How political institutions shape abortion law in the United States, Britain and Canada


Drew Halfmann

The topic of abortion is a complex and controversial one for most contemporary societies, with the arguments around it consisting of multiple dimensions including population control, sanctity of life, freedom of choice and parental consent, to name but a few. In a recent lecture, the director of the London School of Economics and Political Science, Professor Craig Calhoun, promised a provocative discussion as Drew Halfmann, University of Calfornia, argued that political institutions have been, and are, key in the development and implementation of abortion policies. In his book Doctors and Demonstrators, Drew Halfmann looks at how three countries, Britain, Canada and the United States have differed significantly in their policies on abortion despite sharing similar heritage and culture. Here we look at how gatekeeping evolved in all three countries, which actors influenced policy and the how abortion became so politicised in the US.

Provision

During the 1960's reforms began in the United States, Canada and Britain of the provision and funding of abortions, these reforms were markedly different in their approach to medical gatekeeping. This consisted of three dimensions: who could authorise abortions; why they were authorised; and where they were provided. In these early reforms the US was the most liberal of the three, allowing *de facto* abortions with no restrictions based on reason or location, provided that one doctor agreed to the procedure. In Britain abortions were authorised outside of, as well as, in hospitals and the grounds for legal abortions widened to include social grounds and foetal abnormality as well as the existing health grounds. However each procedure had to be approved by two doctors. Canada was the most restrictive of the three: abortions could only be performed for health reasons and with the approval of hospital committees. These committees were optional and only one third of hospitals formed them.

Funding

In relation to funding Canada had the most open policy with most abortions taking place in public or non-profit hospitals and paid for by the state. However strict gatekeeping and poor use of hospital committees resulted in poor provision of abortion procedures and led many Canadian women to travel to the US. In the United States the cost was split between the state and the woman herself, with the majority of procedures taking place in single purpose clinics. Many women at this time chose not to use private health insurance for this purpose for reasons of privacy. In Britain half of all abortion procedures took place under the NHS and half in private clinics, but there was still regional variation in the provision of this, with areas such as London performing more procedures than Birmingham.

The role of political institutions in shaping the law

Following these reforms 'pro-life' movements attempted to roll back reforms. In Britain and Canada this had little effect due to the actors and indicators involved in the reforms. The politicisation of the judicial system in the US however, and the multiple venues in which reforms could be debated led to abortion becoming a key issue on the political agenda as it remains to this day.

The power of professional bodies and their relationship to the state was also a key factor. The British Medical Association and Canadian Medical Association lobbied policy makers to preserve medical gatekeeping and clinical autonomy arguably because of cooperative relations between the medical professionals and bodies with the state. The involvement of medical professionals in the issue and provision of abortion has allowed for the development of abortion as a medical necessity.

In the United States, however, clinical autonomy was of lower priority than economic and organisational power, and the American Medical Association chose to avoid the issue, allowing abortions with little restrictions on funding and gatekeeping initially, with the Supreme Court following suit. Broad US reform also led to elected officials avoiding the issue, and when the decision was left to the Supreme Court (who were insulated from public opinion) their decision on abortion outpaced public opinion, making room for 'pro-life' groups, and resulting in the court being charged with usurping the powers of the legislature.

In the United States the issue of abortion shifted from a medical one to a political one. Initially parties avoided the topic and then polarized as many movements, including the 'pro-life' and feminist movement, made major gains in porous parties. The federalism in the US and the resulting fragmentation of the political system, as well as separation of powers, has allowed for hundreds of 'battles' on the issue, none of which are have been able to win the 'war'. The 1989 *Webster* decision by the Supreme Court upheld a Missouri law that imposed parental consent, waiting periods and mandatory counselling for woman (in turn giving individual states authority on abortion). The 1992 the decision in *Casey* by the Supreme Court however reaffirmed the ruling of *Roe v. Wade* (which established the right to life) but broadened the states authority to regulate it. However, as governors, state and federal legislators, judges and political candidates have spent hundreds of hours debating the issue, the quality and availability of abortion services has diminished as a by-product of reductions in public spending and its widespread characterisation as an 'elective' procedure.

The role of political institutions in shaping approaches to abortion has generally been overlooked in much of the literature on this topic. In the United States, the combination of federalism, judicial review and private health care funding has led abortion to be seen as an individual right and not a medical necessity (as in Canada and Britain). Federalism and political fragmentation in the United States allows for access points for pro-choice and pro-life groups resulting in a great deal of debate with no resolution.

This article gives the views of the authors, and not the position of LSE Health and Social Care, nor of the London School of Economics and Political Science.

March 6th, 2013 | Health Care | 0 Comments