also strongly supported by feminist organizations. They mobilized public and political support through campaigns that emphasized the importance of protecting women's rights in the face of international setbacks. Movements such as 'Osez le Féminisme' played a key role in organizing demonstrations and lobbying politicians to ensure that the right to abortion was constitutionally guaranteed.<sup>99</sup> From the passage of the Veil Law in 1975 to the recent constitutional amendment in 2024, France has seen significant developments in women's reproductive rights. Feminist movements have been instrumental in this development, from the initial legalization of abortion to the subsequent expansions and eventual securing of abortion as a constitutional right. These movements have consistently worked to advance

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<sup>95</sup> STETSON, "Abortion Law Reform in France."

<sup>96</sup> "France Protects Abortion as a 'Guaranteed Freedom' in Constitution | Human Rights Watch," March 5, 2024, <https://www.hrw.org/news/2024/03/05/france-protects-abortion-guaranteed-freedom-constitution>.

<sup>97</sup> STETSON, "Abortion Law Reform in France."

<sup>98</sup> Tronto, *Moral Boundaries*.

<sup>99</sup> "Osez le féminisme ! – On ne nait pas féministe, on le devient...," March 5, 2024, <https://osezlefeminisme.fr/>.

women's autonomy, health, and rights through political pressure, public mobilization, and legal reform.<sup>100</sup>

#### 4. What is left unproblematic in this problem representation? Where are the silences? Can the problem be conceptualized differently?

##### The United States

*Which aspects of women's health and social conditions are ignored in the debate and how else could the debate on abortion and reproductive rights be conceptualized?*

*"We believe in a Constitution that puts some issues off limits to majority rule. Even in the face of public opposition, we uphold the right of individuals—yes, including women—to make their own choices and chart their own futures. Or at least, we did once." – Justices Stephen Breyer<sup>101</sup>*

One of the most prominently overlooked aspects of the abortion debate in the United States is the economic conditions many women face. Many women choose abortion because of financial insecurity, lack of access to health care, and inadequate support for children and families. The debate often focuses on the legal and moral aspects, while the economic realities are neglected. Women's mental health is another important factor that is often ignored in the debate. The decision to have an abortion can cause significant emotional stress and psychological strain, both because of the decision itself and because of the social stigma that often accompanies it. There is rarely a focus on the need for mental health care and support measures for women who are considering or have undergone an abortion.

Reproductive justice is not only about the right to choose abortion, but also about the right to have children and raise them in safe and supportive conditions. This perspective, promoted by organizations such as SisterSong, emphasizes the importance of viewing reproductive rights in the context of broader social inequalities related to race, class as well as access to health care. These aspects are often overlooked in a debate dominated by legal and political issues.<sup>102</sup>

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<sup>100</sup> Bottini, Bouaziz, and Hennette-Vauchez, "Enshrining Abortion Rights in the French Constitution."

<sup>101</sup> "Dobbs v. Jackson Women's Health Organization Landmark Decision."

<sup>102</sup> Dabney P. Evans and Subasri Narasimhan, "A Narrative Analysis of Anti-Abortion Testimony and Legislative Debate Related to Georgia's Fetal 'Heartbeat' Abortion Ban," *Sexual and Reproductive Health Matters* 28, no. 1 (2020): 215–31.

Although abortion is legal in many states, access to safe and affordable abortion services can be severely limited, especially in rural areas and among low-income groups. Physical distances to clinics, financial barriers, and lack of transport are practical challenges that many women face but are often ignored in the wider debate. The debate could be advantageously shifted towards a more holistic approach to women's health that integrates all aspects of reproductive health, including access to contraception, pre- and postnatal care, and comprehensive sexuality education. Such an approach would focus on improving women's overall health and well-being, rather than just discussing the right to abortion. A social justice framework would consider the systemic inequalities that affect women's reproductive choices. This could include recognizing how race, class, and geography play a role in women's access to health services and their ability to exercise their reproductive rights. By focusing on social justice issues, the debate could move beyond individual choices and look at the broader structural conditions. By focusing on reproductive autonomy, the debate could be centred around women's right to make their own decisions about their bodies without undue interference from the state, society, or health professionals. This perspective emphasizes the importance of protecting women's personal freedom and privacy.<sup>103</sup>

An intersectional approach would make it possible to examine how different identity factors such as race, class, gender, and sexual orientation overlap and influence women's experiences and decisions regarding abortion. This would provide a more nuanced understanding of the complex realities faced by different groups of women, thereby promoting policies that are more inclusive and equitable. By including a global perspective in the debate, the United States could learn from other countries with different approaches to abortion laws and reproductive rights. Comparative analyses could thus manage to identify best practices and challenges internationally, which could inform and improve national policies. By addressing the often-ignored aspects of women's health and social conditions, such as economic insecurity, mental health, and access to health care, the debate about abortion in the United States can become more comprehensive and fairer. Alternatively, the debate could be conceptualized through a holistic health approach, social justice frameworks, reproductive autonomy, intersectionality, and a global perspective, which could lead to more inclusive and effective policies and discussions.<sup>104</sup>

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<sup>103</sup> *Abortion in America After Roe: An Examination of the Impact of Dobbs v. Jackson Women's Health Organization on Women's Reproductive Health Access.*

<sup>104</sup> MARILYN B. CANE, "Whose Right to Life? Implications of *Roe v. Wade*," *Family Law Quarterly* 7, no. 4 (1973): 413–32.

