Alabama abortion ban: Back to barbarism

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Alabama Governor Kay Ivey signed into law Wednesday afternoon the most stringent ban on abortion in any state, criminalizing the medical procedure except in cases where the life or health of the mother is in serious danger. An amendment to permit abortion in cases of rape and incest was removed from the bill when it reached the floor of the state Senate on May 9.

The new law imposes a prison term of up to 99 years for any doctor who performs an abortion except to save the life of a pregnant woman. There is a ten-year term for attempting to perform an abortion. While women who receive an abortion are not explicitly criminalized, the law establishes "personhood" for a fetus from the moment of conception. This opens the door for criminal prosecution for child abuse of pregnant women for any conduct deemed to be potentially damaging to the fetus.

Republican legislators in the state House and state Senate decided to enact the most extreme anti-abortion bill in order to give the US Supreme Court the opportunity to overturn the 1973 *Roe v. Wade* decision, which threw out state laws criminalizing abortion. Rep. Terri Collins, the sponsor of the bill, was quite explicit that the ban on abortion for victims of rape and incest was necessary in order to assert, in the face of expected legal challenges in the federal courts, the principle that a fetus is a living person from the moment of conception, with full constitutional rights.

The Alabama law is an outrageous act of medieval barbarism. Its consequences, should it eventually be upheld by the courts, would be to force women seeking abortion in Alabama into back-alley procedures at greatly increased risk of death or mutilation. This danger will face working class women especially, since wealthier women will be able to travel to other states to have the procedure. This is in a state so impoverished and with such a deficient social infrastructure that more than half of its counties have no obstetricians.

The law is unconstitutional, not merely because it directly contradicts the *Roe v. Wade* precedent, but because it represents the elevation of a religious doctrine to state policy in violation of the First Amendment ban on the establishment of religion. Alabama legislators were quite explicit about the religious motivation for the law.

Republican Senator Clyde Chambliss, a sponsor of the bill, argued against exceptions for rape and incest, declaring, "When God creates the miracle of life inside a woman's womb, it is not our place as human beings to extinguish that life." The House sponsor, Terri Collins, said the bill was the outcome of "prayer." This directly contradicts the First Amendment, which bans translating into law—imposed on all citizens—the religious prejudices of fundamentalist Protestants or the corrupt Roman Catholic hierarchy.

There is every reason to believe that the five-member ultra-right majority on the US Supreme Court is looking for an opportunity to overturn *Roe v. Wade*, despite the perfunctory statements made by four of the five during their confirmation hearings that *Roe* was a settled precedent. Significantly, the high court on Monday went out of its way to overturn a 40-year-old precedent dealing with an obscure issue of state sovereignty, namely, whether states have sovereign immunity from lawsuits by residents of other states.

Justice Stephen Breyer in his dissent said that the five-member right-wing majority was setting a precedent for overturning well-established precedents and warned, "Today's decision can only cause one to wonder which cases the Court will overrule next." The unstated reference to the 46-year-old *Roe v. Wade* decision was understood by all court observers.

There are a multitude of abortion rights cases now in the federal courts, triggered by a wave of restrictive legislation enacted by Republican-controlled state legislatures, mainly in the period since Trump entered the White House and appointed two ferociously anti-abortion justices to the Supreme Court. Neil Gorsuch replaced Antonin Scalia, which did not shift the balance on the court on the issue, but Brett Kavanaugh replaced Anthony Kennedy, who had been the swing vote on numerous abortion rights cases and co-wrote the current controlling decision, *Planned Parenthood v. Casey* (1992), which represented a restriction on abortion rights but left *Roe v. Wade* basically intact.

Just since January, four states—Georgia, Kentucky, Mississippi and Ohio—have enacted "fetal heartbeat" laws that ban abortion after the sixth week of pregnancy. The sole purpose of these laws is to block the vast majority of abortions, since few women are even certain they are pregnant only six weeks after conception.

