

The Politicization of Women's Issues

Tug of War with Gender at the Center

By Hope Viner Samborn

P“Politicizing women’s health makes me sick. Literally,” California lawyer Cathy Gellis tweeted earlier this year. “Because I’m a woman, and it undermines my health care.”

Gellis tweeted and blogged in February on her blog *Statements of Interest: Looking at Life Through a Lawyer’s Lens* at www.cathygellis.com about her disgust over the decision in January of Susan G. Komen for the Cure to stop funding Planned Parenthood Federation of America, Inc.’s breast cancer screening programs. Only days later, the Komen organization, based in New York, reversed its decision.

Planned Parenthood provides preventive health care services such as cancer screening, pelvic and breast exams, and tests for sexually transmitted diseases, as well as abortions, which account for only three percent of its budget. Republicans attempted to shut down the federal government in April with an amendment to an appropriations bill that would have prohibited the federal funding of any Planned

Parenthood program. It failed. However, multiple states, including Arizona and Wisconsin, have passed laws to completely or partially defund Planned Parenthood.

“I am flabbergasted that we are living in the modern age and this is still subject to debate,” says Gellis, a technology and intellectual property lawyer. The Komen/Planned Parenthood issue “was a very tangible example of something that isn’t right.”

A War on Women

Women like Gellis are blogging, tweeting, and texting about the political actions of Congress and state legislatures concerning women’s issues. Some call these actions a war on women. Even Wikipedia has an entry called “War on Women.”

The wide-ranging issues targeted in this war on women focus not only on sex, reproduction, and birth control, but also rape, domestic violence, equal pay, preventive health care, and nutrition.

Not all women lawyers, however, believe these actions amount to a war on women. In fact, some see a different war on women and believe much of the women-centered legislation and litigation aim to protect women and their health.

Virginia lawyer Ann Buwalda is one who supports measures to ban or restrict abortion, including those that require a woman to be shown an ultrasound of the fetus before undergoing an abortion. Buwalda is executive director of the Jubilee Campaign, a nonprofit organization in Fairfax, Virginia, that sponsors the Law of Life Project. The basis for the work of the Law of Life Project is that “life begins at conception,” Buwalda says, and “we believe life needs to be protected.”

Among the Law of Life Project’s activities is its involvement in lawsuits in Oklahoma and North Carolina to support state-enacted measures that require abortion providers to show a woman an ultrasound before she has an abortion. Court orders are in place to block their effect.

According to Buwalda, showing an ultrasound to a woman seeking an abortion is essential to protect her mental health and provide her with informed consent.

She says women who do not view an ultrasound believe they have been deceived. “They would have significantly changed their minds about having an abortion,” she says, adding that abortion can lead to depression, self-destructive acts, and abuse from others. “These are not warnings that are given to women.”

Legislative Updates

Some states now require medical personnel to tell women that abortion increases the risk of suicide, even if the health provider’s medical opinion about such risks differs. A failed New Hampshire bill would have required doctors to tell those seeking an abortion that abortion causes breast cancer. Planned Parenthood reports that medical evidence does not support this claim. See www.plannedparenthood.org/files/PPFA/Anit_Choice_Claims_About_Breast_Cancer.pdf.

In July, the U.S. Court of Appeals for the Eighth Circuit upheld a South Dakota law that requires doctors to advise women seeking abortions that they face an increased risk of suicide after the procedure. *Planned Parenthood Minnesota, North Dakota, South Dakota v. Mike Rounds, Governor*, 686 F.3d 889 (8th Cir. 2012).

And in Texas, a woman must undergo an ultrasound using a vaginal probe and listen to fetal heartbeats before she has an abortion. A district court’s decision invalidating that law was overruled by the U.S. Court of Appeals for the Fifth Circuit, which upheld the law’s requirements. See *Texas Medical Providers Performing Abortion Services v. David Lakey*, 677 F.3d 570 (5th Cir. 2012). Following the appellate ruling, the district court revisited the case to decide the question of summary judgment in an opinion in which Judge Sam Sparks, in dicta, called these requirements “an attempt by the Texas legislature to discourage women from exercising their

constitutional rights.” See *Texas Medical Providers Performing Abortion Services v. David Lakey*, No. A-11-CA-486-SS (W.D. Tex. Feb. 6, 2012).

