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## **Criminalization of Abortion: Stigma, Justification and Societal Punishment of Women**

### **Introduction**

The criminalization of abortion has become an overarching theme within American society, although the legalization of abortion was passed in the Supreme Court ruling of *Roe v. Wade* in 1973, women have continuously received punitive treatment for abortion. The Guttmacher Institute estimates that 30% of American women receive an abortion by their mid-forties (Guttmacher Institute, 2016). This paper will conceptualize the criminalization of abortion through a thematic analysis and development of themes across a subset of academic research. I found three patterns within research I utilized for this project, and I reviewed eight articles to provide a thorough analysis of the criminalization of abortion. The three themes I found were: 1) abortion stigma, 2) the need to justify abortion is a form of dehumanization and punishment 3) there has been a societal punishment of women rooted within patriarchy and misogyny. In the sections below I will begin by briefly describing my thematic analysis of eight articles and the development of three central themes. Then, I will dive into each theme and provide additional research to fully encapsulate the conceptualization of the criminalization of abortion and conclude with a summary of the key points from this paper and multiple areas for future research.

### **Thematic Analysis of the Concept of Criminalization of Abortion**

After analyzing my articles, I was able to identify three themes in how these articles conceptualized the criminalization of abortion. To identify themes, I analyzed the concept of the criminalization of abortion and discovered patterns among conceptualization across eight articles. My analysis allowed me to find prevalent themes, however this paper does not provide a

comprehensive analysis of the criminalization of abortion. Moreover, understanding patterns and new developments enhances the significance that should be placed on this concept.

In the sections below I have outlined each theme I found within reviewing research that has implemented abortion and the criminalization of abortion as a main concept. Within each theme, I came to the realization that I was lacking certain research to encapsulate the theme fully, therefore I provided additional research. My first theme identifies abortion stigma and the multitudes of its conceptualization and how it is a crucial development within the criminalization of abortion. The second theme I have covered revolves around the idea of women needing to justify their abortions is punitive. When I discussed this theme, I focused on data analyzing reasoning women provide for receiving abortions and the demand for women to justify or legitimize their abortions is unjust. My final theme I focus on is the societal punishment of women and the deep-rooted misogyny in American society that dominates women's reproductive rights.

### **Theme one: The role of abortion stigma and its impact on criminalization**

In my research for the criminalization of abortion I categorized my research based on patterns/themes. Despite categorization all my articles conceptualized abortion uniquely through mental health trauma surrounding abortion (Biggs et al. 2020) or the physician's empathy with patients because of their reasoning to terminate pregnancy (Kimport, Weitz, & Freedman, 2016). Upon doing more research I realized that I needed to highlight punishment of women when diving into the idea of stigma to further conceptualize the criminalization of abortion. I wanted to focus on specific instances of abortion stigma, rather than general stories that can apply to a large population. Therefore, in the section below, I highlighted cases that embody the depths of abortion stigma and how this relates to the criminalization of abortion.

### **New Research:**

To effectively conceptualize the criminalization of abortion, there is great significance in illustrating the stigma that surrounds abortion. I wanted to extract more information about specific cases of abortion and the stigma surrounding it and as such I analyzed an article that

highlighted the continuation and abortion stigma following the ruling of *Roe v Wade* (1973). The NRLC – the National Right to Life Committee – is an organization that broadcasted abortion stigma on all forums possible and disseminated information that women receiving abortions and physicians providing the procedures deserve to be punished. The NRLC released propaganda to terminate legal abortions claiming that they are hurting women and there would be a lack of abortion support if people knew the severity of the pain from the procedure (Ziegler, 2018).

The attempts made by NRLC to incriminate and stigmatize women terminating pregnancies and physicians providing the services exemplifies the narrative that women that receive abortions and physicians that provide them deserve to be labeled as criminals. The NRLC, following the legalization of abortion with *Roe v Wade*, created stigma around abortion, and was crucial in beginning an overwhelming misogynistic desire to punish women and deprive them of human rights. Pro-Lifers, such as those within the NRLC, marketed a patriarchal argument defaming and dehumanizing women that get abortions through false sentiments of caring about women's health and wanting the best for the women in the United States (Mehren 1985). This indicates that the depths of the criminalization of abortion are deeper than stigma at the micro level – such as from family and friends – and demonstrates that stigma is found at the macro level as it reveals propaganda used by organizations to attempt to incriminate women seeking abortions and physicians that provide them (Mehren 1985). Propaganda is a major component of the stigmatization of women seeking out abortion, and crucial in the conceptualization of the criminalization of abortion.

