

Abortion: A Conservative Option for Canada

For the Modern liberals of the Justin Trudeau Liberal Party an unlimited access to abortion is not a public issue deserving of attention. Based on their belief in the primacy of individual freedom of choice, they are content that women have an unfettered right to abortion on demand in Canada. Moreover, given their moral relativism – choose your own values – Modern liberals do not see abortion as a moral issue. In contrast, for Conservatives who adhere to the traditional Christian-based morality and ethics of western civilization, abortion raises a critical moral issue concerning the sanctity of human life.

Within the Conservative Party, there is a division on the issue of abortion between the social Conservatives, who are opposed to abortion under any circumstance, and mainstream Conservatives who believe that there are several situations in which an abortion can be justified. For Conservatives, access to abortion is not a fundamental human right that a pregnant woman has as an individual. Rather, it is a moral and social issue that needs to be addressed by the elected representatives of the nation in parliament.

On a personal level, it is the woman who must decide if she wants to pursue an abortion. However, for Conservatives, parliament has a right and a duty to introduce legislation to protect the health of the pregnant woman and, once the embryo becomes a fetus, to protect the life of the fetus/future child. The regulation of access to abortion is a complex public issue for Conservatives, but useful insights can be gained through studying the approach that European governments have taken in enacting legislation to regulate access to abortion.

European Approach to Abortion

In the European Union, most of the member countries recognize that it is solely the pregnant woman who has the right to request an abortion. However, there is legislation in place that regulates access to abortion to protect the health of the pregnant woman and to provide her with information and counselling with respect to alternatives to abortion and to inform her of the social support systems that are available. The biological father of the unborn child has no legal standing where consent to an abortion is concerned.

In the European approach to the legalization of abortion, there are common elements that are incorporated in the various national abortion laws. Pregnant women have a recognized right to request an abortion, but not necessarily to obtain an abortion. Access to a legal abortion is granted – barring later unforeseen developments – only during a limited time in the early stages of a pregnancy. The pregnant woman requesting an abortion must undergo a consultation with public health authorities and undergo a medical examination by her physician to determine whether she has a recognized ground(s) for receiving an abortion, and then there is a waiting period following the authorization of an abortion– anywhere from three days to seven days -- before the abortion can be legally performed. The imposition of a waiting period, after the consultation, is intended to provide the woman with an opportunity for a sober second thought after being provided with information on the abortion operation, the potential health repercussions, and alternatives to an abortion.

Doctors, nurses, and health care worker have the right to refuse to participate in an abortion. If a doctor is opposed to performing abortions, he or she must inform the patient of that stance during the consultation. For most countries, there is an additional requirement that the physician who refuses to perform abortions, upon informing the patient of that refusal during the consultation, must refer the patient to a doctor who will perform abortions.

The age of consent varies in Europe from 16 years old to 18 years old. In all countries, a pregnant minor who requests an abortion, must have the consent of at least one parent or a legal guardian. In Norway, if the parents refuse to give permission for a pregnant minor to have an abortion, the county governor can

grant permission depending on the situation. In several countries, parental consent does not have to be attained if the minor is subject to domestic violence or coercion at home.

During the consultation, the physician is required to explain the nature of the abortion operation, and the risks involved, as well as required to present alternatives to an abortion, including the putting out of the future new-born baby for adoption. The patient must be informed of the social support systems available, including after-care, if she should decide not to go through with an abortion. In addition, the candidate for an abortion must undergo a medical examination. Austria has specified the medical tests required: viz. blood group, Rhesus factor test, ultrasound examination, HIV test, and hepatitis test. Another country, the Czech Republic, has specified the illnesses that pose a substantial risk to the pregnant woman and that need to be taken into consideration before deciding whether to authorize an abortion: viz. heart and vascular system diseases, pulmonary and heart illness, blood formation pathologies, cancerous tumours, tuberculosis, and neurological, as well as genetic and mental health diseases, to which another country has added diabetes.

