

Gender Equality Through Abortion Rights: Exploring the Constitutional Framework and Social Justice

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Abstract: This paper examines the legal protection of the right to abortion under the U.S. constitutional framework and its impact on women's equality. The study traces the historical and jurisprudential development of the right to abortion and examines the impact of restricting this right on women's education, employment, and overall social justice. This is achieved through the analysis of relevant legal documents. The findings indicate that the protection of the right to abortion is crucial for the assurance of women's autonomy in matters of reproduction, and has a substantial influence on their educational and economic prospects. The paper concludes that the constitutional protection of abortion is a crucial step in achieving gender equality and social justice. It is incumbent upon governments and courts to promote gender equality and social justice by introducing legislation to protect the right to abortion and by creating social security systems. The following section will examine the aforementioned topic in greater detail.

Keywords: Right to abortion, Gender quality, Social justice, Constitution.

1. Introduction

In 2022, the U.S. Supreme Court overturned *Roe v. Wade*, allowing states to decide their own policies on abortion. The decision sparked widespread social controversy, pushing the issue of abortion rights and gender equality to the public attention once again. In the United States today, issues of abortion rights and gender equality occupy an important place in discussions of law and social justice. The legislative and judicial decisions on abortion rights not only reflect women's control over reproductive autonomy, but also reflect the society's attitude toward women's reproductive autonomy and gender equality, and profoundly affect the path for women to achieve equal status under the constitutional framework, influencing the social justice. Social justice requires that the social system guarantee the fundamental rights and opportunities of everyone on the basis of the principle of equity and provide special protection for the least advantaged groups. Restrictions on abortion rights negatively impact social equity and progress, because they deprive women of control over their own bodies and reproductive choices, negatively impact women's education and employment opportunities, and exacerbate gender inequality.

This paper hopes to make a comprehensive analysis on abortion rights, helping readers more comprehensively understand the role of constitutional protection of abortion rights in promoting equality of women's status, and better understand the function of constitution in realizing social justice.

Furthermore, this paper also gives suggestions on the protection of women's rights and equal status in the current political and social environment, helping to deal with the fertility dilemma faced by women.

2. Analysis on the Legal Safeguards of the Female Abortion Right

This section will initially delineate the pivotal concepts pertinent to this study and subsequently establish the theoretical basis of the study's analysis. Additionally, this section is an examination of the legal basis for abortion rights in the American Constitution. It will then proceed to elucidate the legal foundations and legal implications for females' equal status in the US, with particular attention to the historical background of abortion rights in American Constitution, the abortion legislations at the federal and state levels, and the legal link between the guarantee of the right to abortion and the equal status of female. This section will undertake a comprehensive analysis of the legal basis of abortion right in the America Constitution and its impact on women's equality, with a particular focus on its role in the realization of social justice.

2.1. Basic Concepts and Definitions

Abortion Rights: The right to abortion is a woman's right to decide whether or not to terminate her pregnancy. Women have the right to control their reproduction. It involves many aspects of women's rights, including personal privacy, body autonomy and reproductive choice.

Gender Equality: Gender equality means that men and women enjoy equal rights and opportunities in the legal, economic, political and social fields, Not to be discriminated against or treated unfairly on the basis of sex [1].

Social Justice: Social Justice means that the social system should guarantee the basic rights and opportunities of each individual based on the principle of Fairness. Especially, a justicial society should provide special protection for the least advantaged groups in the society, so as to realize the common interests of all members of the society [2].

Constitutional Guarantees: Constitutional guarantees are the safeguards of fundamental rights and freedoms set out in the national Constitution, designed to ensure that all citizens enjoy equal rights and protection before the law.