## France

*Which groups or issues are not addressed in the French debate on abortion and which other perspectives could be included in the debate on reproductive rights?*

*"Tomorrow they become our battlements. To wait until abortion was actually under threat would be to wait too long." - Attorney Rachel-Flore Pardo<sup>105</sup>*

In the French debate on abortion, economic inequality is often an overlooked issue. Although abortion is legal and covered by the public health system, there may still be financial and logistical barriers, especially for women in rural areas or low-income groups. These women may experience problems accessing clinics, taking time off work, or finding childcare during their absence. Migrants and asylum seekers are another group that is rarely adequately addressed in the debate. These women may face linguistic, cultural, and administrative barriers when seeking access to reproductive health services, including abortion. The fear of legal consequences and discrimination may also deter them from seeking the necessary care. Although young women and teenagers technically have access to abortion, there may be social and cultural barriers that make it difficult for them to fully exercise their rights. There is often a lack of sex education and information about reproductive rights, which can lead to uninformed decisions and uncertainty. The psychological strain that some women may experience in connection with an abortion is rarely discussed in depth. There is a need for greater understanding of and support for the emotional and psychological consequences of abortion, including the availability of mental health care and counselling services.<sup>106</sup>

The discussion on reproductive rights in France also lacks a broader perspective on reproductive justice. This includes looking at how race, class and other social factors affect women's access to and experience of reproductive health services. A more comprehensive approach that recognizes and addresses these inequalities is needed. An intersectional approach to reproductive rights would consider how various factors such as race, class, gender, sexuality, and migration affect women's experiences and access to health services. Through this angle, the debate can become more nuanced and inclusive, ensuring that all women get the support they need. By applying the principles of reproductive justice, as described by movements such as SisterSong in the United States, the French debate can be

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<sup>105</sup> "Why Macron Hopes Abortion Rights Are a Political Winner," March 3, 2024, <https://www.bbc.com/news/world-europe-68456231>.

<sup>106</sup> McLaren, "Abortion in France: Women and the Regulation of Family Size 1800-1914."

expanded to include the right to have children, not to have children, and to raise children in safe and supportive environments. This perspective would highlight the need to tackle systemic inequalities and ensure that all women, regardless of their background, have access to comprehensive reproductive health services. A holistic approach to women's health would integrate all aspects of reproductive health, including access to contraception, pre- and postnatal care, and comprehensive sexuality education. This would promote a health policy that focuses not only on abortion, but on the full range of women's health needs.<sup>107</sup>

Incorporating global perspectives can provide valuable insights and points of comparison.

By looking at how other countries deal with reproductive rights and health, France could learn from the successes and challenges of other systems and apply best practices to improve their own policies and procedures. Increased focus on technological solutions, such as telemedicine and online counselling, could improve access to reproductive health services, especially for women in remote or underserved areas. This could ensure that all women have access to the information and resources they need, regardless of their geographic location. In the French debate on abortion, there are several silences, including economic inequality, the experiences of migrants and asylum seekers, young women's access to information and services, as well as the psychological aspects of abortion. By including alternative perspectives such as intersectionality, reproductive justice, holistic health perspectives, global experiences and technological solutions, the debate can be allowed to become more comprehensive and fairer, ensuring that all women receive the necessary support and access to health services.<sup>108</sup>

## 5. What effects are produced by this representation of the problem?

### The United States

*How do the problem representations affect the public discourse on women's rights? How does the legislation affect women's self-perception and society's view of women? What concrete consequences does the legislation have for women's lives and health?*

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<sup>107</sup> "Access to Abortion in France Remains Fraught with Obstacles," *Le Monde.Fr*, March 19, 2024, [https://www.lemonde.fr/en/opinion/article/2024/03/19/access-to-abortion-in-france-remains-fraught-with-obstacles\\_6635616\\_23.html](https://www.lemonde.fr/en/opinion/article/2024/03/19/access-to-abortion-in-france-remains-fraught-with-obstacles_6635616_23.html).

<sup>108</sup> "France Makes Abortion a Constitutional Right," March 4, 2024, <https://www.bbc.com/news/world-europe-68471568>.

*"Today, the Court discards that balance. It says that from the very moment of fertilization, a woman has no rights to speak of. A State can force her to bring a pregnancy to term, even at the steepest personal and familial costs." – Justice Sonia Sotomayor<sup>109</sup>*

In the United States, the representation of abortion as a political and moral problem has become a dominant discourse, especially after *Dobbs v. Jackson Women's Health Organization*. This problem representation has polarized public discourse and created an environment where women's rights are often reduced to a battleground for ideological and political battles. This has led to women's autonomy over their own bodies becoming highly politicized, which can overshadow wider discussions about health care and gender equality. Abortion is often represented in moral terms, where women who choose abortion may be stigmatized as immoral or irresponsible. This discourse reinforces negative stereotypes about women and their decision-making and contributes to maintaining a climate of guilt and shame around abortion. This affects the public perception of women's rights by framing them as secondary to moral and religious considerations. After the *Dobbs* decision, which gave states the power to regulate abortion, women's reproductive rights have become highly variable depending on the state's political makeup. This has created a fragmented discourse where women's rights are not seen as universal, but rather as something that can change dramatically depending on geographical and political factors. This undermines the notion of universal human rights and creates insecurity and inequality among women.<sup>110</sup>