When I began my research on abortion stigma, I wanted to include specifics of young women receiving abortions and the recent abortion bans in Texas of September 2021 inspired me to conduct this research and choose this concept. Minors must obtain a judicial bypass if they would like to seek out an abortion. This means they must prove that they are mature and well informed or that parental consent is not a suitable option for them (Coleman-Minhan et al., 2018). Coleman-Minhan et al. (2018) carried out interviews with young women who have undergone the process of judicial bypass and categorized the process within six themes that emerged from the interviews: Family trauma and stigma, the process is burdensome, the process is highly unpredictable, the process is traumatic, there should be normalization and rationalization of trauma from this process, and resilience of those who experienced the process.

The punishment of these young women having to legitimize and provide evidence that they can make a judgement on their own body enabled an internalized abortion stigma. Cockrill and Nack (2013) as well as Kumar et al. (2009) developed separate research that unfolded ideas of stigma that are enacted at the structural level; including state actors and media. We see this research unfolding through the study conducted by Coleman-Minhan et al. (2018) in that women are required to go through the process of a judicial bypass, requiring these young women to provide details of their sexual history and family trauma publicly. The entire process itself was traumatic for the participants, for many developed PTSD from the hearing Coleman-Minhan et al. (2018).

### **Connecting additional research to my articles:**

Researching additional articles of abortion stigma was crucial to the overall development of my concept of the criminalization of abortion. I wanted to find articles highlighting specific cases that conceptualized stigma surrounding abortion. The research on propaganda and media influence on abortion conducted by Ziegler (2018) conceptualized abortion punishment and incrimination attempted by propaganda from NRLC. Highlighting the horrors executed by the NRLC stating that abortions were detrimental to women's reproductive health, and women who sought out abortions "needed counseling, education and love" (76) highlights the ignorance utilized to hinder women's right to choose. Similarly, Kumar and colleagues (2009) conceptualized abortion stigma as a social construction developed through media and governmental controls. These scholars heavily focused on a power struggle for women, whereas Ziegler analyzed the role of propaganda and the specific information used against abortions. The two studies developed frameworks conceptualizing stigma on abortion from the power struggle of women's existence.

Biggs et al. (2020) conceptualized stigma through the emotional punishment and scrutiny of others following an abortion and measured distinct factors demographically including race, pregnancy history, religion, location, and mental health prior to the procedure. They also included the mental health of individuals post abortion and post denial of an abortion. Analyzing the emotional trauma is crucial to understanding the depths of conceptualizing abortion stigma. Similarly, Coleman-Minhan et al. (2018) analyzed the stigma and the importance of mental

health surrounding abortions due to the judicial bypass process in the states of Texas. The importance of the research done by Coleman-Minhan et al. (2018) is specifically focused on the emotions of young women who underwent the process of judicial bypass in Texas to receive approval of an abortion in a court of law. Abortion research often lacks the stress on mental health prior to and following the abortion process; these scholars effectively stressed the emotional toll and trauma of young women face across the United States. The scale of the emotional severity and mental health issues developed by Biggs et al. (2020) and the surveys conducted by Coleman-Minhan et al. (2018) displays the punitive treatment of women whether that is within a court of law, or within an abortion clinic. The importance of measuring the mental and emotional toll of abortion stigma is a crucial development when discussing the judiciary bypass law within Texas. These two factors coincide to denote the power struggle of women within the United States and introduce the concept of the criminalization of abortion.

Kimport and Littlejon (2021) conceptualized abortion stigma through the relationship between abortion and sexuality. Focusing on women's role in society and the objectification of the female body, where sexual pleasure is conceptualized as something not entitled to women.

Developments made by Kimport and Littlejon also highlighted the infringement of government, media, and tradition on women's role in society, specifically when it comes to motherhood. The scholars focus on the dominance of patriarchy within the media; instituting misogynistic perspectives and utilizing abortion as a tool to create polarize society and stigmatize women.

Similarly, Coleman-Minhan et al. (2018) utilized the sexual history of adolescents as a measure of punishment upon the need to request permission for an abortion. There is great significance conceptualizing abortion stigma through women's sexuality because the foundation of abortion stigma derives from a societal stigma of women who internalize their sexuality and participate in sexual intercourse without wanting to become pregnant. The phenomenon of sexual pleasure as something men are entitled to and applauded for, whereas women who engage in sex for sexual pleasure are stigmatized and dehumanized (Coleman-Minhan et al. 2018). Women's relationship with sex is a sub concept within the theme of abortion stigma.