2.2. Analysis of the Jurisprudential Basis of of Abortion Rights in American Constitution

2.2.1. Historical Background of Abortion Rights in American Constitution

In America the legal issue of abortion rights dates back to the 19th century. At that time, abortion was legal at an early stage because there was no explicit law against it. By the end of the 19th century, however, states began gradually passing laws restricting abortion. In the early 20th century, due to advances in medical technology and the advent of the females' movement, the right to abortion became a more prominent social and legal issue. In the late 1960s, as the women's affirmative action movement grew, more and more women demanded control over their reproductive rights, setting the stage for *Roe v. Wade* in 1973.

The case of *Roe v. Wade* represents a pivotal moment in the history of abortion rights in America. In the case, Jane Rowe sued the Texas government, challenging the state's law banning all abortions except when the life of the mother is in danger. The U.S. Supreme Court ultimately ruled that a woman has a constitutional right to choose an abortion in the first trimester. This right is protected by the right to privacy guaranteed by the Due Process Clause of the Fourteenth Amendment to the Constitution. The ruling established a "three-stage" framework under which states could impose varying degrees of abortion restrictions at different stages of pregnancy: in the first stage (first

trimester of pregnancy), women have an absolute right to abortion, and the state cannot interfere; in the second trimester (second trimester), the state can regulate abortion some, but cannot ban it; in the third stage (third trimester), the state may ban abortion, but only with an exception to protect the well-being of the pregnant woman. The ruling effectively legalized abortion nationwide in America, while also setting the stage for future legal disputes.

Although *Roe v. Wade* established a woman's right to abortion, that right has been challenged and restricted several times in the following decades. In the 1980s, the rise of conservatives in American politics made abortion a central issue of bipartisan controversy. *Webster v. Reproductive Health Services* is one such case. In that case, the U.S. Supreme Court ruled that a Missouri law could limit the involvement of public hospitals and public workers in abortion issues, a decision that limited the scope of *Roe v. Wade* and increased state control over abortion.

Planned Parenthood v. Casey is another key judicial decision. In this case, the Supreme Court revisited *Roe v. Wade* and established the standard of "unnecessary burden." The standard allows state governments to restrict abortion to some extent if it does not pose an "unnecessary burden" on a woman's abortion rights. While *Planned Parenthood v. Casey* upheld a woman's right to an abortion, it also allowed states to enact more restrictive laws. In the 2000s, conservative-dominated state legislatures continued to push for laws restricting abortion. For example, the Texas Heartbeat Act (S.B. 8, 2021) prohibits abortions subsequent to the detection of a fetal heartbeat. The Act has a unique enforcement mechanism that allows private citizens to Sue anyone who "aids or abets" an abortion. The law greatly restricted a woman's right to have an abortion, prompting nationwide protests and legal challenges.

2.2.2. Abortion Legislations at the Federal and State Levels

The legal basis of women's right to abortion is the right to privacy [3]. There are two kinds of understanding of the right to privacy: one is the "right to choose exposure", which is the right to safeguard the confidentiality of individuals' private information from unwarranted disclosure.; The second is "discretion or self-choice", which means that an individual's right to decide on his or her private life is not governed by government or social forces. On the issue of abortion rights, the United States Supreme Court adopted the second understanding, holding that the core of the right to privacy is the right of individuals to make free choices in certain areas without government interference [4]. In 1965, the Supreme Court, in *Griswold v. Connecticut*, overturned the 1943 decision in *Telston v. Ullman*. For the first time, an independent, constitutionally protected right to privacy was recognized as the cornerstone of contraceptive and abortion protection. Then, in 1972, the Supreme Court, in *Eisenstadt v. Baird*, overturned the conviction that the dissemination of contraceptive information to unmarried persons was a crime, and affirmed the right of a woman to make an independent decision about abortion, even if her husband had no right to interfere. Justice Brennan wrote, "The right to privacy is an individual right, whether married or single, to make individual choices in areas where the government does not have to intervene. These areas can have a significant impact on an individual's life, including a parent's decision to have a child or not [5]." So the right to privacy provides right to abortion a basis of constitution.