Legislation that restricts access to abortion can lead women to internalize shame and guilt about their reproductive choices. Women may feel judged or unworthy because of the legislative and social barriers they face. This can negatively affect their self-image, leading to lower self-esteem and increased psychological stress. With states having vastly different abortion laws, women may experience an increased sense of insecurity and loss of control over their own bodies and life choices. This unpredictability can lead to feelings of powerlessness and frustration, especially when women in different parts of the country have varying degrees of access to reproductive health services. Restrictive abortion laws can also help to reinforce traditional gender roles, where women are seen primarily as mothers and caregivers.<sup>111</sup> By limiting women's access to abortion, the legislation sends a signal that women's primary role is reproductive, which can limit their opportunities and ambitions in

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<sup>109</sup> "Dobbs v. Jackson Women's Health Organization Landmark Decision."

<sup>110</sup> Solveig Jülich and Elisabet Björklund, "The Public Fetus: A Traveling Concept," in *Rethinking the Public Fetus*, ed. Solveig Jülich and Elisabet Björklund, Historical Perspectives on the Visual Culture of Pregnancy (Boydell & Brewer, 2024), 289–310, <https://doi.org/10.2307/jj.4331928.16>.

<sup>111</sup> Amanda Becker, "Majority of Women in States with Abortion Bans Believe Access Should Be Legal," The 19th, April 5, 2024, <https://19thnews.org/2024/04/women-abortion-access-beliefs-legal/>.

other areas of life. Legislation that restricts access to safe and legal abortion can force women to seek dangerous and illegal abortion methods. This increases the risk of health complications, including infections, bleeding and, in the worst case, death. Women who cannot access safe abortion may also experience deteriorating physical and mental health as a result of unwanted pregnancies. Women who are forced to continue unwanted pregnancies can experience significant financial consequences. The cost of raising a child, combined with the loss of income due to reduced ability to work or the need to take maternity leave, can have long-term financial consequences for women and their families. This can particularly affect low-income women and exacerbate existing economic inequalities.<sup>112</sup>

Women who do not have access to an abortion may find that their educational and career opportunities are limited. Unwanted pregnancies and the resulting responsibilities of child rearing can prevent women from pursuing their educational and professional goals. This can lead to lower income levels and fewer career opportunities in the long term. The psychological burden of going through an unwanted pregnancy or navigating a restrictive abortion environment can have serious psychological consequences. Women may experience increased stress, anxiety, and depression, which can negatively affect their overall quality of life and mental health. The legislation and problem representations surrounding abortion in the United States have deep discursive and lived effects. The discourse polarizes and stigmatizes women's choices, while the legislation can lead to internalized shame and loss of control, as well as the reinforcement of traditional gender roles. The concrete consequences for women's lives and health include increased health risks, economic challenges, limited access to education and careers, and serious psychological impacts. Therefore, a more nuanced and comprehensive approach to reproductive rights is needed to address these complex issues.<sup>113</sup>

## France

*How does the constitutional amendment affect the public discourse on women's rights in France? How does this policy affect women's self-concept and society's view of women?*

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<sup>112</sup> "Inequity in US Abortion Rights and Access: The End of Roe Is Deepening Existing Divides | Guttmacher Institute," January 12, 2023, <https://www.guttmacher.org/2023/01/inequity-us-abortion-rights-and-access-end-roe-deepening-existing-divides>.

<sup>113</sup> Susannah Cohen, "REDEFINING WHAT IT MEANS TO DISCRIMINATE BECAUSE OF SEX," *Columbia Law Review* 122, no. 2 (2022): 407–48.



*What concrete consequences does the constitutional amendment have for women's lives and health?*

*"(...)the law determines the conditions under which the freedom guaranteed to women to have recourse to a voluntary termination of pregnancy is exercised." – The French Constitution: Article 34<sup>114</sup>*

The constitutional amendment securing abortion as a fundamental right has a strong discursive effect by normalizing women's reproductive rights as an indisputable part of human rights. This creates a discourse where women's rights to their own bodies are recognized and respected on the same level as other basic rights. By cementing abortion as a constitutional right, the public discourse shifts from a moral and ethical debate to a legal and rights-based discourse. This changes the focus of the conversation from judging women's moral choices to protecting their legal rights and this creates a more objective and rights-oriented narrative where women's autonomy is central. This change also sends a strong signal that women's decisions about their own bodies are not just tolerated, but actively protected by the state. It contributes to a discourse of empowerment, where women can demand their rights to a greater extent without fear of legal consequences or social stigmatization.<sup>115</sup> By recognizing abortion as a constitutional right, women can thereby experience a strengthened self-concept and a sense of control over their own lives. This formal recognition can strengthen women's sense of dignity and right to self-determination, which can have positive psychological effects.<sup>116</sup>

The constitutional amendment can help reduce the stigma around abortion because when abortion is recognized as a right, it becomes more difficult for society to marginalize or stigmatize women who choose to have an abortion. This can change society's view of women having an abortion and move society towards a more accepting and understanding attitude towards the subject. The policy supports the idea of gender equality by ensuring that women have the same control over their reproductive lives as men and this can lead to a wider societal recognition of women's rights and thus promote equality in other areas of social life as well. A constitutional amendment guaranteeing the right to abortion thus improves women's access to safe and legal abortion services, thereby reducing the risk associated with unsafe abortions, which are often carried out under dangerous conditions and can lead to

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<sup>114</sup> "France Senate Approves the Inclusion of Right to Abortion in Constitution," February 29, 2024, [https://www.jurist.org/news/2024/02/\\_\\_\\_trashed-254/](https://www.jurist.org/news/2024/02/___trashed-254/).