Diving into the research of physicians who provide abortions and understanding their perspectives is crucial to abortion research, as well as the stigma surrounding it. Ziegler's (2018) research highlighted propaganda utilized against women and physicians who provide abortions,

it also denoted the misogynistic ways to alienate women utilizing their rights. This misogyny was also seen in the research of Kimport, Weitz, and Freedman (2016), where they found that many of the physicians performing the abortions were men. The authors found that these male physicians reported feeling that the reasoning for abortions were often unjust, which the authors argue was a result of these male doctors actively exercising male privilege. The scholars reported that physicians would use their perspectives on the legitimacy of the abortion; components such as a lack of guilt or knowing the patient has received a previous abortion caused the physicians to lack empathy for their patients (Kimport et al., 2016). Going back to Ziegler (2018), this scholar disseminated stigmatizing messages around abortion via propaganda and with the influence of NRLC, there can be inferences made that the propaganda and misinformation was viewed by physicians, also leading them to have less empathy for women seeking abortions if they did not believe it was legitimate.

In sum, the four original articles I reviewed for my theme of stigma I wanted to include more specific cases and different conceptualizations of stigma. I wanted to go beyond conceptualizing abortion as simply a demeaning process and instead I wanted to convey how stigma around abortion has an aftermath outside of the process of getting an abortion and is even a predecessor to abortion. Through my additional research I was able to find research that articulated propaganda to spread stigma, as well as the judicial bypass process in Texas that put women through a stigmatizing and demeaning process. These two additional articles created cohesive connections of abortion stigma. Kumar, Hessini & Mitchell (2009) conceptualized abortion stigma through social constructions implemented by media and propaganda. Moreover, Kimport and colleagues (2016) implemented ideals of abortion stigma and misogyny through physicians exhibiting empathy for women receiving abortions, whether they felt that these women had valid reason to use their health rights. Biggs et al. (2020) conceptualized abortion stigma through emotional and mental trauma similarly to Coleman-Minhan et al. (2018) who conceptualized stigma through the judicial bypass process. Finally, Kimport & Littlejon (2021) conceptualized stigma through women's sexuality. I found that all six of these articles provided so much depth to my theme of abortion stigma, and even more so to conceptualization of the criminalization of abortion.

## **Theme Two: Justification/Legitimizing Abortion**

Within several articles I reviewed, the criminalization of abortion was conceptualized differently among all scholars. While Finer et al. (2005) utilized surveys and interviews across the nation to convey abortion reasoning; Carriveau & Colmenero-Chilberg (2010) utilized their research to **construct a survey** in South Dakota to understand why abortion attitudes and votes did not correlate. While the articles uniquely sought out abortion reasoning and attitudes, the central theme within the two articles was this idea of legitimizing abortion. Upon conducting more research, I came to the realization that to develop an efficient conceptualization, I needed to incorporate more research about actual lived abortions and the overall perspectives surrounding abortions.

Legitimizing and justifying abortions are concepts that often derive from support of physicians, as women must often defend their actions the additional support of the medical field is crucial in legitimizing the process. Shotorbani et al. (2004) constructed a survey and data collection of residents and students entering the medical field to further understand perspectives of abortion stigma among residents, physician assistant students and nursing students. Through the surveys conducted and research done Shotorbani et al. (2004), students enrolled in the University of Washington School of Medicine, physician assistant program (MEDEX) or School of Nursing were specifically asked their perspectives on abortion, including the availability and willingness to perform if necessary. As the students resided within a younger generation than other doctors and different demographics the students were more supportive of abortions in any circumstances. These students were also willing to attend programs that included abortion training, however the authors found that these were not comfortable in the actual execution of an abortion. I find great significance in exemplifying the voices of the medical community as beyond laws and their enforcement are the gatekeepers as to whether women are granted abortions.

In one of my other articles (Kimport et al 2016), doctors **provided (or did not provide) empathy based on their perceptions of women's** reasoning for abortion (how they justified receiving one) following the procedure. **As stated above, misogyny and stigma dictated whether women received an empathetic response from their doctors. The clinic or office where the abortion is received in is just one area where stigma and justification occurs due to the** overwhelming need from our punitive society that there needs to be an explanation as to why women make choices

for themselves. The necessity for an explanation ties back into this idea that abortion is criminalized, and therefore women must provide evidence as to why they choose to receive one.

Additionally, I wanted to incorporate personal abortion stories, although the idea of abortion stories falls under the realm of stigma, there is significance in categorizing these stories in justification. Woodruff et al. (2020) incorporated personal abortion stories to strengthen legitimacy and highlight the severity of the process. Within this article women anonymously filled out a survey explaining their abortion story and stigma following the experience. The importance of these women sharing their stories is a way to legitimize the intensity of the process, but also these women found it created ways to advocate for the importance of women's rights. The harassment, threats and emotional trauma is overpowered by the rewarding experience of avocation (Woodruff et al. 2020). The data was collected through an online survey and participants were asked about their specific experiences and about the stigma they received when they shared their stories. Specific examples were incorporated such as employment issues, name calling, death threats, sexual harassment, etc. However, many women also spoke of positive experiences in which they were praised, supported, and changed perspectives of abortion (e.g., one of the women who shared her story influenced a state senator who then on ended his support for abortion bans). This article uniquely accounted for the use of abortion storytelling to reduce stigma, as well as normalized the context of abortion (Cockrill & Nack, 2013). As abortion storytelling has been stigmatized, it also provides a hope to destigmatize and provide empowerment for those that have had abortions, that might have abortions or those that are actively thinking about abortions. Furthermore, the use of personal abortion stories not only legitimizes and justifies the existence and necessity of abortion, but it is a crucial aspect of understanding its criminalization. Women who shared their stories received death threats, fired from positions, and physically threatened. It is unlikely that the (threats of) criminal acts against these women were not criminalized, yet it is somehow legitimate for women in the aftermath of an abortion to experience such harassment?

