Women's abortion laws in canada

Question 1

The specific group of people we have chosen to examine is women. Women of all ages and race makes up this group. It is important for us to examine this social welfare area because since the beginning of time women were considered as minorities and in some countries still do.

Question 2

Even though women in Canada are not as oppressed as to women in third world countries, there are still some areas that needs improvement in the Canadian society. For example, wage gaps. The gender pay gap is a widely recognized indicator of women’s economic inequality. Canada is ranked as having the 8th highest gender pay gap out of a list of 43 countries examined by the OECD, based on 2016 data. There’s also violence against women in Canada. Canadian women and girls live with a heightened risk of violence – often at the hands of someone they know. There are still misconceptions regarding sexual assault and harassment towards women in Canadian society. Women are often misunderstood and not taken seriously when such crime is being reported. Then we have women and poverty. Even though Canada is such a wonderful country with endless opportunities, there are still women who are facing major poverty within Canada. It is reported that more than 1. 9 million of women in Canada live on a low income. It is also reported that, “ Certain groups of women are more likely to live on a low income than others, and many systemic barriers stand in the way of their financial stability.” – Canadian Women’s Society.

Question 3

The Morgentaler Decision

The Supreme Court of Canada struck down the abortion laws of 1969 on the basis that it violated the Charter of Rights and Freedoms by restricting the physical and psychological health of women.

“ forcing a woman, by threat of criminal sanction, to carry a foetus to term unless she meets certain criteria unrelated to her own priorities and aspirations, is a profound interference with a woman’s body and thus a violation of security of the person,”(R. v. Morgentaler – SCC Cases (Lexum), 2019).

Although the word abortion is nowhere to be found in the Charter it is in effect a Charter right and a key point that has held up in every provincial and federal court case since. Quite simply, the fetus’s right cannot impede or infringe on a women’s Charter rights (R. v. Morgentaler – SCC Cases (Lexum). (2019).

Protection of the unborn fetus has come under challenge for over 30 years since the Morgentaler Decision. Bill 225 brought forth by the Conservatives, was an act introduced to amend the criminal code regarding the unborn fetus prompted by the 2014 murder of Cassandra Kaake during a break and enter. She was 7 ½ months pregnant at the time. The bill did not make it past the second reading in the house of commons. The level of outrage over a senseless act like this is understandable. However, a knee jerk response that could potentially harm all women’s rights by putting the rights of the fetus over that of the mother’s or equal to, is not only dangerous as it violates the basic charter rights of the living mother. It would also send

progress back 30 years to when abortion was illegal. Bill 225 was rightfully seen as a backdoor attempt to establish the rights of a fetus that would open the door to more legal battles.

A law that specifically addresses abortion in Canada would be redundant. It is implicit in the Charter of Rights and Freedom and applies to all women. To label or make specific rights for fetuses and/or situations in which abortion would be illegal would negatively impact the rights of women.

Safe Access Zones “ bubble zones”

First established in BC, bubble zones ensure 50 to 150 m safe zone from harassment, intimidation, protests and the recording of patients and health care practitioners who attend and work at facilities and clinics that perform abortions (Prasad & Krause 2018).

This provincially enacted law exists in British Columbia, Alberta, Ontario, Quebec and Newfoundland-Labrador.

They are without question significant in protecting the privacy of women. The argument that these safety zones violate freedom of speech are continuously shot down in the Canadian courts. The right to have an opinion and voice is still heavily guarded, but the right to privacy, security and safety trumps the tactics used by anti abortion protestors.

The Right to Referral

The Hippocratic Oath

“ I will not permit considerations of religion, nationality, race, gender, politics, socioeconomic standing, or sexual orientation to intervene between my duty and my patient;” (McMasters University, World Medical Association, 2019)

In Ontario a court of appeal recently held that a doctor’s personal religious beliefs regarding assisted suicide, contraception and abortion cannot interfere with their ability to provide medical services to their patients. They must effectively refer them to a clinic or doctor who will perform the procedure. This ensures equitable access to care for the most vulnerable (Loriggio, 2019)

As new laws are enacted to protect the reproductive rights of women it becomes evident just how fraught our institutions to which we rely on for unbiased healthcare, are entrenched with telling women what they can and cannot do with their own bodies. The Health Care Act ensures the medically required procedures performed either at clinics or hospitals are fully funded by Medicare. Abortion services have been deemed a medically required procedure, by all provinces and territories. Thus, abortions must be publicly funded (ARCC, 2017).