<sup>115</sup> "Access to Abortion in France Remains Fraught with Obstacles."

<sup>116</sup> "France Protects Abortion as a 'Guaranteed Freedom' in Constitution | Human Rights Watch."

serious health complications. By guaranteeing the right to abortion, women can also better plan their family life and career, which can lead to increased economic stability and social opportunities. This can be especially beneficial for low-income women, who are often hit hardest by the restrictive abortion laws. Access to legal and safe abortion also has positive effects on women's mental health because, for example, women who have access to the reproductive health services they need may experience less stress and anxiety related to unwanted pregnancies. This can thereby improve their overall quality of life and well-being.<sup>117</sup>

When abortion is a constitutional right, women are better protected from discrimination because of their reproductive choices, and this can create a fairer and more equal approach to healthcare and ensure that all women have equal access to necessary healthcare without fear of discrimination or stigmatization. The constitutional amendment that makes abortion a constitutional right in France thus undoubtedly has profound discursive and lived effects. It has changed the public discourse by normalizing women's reproductive rights and shifting the focus from morality to rights. The policy improves women's self-image and reduces stigma while promoting equality. Concrete consequences for women's lives and health therefore include both better access to health services, increased economic and social stability, improved mental health and protection against discrimination.<sup>118</sup>

## 6. How and where has this representation of the problem been produced, disseminated and defended? How has it been and/or how can it be disrupted and replaced?

### The United States

*How and where are the problem representations about abortion communicated and defended, and how and by whom are these problem representations challenged?*

*“Casey’s ‘undue burden’ test has scored poorly on the workability scale. Problems begin with the very concept of an ‘undue burden.’ As Justice Scalia noted in his Casey partial dissent,*

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<sup>117</sup> “France Makes Abortion a Constitutional Right amid Rollbacks in US and Europe,” POLITICO, March 4, 2024, <https://www.politico.eu/article/france-moves-to-make-abortion-a-constitutional-right-amid-rollbacks-in-us-and-europe/>.

<sup>118</sup> “Why France Enshrined Abortion Rights in Its Constitution – DW – 03/04/2024,” dw.com, accessed May 30, 2024, <https://www.dw.com/en/why-france-enshrined-abortion-rights-in-its-constitution/a-68436705>.

*determining whether a burden is 'due' or 'undue' is 'inherently standardless.'"* – Justice Samuel Alito<sup>119</sup>

In the political arena, problem representations of abortion are communicated and defended primarily through legislation and political speeches, and legislators at both the state and federal levels introduce and debate laws that either protect or limit abortion rights. Political rhetoric from both pro-life and pro-choice politicians plays a large role in shaping the public's perception and attitude towards abortion. Courts, and especially the Supreme Court, are central to the dissemination of problem representations through decisions such as *Roe v. Wade* and *Dobbs v. Jackson Women's Health Organization*.<sup>120</sup> These decisions affect not only the legislation but also the public discourse on abortion. Newspapers, TV news and radio are important channels where debates about abortion legislation are covered and where different perspectives are communicated to the public. Commentaries and articles in these media can either support or challenge existing issue representations. Platforms such as Twitter, Facebook and Instagram play a growing role in communicating the abortion debate. Activists, political leaders, and organizations use social media to reach a wider public, share information and mobilize support. Both pro-life and pro-choice organizations use advertising campaigns, including television commercials, posters, and online ads, to promote their views and influence public opinion.<sup>121</sup>

Organizations such as Planned Parenthood and the National Right to Life Committee play critical roles in disseminating and defending issue representations through lobbying, education initiatives, and public campaigns. Street protests, marches and other public demonstrations are visible and direct ways for activists to convey their messages. Events such as the March for Life and the Women's March are examples of how both sides use public demonstration to defend their views. Pro-choice groups and civil rights organizations often challenge restrictive abortion laws by bringing cases to the courts, and these lawsuits can lead to laws being overturned or changed, while also raising public awareness of the legal aspects of abortion rights. Supreme Court decisions can both challenge and support existing problem representations. The decision in *Dobbs v. Jackson Women's Health Organization* is an example of a legal challenge that changed the legal landscape of abortion rights in the United States. Many Democratic politicians fight to preserve and expand abortion rights and

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<sup>119</sup> "Dobbs v. Jackson Women's Health Organization Landmark Decision."

<sup>120</sup> "Roe v. Wade, 410 U.S. 113 (1973)," Justia Law, accessed May 30, 2024, <https://supreme.justia.com/cases/federal/us/410/113/>.