The research encompassing this idea of legitimizing and justifying abortion is an effective tool when discussing the criminalization of abortion. As I conducted my research, I wanted to emphasize perspective on and lived experience with abortion, both of which stress the magnitude of access to safe abortions for women across the United States. The research done by Shotorbani



et al. (2004) through surveys within the University of Washington School of Medicine highlighted the importance of abortion justification, the next generation of doctors, nurses and physician assistants showed support for abortion access. While there was an overwhelming display of support, many of the students were not in favor of providing abortion access within their own working facilities. The students also felt that there was a lack of abortion training and education but were willing to take courses and training on abortion (Shotorbani et al. 2004). In addition to justifying abortions through perspectives within the medical field, utilizing personal abortion stories develops this theme of justification. The need for safe access to abortions is highlighted from the trauma faced by women daily. Woodruff et al. (2020) gathered personal abortion stories from women across the United States in which women discussed the trauma following an abortion with a never-ending cycle of punishment, or they felt empowered by the occasional appreciation and admiration by other women. The research conducted by these scholars developed a structure to further understand the depths of justification of abortion, and how this demand of women to explain anatomical choices highlights how women are punished. A collection of cells is granted with more rights than the woman “carrying” it, that is truly the operation of punishment of women, and criminalization of abortion.

**Connecting additional research to my articles:**

Biggs et al. (2020) measured the mental and emotional effects after receiving an abortion through a coping scale following an abortion. These scholars emphasized the idea of emotional trauma following an abortion, not only are there external affects from others seen in Woodruff et al. (2020) however internally these women felt that they were ostracized from society and felt internal struggles of self-hatred and regret. There is great significance in analyzing the mental and emotional effects of an abortion to conceptualize this as legitimizing its severity. To understand how crucial, it is to exercise reproductive rights, I conceptualize willing to undergo such a traumatic experience because it is a necessity to continue in life, as an embodiment of how significant abortion rights are. Stressing the toll of mental health following an abortion highlights the sacrifices women are willing to make. Legitimizing abortion through measuring the emotional trauma was conducted differently among Biggs et al. (2020) and Woodruff et al.

(2020), however all scholars utilized research to justify abortion through stigma following the procedures.

Kimport et al. (2016) highlighted the concept of legitimizing abortions through perspectives of the medical field, however misogyny was also seen within the research. It was discovered that the physicians would deem certain abortions unjust compared to others, deeming what they viewed as appropriate or moral in women justifying abortions. Women who failed to use effective contraceptive measures received less empathy from physicians, whereas women who seemed regretful and expressed emotional distress and women who were likely to have an unhealthy pregnancy and baby received the most empathy. Thus, the physicians produced their own versions of what was a justified abortion and instituted a lack of empathy and stigma to women who use abortions for other reasoning. Ironically Shotorbani et al. (2004) also gathered abortion perspectives from the medical community, unlike the physicians within the study done by Kimport et al. (2016), the upcoming physicians, nurses and physician assistants were supportive of abortion but were unwilling to execute abortions within their practice.

Finer et al. (2005) conceptualized the justification of abortion through measuring the concept of abortion reasoning, through implementing qualitative and quantitative aspects, this study sought to specifically define as to why women across the country receive abortions through surveys within the physical abortion clinics from patients prior to their appointment, as well as physical interviews executed from additional women that were willing to share their experiences. The focal point was to conceptualize a shift in abortion cases over a 20-year period. Using firsthand experience especially for a topic of such controversy and magnitude truly embodies the justification, women providing all reasoning as to why they receive abortions ties into the concept of the criminalization of abortion. Both Finer et al. (2005) and Woodruff et al. (2020) implemented abortion reasoning and experience so effectively to highlight the justification of abortion. The influence of societal “norms” and media created the essence of abortion stigma. In hopes to destigmatize abortion, women provide reasoning as to receiving them. However, the need for women to explain personal anatomical choices is an embodiment of the punishment of women and the criminalization of abortion.