One law, introduced in Texas but not yet enacted, goes even further: it would remove the exemption of abortion from the state definition of homicide, making every woman who receives an abortion potentially a candidate for Death Row.

These are not merely state decisions. They have national implications. It cannot be ruled out that state laws criminalizing

abortion within a state will be interpreted to criminalize the conduct of a woman who travels outside the state to obtain an abortion, as well as the actions of those who help her. This is the barbaric logic of the position that "abortion is murder."

Moreover, there is no reason to believe that the Supreme Court majority will not go beyond merely reversing *Roe v. Wade*, which would leave abortion policy to the states. Also possible is a sort of *Dred Scott* decision in the sphere of women's rights, requiring states that recognize abortion rights to enforce the prohibitions enacted by anti-abortion states, just as Trump is seeking to compel "sanctuary cities" to enforce the most draconian attacks on immigrants and refugees.

Beyond the legal counterrevolution against *Roe* is the implacable withdrawal of social support for women seeking an abortion. According to the Guttmacher Institute, 90 percent of all US counties have no abortion provider. In seven American states, there is only a single abortion provider in the entire state. Alabama has only three. Even a large, densely populated Midwest state like Ohio has only 10, down from 45 in 1992. Twenty-seven large American cities have no abortion provider.

And abortions are not covered under Medicaid or Obamacare—because of continuous capitulations by the Democrats on this issue. The result is that for much of the United States, working class women have already been deprived of the right to abortion. They cannot fly to New York, Chicago or Los Angeles to terminate an unwanted pregnancy.

The systematic evisceration of abortion rights across much of the country has attracted only a tiny fraction of the energy, money and media attention devoted to the Democrats' reactionary #MeToo campaign, which seeks to improve the fortunes of upper-income women—actors, corporate executives, professors—by removing their male superiors and peers through largely trumped-up allegations of sexual misconduct. The Alyssa Milanos of this world do not care about abortion rights for working class women in Alabama and Georgia. Even with a total US ban, they would always be able to jet off to Toronto or London.

The passage of the Alabama law was greeted with a hypocritical chorus of disapproval by congressional Democrats. Over decades in which the right to abortion has been largely eviscerated, the Democratic Party, always cowering before the Christian right, has done little to defend it.

Nancy Pelosi tweeted this week against "this relentless and cruel Republican assault on women's health." But during the 2018 campaign she declared that defense of the right to an abortion was not a "litmus test" and insisted on backing Democrats in some congressional districts who held equally "cruel" views.

Bernie Sanders, Joe Biden, Kamala Harris, Kirsten Gillibrand and other presidential candidates also condemned the decision. But none of them have made the defense of abortion rights, particularly in the South and in rural areas, a major feature of their campaigns. This is despite Trump's repeated declarations that he intends to make the overturn of *Roe v.* centerpiece of his reelection campaign.

Earlier this year, when Virginia Governor Ralph Northam, a longtime pediatric neurologist, discussed the necessity for late-term abortions in certain exceptionally difficult medical emergencies, he was vilified by the ultra-right media and attacked by both Trump and Vice President Pence. There was no outpouring of support from his fellow Democrats, and when right-wing media then published the governor's college yearbook page showing a man in blackface standing next to a person in Klan robes, the Democrats deserted Northam *en masse* and called for his resignation , even though the attack on him was clearly motivated by his defense of abortion rights.

Now the incessant talk of "empowering" women—which means, of course, *bourgeois* women—runs into the embarrassing spectacle of Alabama's first female governor, once hailed as a moderating influence on the Republican Party, signing into law the most restrictive anti-woman legislation in recent American history.

The reality is that abortion is a democratic right that is of particular importance to the working class. It is working class women who must make difficult decisions about how and when to have children. They face the greatest danger of becoming pregnant through rape or some other form of abuse. The class divide in American society applies just as forcefully in that sphere as in any other.

Abortion rights, along with all other democratic rights, cannot be defended by relying on or seeking to pressure the Democratic Party. They can be defended only through the struggle, led by the working class, against the capitalist system and all of its political representatives.

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