<sup>121</sup> Neil Nevitte, William P. Brandon, and Lori Davis, "The American Abortion Controversy: Lessons from Cross-National Evidence," *Politics and the Life Sciences* 12, no. 1 (1993): 19–30.

challenge restrictive laws through legislative work and political rhetoric. Conversely, many Republican politicians are challenging existing abortion rights by introducing restrictive laws and promoting a pro-life agenda. Groups like NARAL Pro-Choice America and the Women's March organize protests, awareness campaigns, and lobbying to challenge and change restrictive abortion laws, and they mobilize public support and pressure political leaders.<sup>122</sup>

Pro-life groups challenge pro-choice representations by highlighting the moral and ethical aspect of abortion, and work to introduce laws that restrict or ban abortion. Organizations like Americans United for Life do legal and political work to advance their views. Academics and research institutions contribute to the debate by producing research on abortion and women's health, which can challenge existing problem representations with evidence-based arguments. Universities and schools also play a role in shaping young people's perceptions of abortion through educational programs and debate forums. All these mechanisms and actors testify to how the problem representations of abortion are both conveyed and challenged in the United States, creating a complex and dynamic debate about reproductive rights.<sup>123</sup>

## France

*How and where are the problem representations about abortion as a constitutional right communicated and defended, and how and by whom are these problem representations challenged?*

*"We're sending a message to all women: your body belongs to you and no one can decide for you" - Prime Minister Gabriel Attal<sup>124</sup>*

The French government and political leaders play a central role in communicating and defending the problem representations of abortion as a constitutional right. The constitutional amendment was promoted through official statements and legislation stressing the importance of women's rights and self-determination. Debates in the French Parliament (National Assembly and Senate) have been crucial in conveying the rationale behind the constitutional

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<sup>122</sup> Risa Kaufman et al., "Global Impacts of Dobbs v. Jackson Women's Health Organization and Abortion Regression in the United States," *Sexual and Reproductive Health Matters* 30, no. 1 (2022): 22–31.

<sup>123</sup> "OAH | Abolishing Abortion: The History of the Pro-Life Movement in America," accessed May 30, 2024, <https://www.oah.org/tah/november-3/abolishing-abortion-the-history-of-the-pro-life-movement-in-america/>.

<sup>124</sup> "France Makes Abortion a Constitutional Right," March 4, 2024, <https://www.bbc.com/news/world-europe-68471568>.

change. Politicians have argued for the need to protect women's right to abortion against potential future restrictions. Newspapers, television stations and radio widely cover the topic of abortion as a constitutional right, and journalists and commentators discuss the pros and cons of the constitutional amendment, and representatives from both political and civil society organizations participate in the debate. Social media such as Twitter, Facebook and Instagram are actively used by both politicians, activists, and ordinary citizens to promote and discuss the problem representations. Campaigners for the constitutional amendment have spread messages about women's rights and the need to protect those rights on social platforms.<sup>125</sup>

Organizations such as Planning Familial and Osez le Féminisme! has been a leader in mediating the problem representations of abortion as a constitutional right and they organize campaigns, awareness initiatives and demonstrations to support the constitutional amendment.<sup>126</sup> Demonstrations and marches organized by women's rights groups and allies have been visible means of promoting and defending the constitutional amendment. These public events often receive media coverage and help keep the issue in the public mind. Conservative and right-wing politicians in France have challenged the constitutional amendment by arguing moral and ethical issues about abortion. They have raised concerns about whether constitutional protections for abortion could lead to expanding abortion access in ways they find problematic. Parties with close ties to religious groups have also opposed the constitutional amendment, seeing abortion as a moral problem, and arguing for the protection of fetal life.

Pro-life groups and religious organizations have challenged the constitutional amendment through campaigns highlighting ethical and moral opposition to abortion. They use social media, public statements, and demonstration activities to mobilize support for the constitutional amendment. Some civil society groups use cultural and religious arguments to challenge the representations, highlighting traditional values and the role of the family in society. Comments and debates in newspapers and on television also challenge problem representations. Conservative commentators and intellectuals join the debate with arguments against the constitutional amendment and question its long-term consequences. Although less widespread in France than in the United States, legal challenges and criticism from legal experts may also play a role in challenging the constitutional amendment in the future.

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<sup>125</sup> "France Makes Abortion a Constitutional Right amid Rollbacks in US and Europe."

<sup>126</sup> "Planning Familial – Osez le féminisme !," February 2, 2019, <https://osezlefeminisme.fr/tag/planning-familial/>.

Experts may choose to make arguments about the legal implications and potential problems that may arise after the incorporation of the right to abortion into the constitution. These mechanisms and actors thus testify to how the problematic representations of abortion as a constitutional right are both communicated and challenged in France, which creates a dynamic and often polarized debate on reproductive rights.<sup>127</sup>

## 7. Apply this list of questions to your own problem representations.

*Reflect on my own assumptions and representations of the problem, applying the six questions to my own analysis and consider how your own assumptions and representations affect the analysis.*

My analysis of reproductive rights and abortion legislation in the United States and France has been based on a combination of different data sources to achieve an in-depth and thorough understanding of both the problem representations and the political dynamics in the two countries.<sup>128</sup> I have identified how the abortion problem is represented in the United States and France respectively, including the political and legal contexts that shape the debate on abortion and reproductive rights. I have examined the cultural, religious, and political assumptions that underlie the abortion debate in the United States, as well as the secular and egalitarian assumptions that have underpinned France's decision to make abortion a constitutional right. In this context, I have examined the development from *Roe v. Wade* to *Dobbs v. Jackson Women's Health Organization* in the United States and from the Veil Law to the recent constitutional amendment in France to understand how abortion law has developed over time. I have also examined which groups or issues have not been addressed in both the French and American debates on abortion and reproductive rights, and how these silences can influence public discourse.<sup>129</sup>

I have considered how the debate on abortion and reproductive rights could be conceptualized differently, including possible alternative approaches to solving the social and health challenges related to reproductive health. I have identified how and where the problem representations of abortion as a constitutional right in France and as a matter of state

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<sup>127</sup> "Pro-Life Groups Gear up to Counter Historic French Vote on Abortion | America Magazine," accessed May 30, 2024, <https://www.americamagazine.org/politics-society/2024/03/12/france-abortion-constitution-pro-life-247497>.