Carriveau & Colmenero-Chilberg (2010) highlighted the justification of abortion through abortion views through surveys to determine whether the state of South Dakota was in favor of a potential abortion ban in 2006 and how the impact of family values determined the unique outcome. These scholars conceptualized the abortion views of South Dakota, and how individuals' views are not reflective on the surveys conducted, this result is believed to stem from the improper initial surveys from 2006 as well as potential family values. The improved survey delineated different causes for abortions and hypothetical situations regarding whether individuals agreed with the right to terminate a pregnancy. This study holds significance in that Carriveau & Colmenero-Chilberg (2010) provided different reasoning to see how participants would justify abortion receiving an abortion. Justification or legitimizing abortion is crucial in further education of the topic, and this study highlighted that the lack of reasoning enabled a punishment of women and criminalization of abortion, however the latter reasoning provided completely altered the result.

In sum, while all four articles I reviewed placed emphasis mostly on the criminalization of abortion and its effects, these articles integrated ways the justification of abortion so uniquely. Biggs et al. (2020) measured the mental and emotional toll faced after abortions, which highlights the severity and legitimacy of abortion. Kimport et al. (2016) highlighted physician views on abortion, while the physicians used women's reasoning (or justification) for abortion to exhibit empathy or stigma. Finer et al. (2005) discussed abortion reasoning directly from women within clinics and hospitals prior to receiving the abortion. Carriveau & Colmenero-Chilberg (2010) sought to find discrepancies in voter responses across a previous study over abortion views in South Dakota, once participants were provided with reasoning as to why women receive abortions, many of their views changed. The implementation of personal experience and abortion views are imperative to discuss the justification of abortion. Understanding the depths of abortion provides insight as to why justification is so crucial. While justification of abortion is significant to abortion, the need to justify and explicate abortion presents how women are punished and must build a case as to why they utilize a reproductive health right. My additional research from Shotorbani et al. (2004) and Woodruff et al. (2020) provided insight into new members in the medical community and how they would handle abortions and specific personal abortion stories improved my conceptualization of the justification of abortion.

### **Theme three: Self Determination----->Societal Punishment of Women**

The demand for safe and legal abortion in the United States has been a never-ending war for women in the United States. Although the legalization of abortion was enacted nationally in 1973, women have remained in a continuum of punishment in American society. Various scholars analyze this idea of punishment of women within the realm of abortion differently; Cudd (2008) introduces the idea of femicide encompassing rape and enforced pregnancy. On the other hand, Oagle & Batton (2009) incorporated patriarchal domination in American society as a reason for why abortion was punished. Throughout articles I have reviewed there was a central theme of punishing women. As I broadened my research I wanted to focus on the societal impact of the punishment of women, along with the social construction of gender and how this impacts the criminalization of abortion.

There is great significance in noting the social construction of gender, specifically the construction and commodification of women's bodies within society. The operation of gender within the United States has been rooted in a never-ending realm of misogyny. Grossman (2019) highlighted the role of men in a punitive society after an analysis of Professor Anita Bernstein's (2019) book *The Common Law Inside the Female Body*. The overarching message within Bernstein's book was that women can prioritize themselves and their health over societal expectations, primarily focusing on denial of abortions (e.g., and the overall punishment of women. Bernstein takes the route of questioning the hypocrisy of male rule in society; while there is a constitutional right to receive an abortion, the Supreme Court has instituted this narrative of protecting women when banning second trimester abortions. In Grossman's (2019) analysis she placed emphasis on the message of the Supreme Court, argued that they created this idea that women are not capable of making their own decisions. Not only is this a form of punishment for women in particular but it is much more than just an idea or narrative since it also forces pregnancy and childbirth. With narratives and laws like this, Grossman (2019) questioned the role of women in society: are women people? Men are the ones making decisions based on the female body based on a definition on what it means to be a woman in society. The

social construction of gender has instituted being a woman means being a reproductive being for the purpose of sustaining society and is punished by society's expectations if they do not conform. Understanding the punishment of women ties into my two previous themes of abortion stigma and justification of women. The punitive treatment of women specifically regarding abortion is rooted within the stigma, and the incessant punishment calls for women to justify their reasoning for an abortion because their decisions are often deemed as invalid.