The U.S. Supreme Court has been a principal actor in the formation of federal abortion legislation through a series of landmark decisions, including *Roe v. Wade*, *Planned Parenthood v. Casey*, and *Whole Woman's Health v. Hellerstedt*. These decisions established a constitutional right to privacy, including a woman's right to choose an abortion. And the decisions in these cases introduced the "not unduly burdensome" standard, preventing states from enacting laws that pose substantial barriers to women seeking abortions. At the same time, these decisions underscore the Supreme Court's role in interpreting the Constitution to protect abortion rights, influencing state-level legislation and securing the basis for federal protections. State legislatures have considerable authority to regulate abortion

within the framework established by the Supreme Court. In such condition, laws of abortion vary considerably from state to state, reflecting regional differences in public opinion. Different attitudes towards abortion rights of different state governments take can be grouped into two principal categories: restrictive attitudes and protective attitudes.

In terms of restrictive state legislation, many states with a negative attitude to protecting abortion rights have enacted restrictive laws that challenge the boundaries of the "not unduly burdensome" standard. For example, Texas Senate Bill 8 (SB 8) (2021). The legislation, designated the "Heartbeat Act," prohibits abortions subsequent to approximately six weeks of gestation and, in a distinctive manner, empowers private citizens to enforce the law through civil litigation. The legislation has given rise to considerable controversy and legal challenges; Missouri House Bill 126 (2019): The law, also known as the Missouri Fight for the Unborn Act, bans abortions after eight weeks of pregnancy and does not include exceptions in cases of rape or incest. It sets out severe penalties for doctors who violate the law.

Conversely, in response to increasing restrictions elsewhere, some states have passed laws to protect and expand access to abortion. For example, The New York Reproductive Health Act (2019) and California Abortion Access Act. The New York Reproductive Health Act codifies the protections of *Roe v. Wade* into state law and removes abortion from the criminal code, ensuring that during pregnancy a woman can obtain an abortion if her health is at risk or the fetus is not viable. California Abortion Access Act expands access to abortion services, including funding clinics and training health care workers, reaffirming the state's commitment to reproductive rights.

These examples illustrate the significant differences in legislation on abortion rights in America at the federal and state levels, which reflect differences in cultural, political, and social attitudes across the states.

2.2.3. The Legal Link Between the Guarantee of the Right to Abortion and the Equal Status of Female

The protection of abortion rights is directly related to the way for women to achieve equal status under the constitutional framework. Under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, all citizens are guaranteed the right to equal protection under the law. This means that no law or policy can treat any group of people unequally. Through *Roe v. Wade*, the Supreme Court affirmed a woman's right to choose an abortion early in pregnancy as part of her right to privacy. Subsequently, in *Planned Parenthood v. Casey*, the Court further established the "not unduly burdensome" standard to prevent excessive state interference with abortion rights.

The guarantee of the right to abortion has a profound impact on the realization of gender equality. First, reproductive choice is a central part of women's autonomy, and it directly affects women's opportunities to advance in education and careers. Research has shown that women who have the legal option to have an abortion are more likely to complete high school and college education and have sustained employment opportunities and higher income levels throughout their careers [6]. These factors are essential for women to achieve equality in society.

In terms of education and employment, Finer discovered a noteworthy positive correlation between the legalization of abortion and the probability of women completing higher education [7]. Studies have shown that women who have the option to have an abortion are more likely to continue to complete their education in the event of a disruption, thereby increasing their chances of future employment and income levels. Similarly, research by Angrist and Evans showed that access to abortion rights significantly increased women's labor force participation and economic independence [6]. These results show that the right to abortion has a direct promoting effect on the realization of women's equal status.

The legal guarantee of abortion right also has an important impact on women's health and well-being. Access to legal and safe abortion services is effective to decrease the health risks and mortality related to illegal abortion [8]. The right to health, an important component of gender equality, ensures that women can make reproductive choices in a safe environment contributes to their overall quality of life and participation in society. A study by Jones et al. pointed out that policies restricting abortion rights lead to an increase in illegal abortions, thereby endangering women's health [8]. In areas where abortion rights are restricted, health problems due to illegal abortions have increased significantly, indicating that the guarantee of abortion rights plays a key role in protecting women's health. This further supports the importance of abortion rights in achieving gender equality.