Similar laws are pending or being considered in many states. Opponents argue that such procedures, especially transvaginal ultrasounds, violate women’s privacy and force them to have medically unnecessary procedures that amount to “state-sanctioned rapes.”

“Is it an ‘imaginary’ #WarOnWomen when VA’s #GOP legislators seek to force women to undergo invasive medical procedures?” tweeted Sen. Barbara Boxer (D-CA) in April.

In 2011, 92 laws were enacted in 24 states to restrict abortion access, shattering the record of 34 set in 2005, according to the Guttmacher Institute, a nonprofit organization located in New York and Washington, D.C., whose mission is to ensure the highest standard of sexual and reproductive health worldwide. By mid-2012, states enacted 39 new abortion access restrictions, the Institute reported.

New state measures expand waiting periods for abortions. Some states are proposing that abortion providers widen hallways and doorways where abortions occur. Others cut the time for a legal abortion. One such law, the Arizona Women’s Health and Safety Act, defines pregnancy as beginning on the first day of a woman’s last menstrual period. This law requires clinics to post signs saying abortions cannot be coerced.

Pro-life supporters also are pushing for “personhood” legislation, which states that life begins at conception and that fetuses are entitled to the same rights as individuals who have already been born. Such legislation bans a woman’s right to

obtain an abortion and would bar use of a morning-after pill or birth control pills that destroy fertilized eggs.

A personhood amendment was added to a federal flood insurance bill in June. At the state level, Mississippi voters defeated a personhood measure earlier this year, while personhood supporters in Ohio failed to garner enough signatures to place a constitutional amendment before voters.

Contraception also is being debated. Congress and at least nine state legislatures considered bills to undermine contraceptive coverage, according to the Center for American Progress in Washington, D.C. Some bills would permit employers to refuse insurance coverage on the basis of moral objections to contraceptive services or medications.

Suppressing Speech

While women lawmakers can tweet and blog about women’s health issues, Congress and state legislatures in Michigan and Florida have taken measures to ban them from *speaking* about women’s issues.

In February, the House Oversight and Government Reform Committee convened to discuss the requirement that religiously affiliated employers cover contraception but refused to allow a woman—Sandra Fluke, then a law student and now a law school graduate—to speak about birth control. Instead, an all-male panel testified before the committee.

Michigan state Representatives Barbara Byrum and Lisa Brown, both Democrats, were censured June 13 for “a lack of decorum” because their comments during an abortion debate included the words “vagina” and

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For More Information

To learn more about some of the women’s issues subject to debate in this election year, visit the following websites:

- ▶ Center for American Progress, www.americanprogress.org/wp-content/uploads/issues/2012/07/pdf/state_contraception.pdf
- ▶ Guttmacher Institute, www.guttmacher.org/media/inthenews/2012/01/05/endofyear.html
- ▶ Jubilee Campaign, www.jubileecampaign.org
- ▶ Planned Parenthood, www.plannedparenthood.org

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“vasectomy.” The women were later denied the right to speak in the state legislature’s chambers about a key women’s issue.

The Women Lawyers Association of Michigan condemned this First Amendment violation. The association, composed of men and women, pro-life and pro-choice, stated in a June 18 press release that Byrum and Brown “had a right to have their constituents’ 150,000 voices recognized.” It added, “they were neither vulgar nor disrespectful When the minority is silenced, justice cannot prevail and democracy suffers.”

And the U.S. House of Representatives Judiciary Committee denied Delegate Eleanor Holmes Norton, the only elected congressional representative for the District of Columbia, an opportunity to testify when it considered the District of Columbia Pain-Capable Unborn Child Protection Act to ban abortion after 20 weeks of gestation without exceptions for rape or incest.

“Using the women of one congressional district to reach for extreme encroachments on women’s reproductive rights has become a pattern,” Norton said on her website.