The subordination of women and the social control of female sexual reproductive capacity has encompassed American society (Chesney-Lind & Hadi, 2017). Access to contraceptives and abortion services have been restricted due to domination of conservatives and patriarchy within positions of power. Within the United States, the use of state abortion laws allowed for the strengthening of abortion laws across heavily conservative states such as Texas. Discussion from former republican presidential nominees' states that "there has to be some sort of punishment" for women who seek out abortion (White, 2016, para 28.). Not only are young women in the United States constantly facing the challenges of abortion access and restriction, but also punitiveness and stigma. The significance of abortion polarization in the United States is the severity to how it is politicized, although access to safe abortions has become a public health issue, utilizing women's bodies as a political campaign should never reach that type of magnitude. The politicization of abortion has developed new ways to punish women in modern day America; it is punitive and barbaric. Understanding the deep-rooted societal punishment of women is crucial to analyzing the criminalization of abortion; the male domination within positions of power coupled with conservative views has become detrimental to the public health of millions of women and young girls in the United States (Chesney-Lind & Hadi, 2017). The issue is that the polarization within government has created a dichotomy where human rights are up for discussion, moreover the punishment of women and restriction of constitutional rights are on the playing field of the political world, while the real lives of women and girls are the pawns of the game.

There is great significance in analyzing the foundation of female punishment within the United States, specifically analyzing the role of patriarchy and enacted stigma. The focus of the social construction of gender and gender roles for women plays a role in the restrictiveness of abortion access. Grossman's (2019) analysis of Professor Anita Bernstein's (2018) book *The Common Law*

*Inside the Female Body* provides insight as to the overall attempts to police the female body and develop an imposed submission of women. On the other hand, Chesney-Lind & Hadi (2017) placed emphasis on the attempts to punish women and control their reproductive systems. Overall, these scholars developed a solidified framework that demonstrated that we live in a society ruled by patriarchy and attempts to control women's bodies and one consequence of this is the societal punishment of women through limiting or banning access to abortion, stigmatizing them, or forcing them to provide "legitimate" justifications for abortion.

### **Connecting additional research to my articles**

The criminalization of abortion goes beyond abortion stigma, but to the extent of punitive treatment of women in modern society. Cudd (2008) introduces the idea of femicide, a phenomenon that encompasses rape and enforced pregnancy. Although the term femicide has been used for the mass murder of women for femininity, Cudd conceptualizes this term as also encompassing the punishment of women as social death in relation to rape and enforced pregnancy. In terms of the concept of abortion, Cudd (2008) claims "women are reproducers to be forced to reproduce (p. 196). The objectification of women as beings to reproduce is detrimental and objectification also ties back into the idea of stigma. The idea is that women should not receive abortions because they are meant to reproduce and as such if someone undergoes an abortion they deserve to be stigmatized. This concept of enforced pregnancy and maintaining women's reproductive systems is an embodiment of the societal punishment of women. Similarly, to Cudd (2008), Grossman's (2019) takeaways coincide with a similar belief system of the punishment of woman, specifically their bodies as a source of reproduction being their societal purpose. These two studies highlighted the embodiment of punishment of women through anatomical components and reproductive capacities; to understand the punishment of women in today's world is to comprehend the systematic misogyny this country has been based on.

The over domination of men in politics and media is a massive contributor to the societal punishment of women, therefore the analysis conducted by Oagle & Batton (2009) highlighted patriarchal domination within society. Specifically, how the patriarchy has shaped the United States, the influence of patriarchal government and media has contributed to stigma; a social

construction developed by government and media. For the last 100 years men have remained in power and instituted a sense of stigma on women in general, Oagle & Batton (2009) exclaimed how patriarchal societies limit women's access to power and resources. Additionally, Oagle & Batton (2009) stated the concept of a sexual double standard for women, discussing patriarchal control of women's fertility and sexuality. These concepts are imperative in diving into the criminalization of abortion and there are so many aspects of bodily autonomy to unload when conceptualizing it with abortion. Chesney-Lind & Hadi (2017) highlighted the politicization of abortion within the United States, primarily focusing on the patriarchal control within authoritative figures, whereas Oagle & Batton (2009) highlighted more so the stigma and punishment caused by the patriarchy. However, both articles articulated the central theme of societal punishment of women with a concentration on patriarchal control.

Furthermore, Kimport & Littlejon (2021) made the connection between women's relationship with their sexuality within the context of abortion. The two scholars highlighted abortion stigma and punishment of women within their research, deriving their conclusions from the preconceived role of women within society. This is specified in the lens of sexual pleasure, a phenomenon, they argue that has been societally deemed as something that should only be desired and felt by men. While most abortion research focuses on stigma and trauma, Kimport & Littlejon (2021) take a unique approach through developing the framework of sexuality and how the punitive society we live in has constructed the idea of women as beings for sexual reproduction, as opposed to women as sexual beings for pleasure and enjoyment. Throughout their research it was discovered that women who were more comfortable with sexuality and the idea of intercourse were more comfortable with abortion and those that were not comfortable with sex and intercourse were submissive to this idea of punishment for abortion (Kimport & Littlejon 2021). This demonstrates an interesting connection between relationship of how women are viewed as sexual beings for pleasure and are punished for their own sexual pleasure.