In addition, the guarantee of abortion rights also allows women choose to have children with suitable time and right conditions, which enables women to better plan their family life, improving their family's economic expectations and their kids' quality of life [9]. Ananat et al. found that there is a positive correlation between abortion rights and family economic stability and children's health [9]. With the result, it has been proved that protection of abortion rights can benefit to both of the individual and women's family. The development of individuals and families also has a positive impact on the overall stability and progress of society, supporting the significance of protection of abortion rights.

Protection to abortion rights provides women with more educational and economic opportunities as well. According to Jones et al., in states where abortion rights are restricted, women, especially low-income women, have significantly reduced opportunities to complete education and employment [8]. The diminishing in women's educational and economic opportunities exacerbates gender inequality. On the contrary, when women have legal and safe access to abortion services, they have more chances to continue their education, engage with the job market, and achieve economic independence, which helps to promote social equality.

The above analysis shows that access to abortion not only enables women to gain reproductive autonomy, but also avoid further educational or economic inequality. Protecting the right to abortion will provides women with more opportunities of education and employment, having a positive impact on family stability and social development. Therefore, as an important factor in realizing gender equality and promoting social justice, the Constitution should protect females' right to abortion and that it is inviolable.

3. Relative Proposals

3.1. Strengthening Legislative Protection at the Federal Level

Strengthening federal legal protections is conducive to the uniform protection of abortion rights throughout the country. Due to the different attitudes towards abortion rights among states, the legislation on abortion rights also varies considerably at the state level. Therefore, the Congress should enact legislation that explicitly include the right to abortion within the constitutional protection, which helps to reduce the discrepancies of abortion rights among states and provides more stable legal guarantees for women's reproductive autonomy.

3.2. Enhancing Public Education and Awareness

Promoting public education and enhancing relative publicity is conducive to improving social awareness of abortion rights and gender equality. The degree of understanding of abortion rights affects the degree of social acceptability for abortion rights, which in turn affects gender equality. Carrying out relevant education through different channels will help the public understand the necessity to protect the abortion rights more correctly. This can help to obtain wider social support, better achieving gender equality and social justice.

3.3. Building A Comprehensive Social Support System

The government should enhance public financial assistance for abortion services, establishing a social support system supporting to protect women's abortion rights. Women can get comprehensive help of abortion with the provision of adequate medical resources and economic assistance, which provides safe abortion services to women, especially who are socially disadvantaged. In contrast to the health risks caused by a high threshold for abortion, it helps to safeguard women's rights of life and health, promoting the social equality.

4. Conclusion

This article reveals the influence of legal guarantees pertaining to abortion rights on the equal status of women within the constitutional framework. Additionally, it interprets how constitutional principles help achieve social justice. The findings indicate that the protection of abortion rights is a crucial element in enabling women to have physical autonomy, which affects their access to educational opportunities and economic independence.

Moreover, this article presents a comprehensive analysis of the right to abortion, explaining its multifaceted impact and underscoring its significance in safeguarding women's equal status and promoting social justice, with substantial theoretical and empirical evidence to support the arguments. Furthermore, this article also proposes specific suggestions on how to better protect the right to abortion from perspectives of the congress, the government, and society. These suggestions aim to better protect the rights of women and promote gender equality through the protection of the right to abortion.

Future studies could examine the ways in which abortion rights can be secured at the international level. This could include an investigation of the role of international female's rights organizations in supporting female's reproductive autonomy. In addition, future studies can also assess the right to abortion in different cultural backgrounds and explore how cultural factors affect the right to abortion, providing references for countries to formulate policies that align with their specific national circumstances.

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