Saying this, there still provinces who are openly breaking the law. Ontario and New Brunswick (Fredericton) still have clinics that are not funded and are collecting users fees for abortion services. This is a direct violation of the Health Care Act and is perpetuated by the provincial government of both provinces.

Question 4

Service Models

In Canada there are two streams of service for abortions: hospitals and clinics. Hospitals represent about 16% of abortions in Canada, while clinics perform about 75-85% of abortions. Some barriers to hospitals include wait times, little or no counselling services, abortion procedures performed to a maximum of 12-14 weeks and staff that may be ideologically opposed to abortion. Additionally, abortion services may be at the mercy of politics or the lack of providers with the threat of restricted or discontinued access (ARCC, 2017). Conversely, clinics being a pro-choice environment have fewer restrictions including abortions as late as 16 to 22 weeks. The wait times are also shorter with full counselling services, after care and birth control as an essential part of their mandate (ARCC, 2017). Although covered by health care the cost to taxpayers for an abortion at a hospital is twice that of clinics (approximately $1500 at a hospital and $ 700 at a clinic). Partly because of the use of anesthesia: clinics use localized anesthesia to reduce the medical risks compared to general anesthesia used by hospitals (ARCC, 2017).

Although under utilized, there are advantages to using hospitals for abortion services. Hospitals are better represented in all communities including rural communities where clinics are located only in urban areas. Abortions are also completely funded at hospitals where clinics are mostly covered as some collect user fees illegally and are not publicly funded. Additionally, a hospital can perform non-elective as well as elective abortions and are better equipped to handle medical emergencies and high-risk pregnancies (ARCC, 2017).

Another advantage to hospitals for abortion procedures is the assurance that you are receiving sound medical advice. This is not to say that clinics do not. To the contrary, only physicians can perform abortions in Canada (Norman, W. V., Guilbert, E. R., Okpaleke, C., Hayden, A. S., Steven Lichtenberg, E., Paul, M., Jones, H. E. 2016) While most clinics that offer abortion services are pro-choice and staunch advocates for women's reproductive rights, a much seedier adversarial group is at work. In Canada, there are currently over 300 ' fake clinics' designed to disseminate misinformation by manipulating women when they are most vulnerable (T Khandaker, 2013). With innocuous names like, ' Women's Crisis Centre' ' Pregnancy Aid Centre and ' Aid to Women', these often religious prolife organizations set up clinics near, even next door to actual clinics in an attempt to lure women in. Once inside, women are subjected to individuals pedalling prolife advocacy, medical misinformation such as " abortion increases your likelihood of breast cancer" or " the fetus can feel pain" , to graphic images designed to pressure these already susceptible women (Realizing Sexual and Reproductive Justice, 2018).

The two service models for abortion are both publicly funded, in most provinces, and mandated under the Federal Health Act. The problem is how and under what terms the services are being offered. Women should not be forced into situations that will put them at a physiological, psychological or financial disadvantage because of the views and opinions of others. A women's decision for her own well being is her inseparable right unfettered by politics, religion and government. The two streams only highlight the gaps

in service for women who either live in rural communities, are economically encumbered or physically disabled.

Additionally, fake clinics need to be called out for what they are: detrimental to the safety and rights of women. It is a classic bait and switch. These fraudsters are using women’s fear and need for help to trap them into ‘ buying” their phony advice. I believe the public needs to be educated on their existence and their negative impact on our communities. Furthermore, I believe their names should reflect what service they offer: prolife opinions. As they do not offer advice based on any factual or medical evidence.

Even though provinces are responsible for their own healthcare spending, the position taken by British Columbia and Quebec make them exemplary models of respecting women’s reproductive rights for the rest of Canada. Since 1994 BC has legislated that access for all communities are authorised services at all hospitals. They have developed training to providers and connected all community services throughout the province through a central toll-free number ensuring everyone has access everywhere (Norman et al, 2016). For nearly 4 decades Quebec has established family planning policies, funded community-based family planning services and developed a network of hospital based public abortion facilities throughout the province. Since 2001 the government has funded 1 st and 2 nd trimester abortion services. And like BC ongoing training, research and an oversight committee work collaboratively with the government and other organizations (Norman et al., 2016); a stark contrast to the rest of the country where disparities are found in rural to urban communities. Unlike BC and Quebec not all hospitals in Canada provide abortion services. Whether this is a political agenda,

community driven or a cost factor, options need to be addressed to ensure all women everywhere have access.

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