Grossman (2019) also implemented the overall ideas of the utility of women's bodies in society, whereas she incorporated the concept of women's role in society for reproduction with the ironic twist of the restriction of reproductive rights. These scholars all play a vital role in highlighting women's sexuality regarding abortion, the contrast between sexuality and punishment has built a framework for the discussion of the criminalization of abortion.

Although Biggs et al. (2020) focused on abortion stigma as the primary component of their research, the enacted stigma stems from the concept of punishment. The social construction of stigma derives from the idea of punishment and a continuum of systematic misogyny. Stressing the severity of the emotional and mental trauma due to the abortion stigma highlights the continuation of punishment of women. The foundation of abortion stigma within the United States derives from a patriarchal domination in media and politics, stigma allows for punishment of women to flourish. The research conducted by Biggs et al. (2020) included individuals who obtained abortions and those who had also denied them. The denial of abortion and the stigma enacted by those who received abortions instituted a loophole of punishment. The concepts of stigma and punishment correspond especially when discussing abortion and women's rights, while both Grossman (2019) and Chesney-Lind and Hadi (2017) incorporate the aspects of stigma and punishment into the works the analysis conducted by Biggs et al. (2020) touched base more so with the emotional and mental effects following an abortion, or the denial of receiving an abortion.

In sum, all four of these articles encompass the systematic punishment of women in the United States, specifically regarding abortion as well as the domination of patriarchal control within government. The additional research I provided bridges a connection to fully epitomize the overall punishment of women with the specific components of femicide (Cudd 2008), the American patriarchy (Oagle & Batton 2009), the double standard of sexuality for women (Kimport & Littlejon 2020) and finally the emotional and mental punishment (Biggs et al. 2020). These four articles connect female punishment, and this claim is enhanced by the works of Grossman (2019) discussing the role of the female body and Chesney-Lind & Hadi (2017) discussion of policing and punishing women's bodies. The systematic punishment of women has become an overarching theme throughout history; however, the criminalization of abortion is the true embodiment of the deep-rooted misogyny within American society.

### **Conclusion**



The magnitude of abortion within society has weighed heavily on women in the United States, no matter the time that has passed from the legalization of access to safe abortions; the criminalization of abortion has remained prevalent and has recently increased. The identification of themes within the conceptualization of the criminalization of abortion is crucial to progressing society and research scholarship forward in hopes to destigmatize and decriminalize abortion. My first theme focused on abortion stigma and the weight it has on women, my articles varied with scopes such as the emotional trauma, enacted stigma from physicians, stigmatizing women for their sexuality to denoting the power struggles of being a woman with the ability to reproduce. My second theme focused on legitimacy and justification of abortion itself, and how the need for women to justify their abortions by providing reasoning denotes a power struggle and subordination of women. Finally, I focused on the punishment of women within society and how the utilization of their bodies has become a political scandal. I find that all three of these themes are imperative to conceptualizing the criminalization of abortion. The overall punitive treatment of women within a patriarchal society contributes to the abortion stigma that is so devastating for women and the justification of abortion reasoning indicates this idea that women are responsible for explaining their bodily choices. The right to exercise bodily autonomy comes with a standard of explanation at the very least, because exercising a constitutional right has become gradually restrictive and nearly overturned for decades. Although I was able to find research that effectively conceptualizing the criminalization of abortion through the lens of themes I developed through common patterns, I will outline new avenues for future research.

### **Future research:**

Out of all the research I have done over the last several months I found difficulty finding exactly what I needed to conceptualize the criminalization of abortion. However, the concept of abortion needs to be a more widely educated topic of discussion; the idea is to educate younger generations within high schools and follow up with these same individuals ten years later to see how their views have changed, or how they have dealt with the concept of abortion as they grew into adulthood. The normalization of abortion is lacking throughout society, normalizing would be the first step into decriminalization. Everyone is entitled to their own individual opinions, but the lack of education is contributing to immense stigma and punishment of women.

Another avenue of research could dive into is a comparison between countries with more progressive abortion laws and how it impacts mental health. To see a qualitative study of how perhaps progressive nations in Europe have less stigma would be beneficial when conducting studies in the United States. As Americans there is a narrative that being in the United States is superior, and we are given the most rights and freedom; however, across the ocean there is more access to abortion and healthcare treatment. To conceptualize abortion on a global scale, understanding different contrasts across different nations would provide insight on how to improve measures, educate and create progressive initiatives across the United States rather than allowing abortion (A constitutional right) to be based off state decisions.

Finally, I think that a final area of research could incorporate the progression of abortions over the last 100-200 years and how stigma has been enacted only in the last 100 years. I think research starting with the foundation of abortion stigma would be beneficial when conceptualizing the criminalization of abortion. As many other scholars have mentioned, stigma has been imposed by conservatives and media, however where did the preliminary stages of abortion stigma begin? In various articles I have read abortion was a regular procedure in the late 1800s and early 1900s, when and why did abortion stigma begin and develop into such a polarizing component of society today?