<sup>128</sup> Bacchi, *Women, Policy and Politics: The Construction of Policy Problems*.

<sup>129</sup> Weisberg, "ROE v. WADE."

competence in the United States have been mediated and defended by political leaders, the media, and civil society organizations. I have included empirical material such as legislative texts and political speeches to obtain a comprehensive understanding of the problem complex. I have also examined the legislation of various states in the United States and various policy statements and media reports in France to highlight differences and similarities in the two countries' approaches to abortion and reproductive rights. By reflecting on my own assumptions and choice of data sources and methods, I have thus gained a more nuanced understanding of the problem complex and can thus identify any biases or shortcomings in my analysis. It remains important to remain aware of these factors to ensure that my analysis is as objective and informative as possible.<sup>130</sup>

## Comparative discussion with a theoretical foundation

In the United States, the problem representation of abortion and reproductive rights is often characterized by a polarized public discourse, where political rhetoric and legislation play a central role. The discussion on abortion is often divided between supporters and opponents, creating a climate where women's rights issues are reduced to a battleground for ideological and political battles. Political rhetoric from both pro-life and pro-choice politicians formulates issue representations that polarize and stigmatize abortion decisions, which can influence individual self-perception and societal attitudes.<sup>131</sup> In France, the problem representation of abortion and reproductive rights is different, especially after the adoption of the constitutional amendment guaranteeing abortion as a fundamental right. Public discourse is largely concerned with rights and self-determination, and political rhetoric and legislation focus on protecting these rights from possible future restrictions. The political debate in France revolves around recognizing women's right to abortion as part of their fundamental rights and normalizing reproductive self-determination as an essential part of the social order. Both of these problem representations affect individual self-concept and societal attitudes in different ways. In the United States, the polarized discourse and political rhetoric can create an atmosphere of shame and guilt around abortion, which can affect women and society's view of their reproductive rights. In France, the increased recognition of abortion as a fundamental right may have the opposite effect by strengthening women's rights issues and fostering a culture that normalizes reproductive self-determination as a central value. This

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<sup>130</sup> Badinter, *The Conflict: How Modern Motherhood Undermines the Status of Women*.

<sup>131</sup> Gray et al., "COMPARATIVE RESEARCH METHODS."

comparison clearly shows the differences in problem representations of abortion and reproductive rights between the United States and France, as well as how these representations affect individual self-concept and societal attitudes in different ways.<sup>132</sup>

Reproductive Justice theory offers an alternative approach to understanding abortion and reproductive rights that goes beyond the traditional pro-choice versus pro-life framework. The theory emphasizes the importance of recognizing the complex connections between reproductive rights, social justice, and systemic inequalities and how these aspects affect women's opportunities and quality of life. In the case of the United States, Reproductive Justice theory can be used to decode and critique the one-sided focus on abortion as a moral issue by pointing out the social and economic factors that influence women's reproductive choices. Rather than talking solely about the right to choose abortion, Reproductive Justice theory highlights the need to address the underlying reasons why women choose abortion, including economic instability, lack of access to health care, and social stigmas.<sup>133</sup> By incorporating these factors into the abortion debate, the theory can help push toward a more comprehensive approach to reproductive rights that addresses the social and economic factors that affect women's lives. In the case of France, the Reproductive Justice theory may also be relevant to apply to accentuate the need to understand abortion and reproductive rights within the framework of social justice and equality.<sup>134</sup>

Although abortion is recognized as a fundamental right in France, Reproductive Justice theory can identify the social inequalities that still affect women's access to reproductive health services and decisions about their bodies. By looking at France's situation in the light of the Reproductive Justice approach, we can identify these inequalities and thus contribute to the possibility of ensuring that all women in the future have equal access to the reproductive health services they need. In both countries, the focal points of Reproductive Justice theory can therefore help shed light on existing problematic representations of abortion and reproductive rights by highlighting the need for a more holistic approach that addresses social and economic factors. By unfolding social justice and systemic inequalities, Reproductive Justice theory can therefore help focus on creating more inclusive and fair reproductive rights that consider the needs and experiences of all women.<sup>135</sup>

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<sup>132</sup> Lijphart, "Comparative Politics and the Comparative Method."

<sup>133</sup> *Reproductive Health and Human Rights* (University of Pennsylvania Press, 2009), <http://www.jstor.org/stable/j.ctt3fhwf1>.

<sup>134</sup> Ross and Solinger, *Reproductive Justice*, 2017.

<sup>135</sup> Ross and Solinger.