Rape is another issue subject to current debate. Rep. Todd Akin (R–MO) stated in August on a Fox TV program that a woman’s body has the ability to prevent pregnancy when it is a “legitimate rape.” Akin now says he misspoke. Yet this wasn’t Akin’s first political fight over rape.

Akin and Rep. Paul Ryan (R–WI), GOP vice presidential candidate, cosponsored with other Republicans the No Taxpayer Funding for Abortion Act, H.R. 3, in 2011, to strengthen the federal ban on abortion funding that provided exceptions for cases of incest and “forcible rape.” This led critics to

argue that the phrase “forcible rape” would exclude victims of statutory rape and drug-facilitated rape.

“Rape is rape,” President Barack Obama said during an August 20 press conference. “The idea that we should be parsing and qualifying and slicing what types of rape we are talking about doesn’t make sense to the American people and certainly doesn’t make sense to me,” he continued. “What these comments do underscore is why we shouldn’t have a bunch of politicians, a majority of whom are men, making health care decisions on behalf of women.”

More Issues Under Fire

Reproductive rights are not the only women’s issue under fire. Even though the federal Lilly Ledbetter Fair Pay Act was signed into law in 2009, making it easier for women and others to challenge wage disparity, fair pay continues to be an issue. In April, Wisconsin repealed the state’s 2009 Equal Pay Enforcement Act, which allowed victims of workplace discrimination to seek damages in state courts. Michelle Goldberg, reporting for *The Daily Beast* on April 7, wrote that Republican State Senator Glenn Guthman, who led the repeal, insisted that there is no pay gap between men and women, and even if there were, it would not matter because men need money more than women because they have families to support.

Democrats claim Congress took 55 anti-women votes this year alone, according to a report released by the U.S. House Committee on Energy & Commerce (Democrats) on Sept. 5.

“The Republican-controlled House has become the most anti-women House in modern history,” Henry A. Waxman, a ranking committee member, said in a formal statement about the report, which charges the Republican budget with weakening

many existing programs and institutions that support and protect women.

“Even such bedrock programs as nutrition assistance for low-income families, Medicaid and Medicare, and expanded access to health care for children with preexisting conditions have not been spared,” Marcia Greenberger, copresident of the National Women’s Law Center, Washington, D.C., said in a statement following the report’s release. “Women’s ability to protect themselves and their families is on the line.”

Women’s Votes Matter

Women will let their voices be heard this election year. While President Obama’s win in 2008 has been attributed by analysts to the fact that he led with women at the ballot box, recent Gallup, NBC News/Wall Street Journal, and other polls show him once again leading with women as this issue of *Perspectives* goes to press.

“Women are over half of the population,” Carly Fiorina, vice chair of the National Republican Senatorial Committee and former chair and chief executive officer of Hewlett-Packard, said on *Meet the Press* on September 2. However, “they are not single-issue voters,” Fiorina added. “Women are leaders in this economy and in our political parties. Let’s start treating them as whole people.”

But if women think like Gellis, who calls herself a “very reluctant feminist,” women’s health and the regulation of it may be a key factor in the 2012 elections.

“My position is that gender should not matter,” Gellis says. “People who don’t understand [women’s biology] and don’t share it are trying to regulate it, and that needs to stop.”

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counsel women on student debt repayment, identity theft, or credit issues. In New York, where there are severe restrictions on the eligibility of former inmates for public housing, she helps them determine if they were rejected in error and how to appeal. Or perhaps a woman released from incarceration was illegally discriminated against for employment or unfairly denied

a license for a job such as a home health aide.

Rosenberg adds that lawyers’ help is always needed. “We’re not judging women because of their past,” she says. “We help them assess their situation. What got them to where they are? What are the next steps?”

“It’s a long process,” she continues, “but we can come up with a plan and work with

them and support them to be successful if they are willing to do the work and stick with it.”

Ann Farmer is a Brooklyn, New York-based freelance journalist who covers breaking news for the New York Times and contributes stories on culture, law, crime, and other topics to publications including Emmy, DGA Quarterly, Budget Travel, and others.