## References

Guttmacher Institute. Parental involvement in minors' abortions. Available at:

<https://www.guttmacher.org/state-policy/explore/parental-involvementminors-abortions>.

Biggs, M. A., Brown, K., & Diana, G. F. (2020). Perceived abortion stigma and psychological well-being over five years after receiving or being denied an abortion. *PLoS One*, *15*(1)  
<http://dx.doi.org.jerome.stjohns.edu/10.1371/journal.pone.0226417>

Carriveau, P., & Colmenero-Chilberg, L. (2010). Voters Reframe the Abortion Policy Debate: A Theoretical Analysis of Abortion Attitudes in South Dakota. *The Great Plains Sociologist*, *21*, 51-93,3.  
<https://jerome.stjohns.edu/login?url=https://www-proquest-com.jerome.stjohns.edu/scholarly-journals/voters-reframe-abortion-policy-debate-theoretical/docview/847824302/se-2?accountid=14068>

Chesney-Lind, M & Hadi, S.T> (2017) Patriarchy, Abortion, and the Criminal System: Policing Female Bodies, *Women & Criminal Justice*, *27*:1, 73-88, DOI: 10.1080/08974454.2016.1259601

Coleman-Minahan K, Stevenson AJ, Obront E, Hays S. Young Women's Experiences Obtaining Judicial Bypass for Abortion in Texas. *J Adolesc Health*. 2019 Jan;*64*(1):20-25. doi: 10.1016/j.jadohealth.2018.07.017. Epub 2018 Sep 6. PMID: 30197199; PMCID: PMC7274206.

Cockrill K, Nack A. "I'm not that type of person": Managing the stigma of having an abortion. *Deviant Behav* 2013;*34*:973-90.

Cudd, A. E. (2008). Rape and Enforced Pregnancy as Femicide: Comments on Claudia Card's "The Paradox of Genocidal Rape Aimed at Enforced Pregnancy". *The Southern Journal of Philosophy*, *46*, 190-199.  
<https://jerome.stjohns.edu/login?url=https://www-proquest-com.jerome.stjohns.edu/scholarly-journals/rape-enforced-pregnancy-as-femicide-comments-on/docview/218178529/se-2?accountid=14068>

Finer, L. B., Frohwirth, L. F., Dauphinee, L. A., Singh, S., & Moore, A. M. (2005). Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives. *Perspectives on Sexual and Reproductive Health*, 37(3), 110-8.  
<http://dx.doi.org.jerome.stjohns.edu/10.1111/j.1931-2393.2005.tb00045.x>

Grossman, J. L. (2019). Women Are (Allegedly) People, Too. Northwestern University Law Review Online, 114, 149-159.

Kimport, K & Littlejohn, K (2021) What are We Forgetting?  
Sexuality, Sex, and Embodiment in Abortion Research, *The Journal of Sex Research*, 58:7,  
863-873, DOI: 10.1080/00224499.2021.1925620

Kimport, K., Weitz, T. A., & Freedman, L. (2016). The Stratified Legitimacy of Abortions. *Journal of Health and Social Behavior*, 57(4), 503–516. <http://www.jstor.org/stable/44507355>

Kumar, A., Hessini, L., & Mitchell, E. (2009) Conceptualising abortion stigma, *Culture, Health & Sexuality*, 11:6, 625-639, DOI: 10.1080/13691050902842741

Ogle, R.S., Batton, C. (2009) Revisiting Patriarchy: Its Conceptualization and Operationalization in Criminology. *Crit Crim* 17, 159–182 . <https://doi.org/10.1007/s10612-009-9081-0>

Shotorbani S, Zimmerman FJ, Bell JF, Ward D, Assefi N. Attitudes, and intentions of future health care providers toward abortion provision. *Perspect Sex Reprod Health*. 2004 Mar-Apr;36(2):58-63. doi: 10.1363/psrh.36.58.04. PMID: 15136208.

White, D. (2016). *Donald Trump on abortion: "I'm saying women punish themselves."*  
Retrieved from <http://time.com/4340358/donald-trump-women-abortions-punish/well-being>

Woodruff, K., Schroeder, R., Herold, S., Roberts, S. C. M., & Berglas, N. F. (2020). Experiences of harassment and empowerment after sharing personal abortion stories publicly. *Contraception: X*, 2, 100021. <https://doi.org/10.1016/j.conx.2020.100021>

Ziegler, M. (2018). Some form of punishment: Penalizing women for abortion. *William & Mary Bill of Rights Journal*, 26(3), 735-788.