As we know, the Gradual Institutional Change theory focuses on the complex political processes and actors' actions over time that gradually lead to institutional change. By using this theory to shed light on abortion laws in both the United States and France, we can gain a deeper understanding of how abortion laws have been shaped and changed over time. In the United States, abortion law has undergone significant institutional changes over time. From the seminal *Roe v. Wade* decision in 1973, which legalized abortion nationwide, to more recent cases such as *Dobbs v. Jackson Women's Health Organization*, which gave states greater power to regulate abortion, abortion law has been the subject of many institutional changes.<sup>136</sup> Gradual institutional change has been evident in US abortion law as political actors, lobby groups and the judiciary have fought to change the law gradually over time. These changes have shaped current abortion law in the United States and have also created a political and legal atmosphere in which future reforms may be difficult but still possible. For example, gradualist institutional change can be seen in the gradual tightening of abortion legislation at state level, which has led to fragmented and varying legislation across the states. In France, abortion law has also undergone institutional changes, although they have not been as dramatic as in the United States. With the introduction of the recent constitutional amendment ensuring abortion as a fundamental right, France has moved towards strengthening abortion rights as a firm institutional guarantee.<sup>137</sup>

Gradual institutional change in France has been characterized by political pressure, public debate and legislative changes that have gradually expanded abortion rights and strengthened their institutional anchoring. These changes have shaped current abortion legislation in France and have created an environment in which further reforms in reproductive rights can be expected to take place gradually and through complex political processes. Seen in the light of the Gradual Institutional Change theory, we can identify in both countries how abortion legislation is the result of gradual institutional changes that have been shaped by political struggles, legal decisions, and public debates over time. At the same time, the theory provides us with valuable insight into how these institutional changes may affect future reforms and the possibilities for achieving further progress in reproductive rights. By understanding these institutional mechanisms, countries such as the United States and France can potentially better succeed in navigating their abortion laws and thus work toward more equitable and inclusive reproductive rights in the future.<sup>138</sup>

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<sup>136</sup> Mahoney and Thelen, "A Theory of Gradual Institutional Change."

<sup>137</sup> Mahoney and Thelen.

<sup>138</sup> Mahoney and Thelen.

An interesting aspect that has emerged through the analysis of abortion legislation in the United States and France is how political decisions and legislation in one country can have transnational effects and thus affect other countries. This dynamic underline the complexity of globalization and the mutual influence between national and international political spheres. America's abortion laws have not only had profound consequences for American women but have also created ripples on the international stage. Political decisions and legal decisions in the United States thus often serve as reference frames for other countries, either as positive examples or as warnings. For example, in the wake of US austerity, several European countries, including France, have had discussions about strengthening their own reproductive rights protections.<sup>139</sup> The French decision to enshrine the right to abortion in the constitution can be seen as a direct reaction to the American developments, which illustrates a form of political learning and preventive policy development. This mutual influence does not occur in a vacuum, but through a number of mechanisms such as diplomatic relations, international organizations, global media campaigns and grassroots movements. International NGOs and human rights organizations play an important role in facilitating this transnational dialogue. For example, organizations such as Amnesty International and Human Rights Watch have actively compared legislation and called for the harmonization of rights across national borders.<sup>140</sup>

When a country like the United States takes drastic steps, such as restricting abortion rights, it can provide political cover for similar movements in other countries. Conversely, progressive legislative changes, such as those in France, can serve as inspiration and motivation for other nations to protect and expand their reproductive rights. The transnational influence is also evident in the public discourse, as media and social platforms contribute to creating a global conversation space, where decisions in one country can quickly gain attention and reactions in others. This can be seen in the global protests and solidarity actions that often arise in response to significant political changes in countries such as the United States and France. These actions contribute to a global movement where women's rights and reproductive freedom become part of a universal human rights agenda. Finally, it is important to note that political decisions can also have direct practical consequences for other countries. For example, tightening of abortion laws in the United States may lead to an increased demand for abortion services in neighbouring countries such as Canada and Mexico. In this

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<sup>139</sup> Chris Kaposy, "Proof and Persuasion in the Philosophical Debate about Abortion."

<sup>140</sup> "Abortion Is a Human Right.," Amnesty International, accessed May 30, 2024, <https://www.amnesty.org/en/what-we-do/sexual-and-reproductive-rights/abortion-facts/>.

way, national decisions about reproductive rights become part of a complex network of international relations and influences.<sup>141</sup>

Another important factor that may help explain the differences between the United States and France's approach to reproductive rights, including abortion, is the concept of Laïcité, which is a central part of French secularism. Laïcité refers to the separation of church and state and ensures that public affairs, including legislation and politics, are kept separate from religious influence. This principle may have significant implications for how reproductive rights are perceived and regulated in France compared to the United States. In France, Laïcité functions as a pillar of society, meaning that legislation and public policies must not be based on religious beliefs.<sup>142</sup> This principle is strongly rooted in the French republican tradition and has historically been used to limit religious influence in the public sphere.<sup>143</sup> When it comes to abortion and other reproductive rights, this means that the discussion and legislation is often more secular and based on principles of individual rights and health considerations rather than moral or religious arguments. Laïcité may thus be part of the explanation for why abortion in France is considered a fundamental right and has therefore been codified in the constitution. By ensuring that abortion is protected from religious interference, the ideology of Laïcité thus creates a framework in which women's rights to their own bodies and reproductive choices are recognized as essential and immutable. In the United States, the separation of church and state is also a fundamental principle, but the practical implementation is often more complex and less stringent than in France.<sup>144</sup>

Religious groups and their values have a significant influence on political discourse and legislation, particularly in relation to social issues such as abortion. Many political leaders and interest groups in the United States use religious arguments to shape legislation, resulting in a more polarized and morally charged debate about abortion rights. This religious influence can be seen in the many restrictive abortion laws that have been passed in conservative states, as well as in decisions such as *Dobbs v. Jackson Women's Health Organization*, which have given states greater freedom to regulate or restrict abortion. This contrasts with the French model, where Laïcité prevents such a direct religious influence on

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<sup>141</sup> Nevitte, Brandon, and Lori Davis, "The American Abortion Controversy: Lessons from Cross-National Evidence."

<sup>142</sup> Jasper Doomen, "Laïcité: Ousting Some Religious Elements While Introducing Others," *Democracy and Security* 19, no. 3 (July 3, 2023): 274–90, <https://doi.org/10.1080/17419166.2022.2111303>.

<sup>143</sup> Doomen.

<sup>144</sup> Bottini, Bouaziz, and Hennette-Vauche, "Enshrining Abortion Rights in the French Constitution."

legislation. Laïcité thus plays a decisive role in shaping public discourse and legislation on reproductive rights in France, resulting in a more secular and rights-based approach. In contrast, religious values and groups strongly influence the American debate and legislation on abortion, leading to a more fragmented and polarized approach.<sup>145</sup>

## Conclusion

After an in-depth analysis of abortion legislation and representation in both the United States and France, it now appears extremely clear that the abortion issue is much more than just a political discussion. It is a complex and controversial matter that reflects deep-rooted cultural, political, and social differences between these two nations. In the United States, the abortion debate has been a source of constant political contention for decades. From the historic *Roe v. Wade* decision in 1973, which ensured federal protection of abortion rights, to the recent reversal of that decision in *Dobbs v. Jackson Women's Health Organization* in 2022, the abortion issue has been an arena of ideological battle.<sup>146</sup> This political battle has led to shifting legislation and rhetoric, resulting in a fragmented and unstable legal framework for abortion in the United States. Women's access to abortion services varies dramatically from state to state, reflecting the political divide and differing attitudes toward women's rights and individual freedom. In contrast, France has chosen a different approach and since the legalization of abortion in 1975 with the Veil Law, France has worked to protect women's right to abortion through constitutional guarantees.<sup>147</sup>

The recent inclusion of abortion rights in the French constitution in 2024 marks a commitment to protect women's right to decide over their own bodies. This action reflects not only France's focus on preserving individual rights, but also a broader European trend to view reproductive rights as basic human rights. My research points to an interesting dynamic between nations, where legislation and politics often inspire or shape each other. France's act of enshrining abortion rights in the constitution was largely in response to the political and legal challenges in the United States and is therefore a clear example of this reciprocal influence. This raises the question of whether this kind of 'legislative activism' can lead to a dangerous spiral of mutual reaction and polarization between nations. But it can also be seen

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<sup>145</sup> "What Is French Laïcité?," *The Economist*, accessed May 30, 2024, <https://www.economist.com/the-economist-explains/2020/11/23/what-is-french-laicite>.

<sup>146</sup> Balogun and Okonofua, "The Politics of Abortion Rights in the 2022 United States Midterm Election."

<sup>147</sup> Veil, "Human Rights, Ideologies, and Population Policies."

as a positive example of how countries can learn from each other and work together to promote human rights and equality.<sup>148</sup> The underlying reasons for the different attitudes towards abortion in France and the United States are complex and multifaceted and cultural, religious, political, and historical factors all play a role. In the United States, the abortion issue has become a symbol of political polarization and cultural value conflicts, and in France, secularism and a focus on individual rights have created a more progressive approach to abortion legislation. My research has emphasized the importance of recognizing that the abortion issue is not only a political issue, but also a reflection of deeper societal tensions and value conflicts. It raises the question of how society can navigate these challenges and work towards a common understanding and respect for individual rights and freedoms.<sup>149</sup>

At a time of increasing polarization and political division, it is critical to address issues of reproductive rights and ensure that women's rights and freedoms are respected and protected everywhere in the world. Abortion is therefore also largely a question of fundamental rights and freedoms, and several societies fortunately recognize that it is time to move away from polarization and conflict and towards a future where all women have the right to decide over their own bodies and future.<sup>150</sup> In light of the insights I have gained through this analysis, it can be concluded that the abortion issue is a complex challenge with countless facets that requires a comprehensive and nuanced approach to create a complete understanding of. By recognizing the deeper reasons for different attitudes towards abortion and by promoting dialogue and respect, we can work towards a more just and inclusive future where women's rights and freedoms are respected and protected across borders and cultures. This ever-increasing debated topic strongly suggests that we live in a time when it is time to act and create a world where all women have the opportunity to make their own choices and shape their own lives without fear or discrimination.<sup>151</sup>

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<sup>148</sup> Marta Bucholc, "Legal Governance of Abortion," *Historical Social Research / Historische Sozialforschung* 49, no. 2 (2024): 133–55.

<sup>149</sup> Becker, "Majority of Women in States with Abortion Bans Believe Access Should Be Legal."

<sup>150</sup> *Abortion in America After Roe: An Examination of the Impact of Dobbs v. Jackson Women's Health Organization on Women's Reproductive Health Access.*

<sup>151</sup> Bucholc, "Legal Governance of Abortion."



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