Most of the national abortion laws in Europe authorize abortions to be carried out only by a doctor in a hospital, or a licensed medical clinic, to protect the health and well-being of the woman undergoing an abortion. Moreover, many European countries have Criminal Code provisions that are enforced against persons who violate the regulations governing legal abortions. In several countries, the legislation provides that doctors who violate the abortion regulations, can be heavily fined and/or sentenced to prison for up to two or three years and, at least one country, Italy, holds the woman criminally responsible as well -- for procuring an illegal abortion -- if she is over 18 years old.

The limited period -- during the early stages of pregnancy -- when a woman can request and be authorized to receive a legal abortion varies only slightly in the abortion laws of the different European countries. It ranges from a general standard of twelve weeks (eg. Austria, Belgium, Czech Republic, Denmark, France, Germany, Norway, Poland, and Portugal, to 13 weeks (90 days) in Italy, to 14 weeks in Spain, to 18 weeks in Sweden, to 20 weeks in Finland, and 24 weeks in the Netherlands and Great Britain. The rationale for limiting abortion upon request to the time periods cited, appears to be that a fetus can survive outside the womb at 27 weeks. Whether that critical time in the development of the fetus was regarded by the European legislators as the beginning of real life, or whether there was a concern that a healthy fetus removed from the womb after that lapse of time would have to be killed, remains unclear. However, in all European countries the specified limit on the time for authorizing an abortion is well short of 27 weeks.

The basic criteria for authorizing an abortion, during the specified early period of pregnancy are primarily based on medical concerns and are quite similar for most European countries. In one country, Belgium, there is only one criterion: that the pregnant woman who is requesting an abortion, must be "in distress" which is a criterion that can be very broadly interpreted. Otherwise in Europe, there are generally three universal criteria governing the authorization of a legal abortion by a physician or -- as required in several countries -- by two independent physicians:

- that the pregnancy poses a serious health risk, or life threat, to the woman due to a physical or mental illness, depression, or her particular living conditions;
- that there is a high risk that the baby will be born with a severe health problem resulting from a genetic predisposition, or of being born mentally challenged, or of being born with severe physical disabilities, or of being born with a serious illness or damage experienced while in the womb; and
- that the pregnancy was the result of a criminal act, such as child abuse, sexual assault, rape, or incest.

At least two European countries have expanded the three basic criteria governing the authorizing of a legal abortion, to include broader social factors. For Denmark, the criteria employed in deciding whether to authorize an abortion takes into consideration two additional factors:

- whether there is an evident physical or psychological illness, or immaturity, that would render the expectant mother unable to provide proper care for an infant; and
- whether an additional child would place a severe burden on the family with existing children in consideration of their living situation, financial circumstances, employment, and the woman's age.

In addition, in Finland the abortion legislation authorizes an early legal abortion for expectant mothers who have already given birth to four children.

Once the early stage of pregnancy – anywhere from 12 to 24 weeks – has passed, access to abortion is severely limited in all European countries. After that period, an abortion can be authorized only if the continuation of the pregnancy threatens the life of the woman; or it is discovered that the fetus is severely damaged, has a serious physical or mental impairment, or is incapable of living outside the womb.

All of the European countries are signees of the European Convention on Human Rights, but no country recognizes a pregnant woman as having an absolute human right to demand and receive an abortion. To the contrary, the pregnant woman must request access to a legal abortion. And it is the State, through legislation enacted by parliament, that sets forth the criteria and regulations governing access to abortion, and which delegates to medical practitioners the responsibility for making the decision as to whether to authorize an abortion in keeping with the criteria and regulations governing access to an abortion as established by parliament.

In every country, the criteria and regulations governing a legal abortion are based on a concern for the physical and mental health and well-being of 'the patient' and the health of the fetus and the well-being of the future newborn, and whether the woman consented of her own free will to the sexual act that impregnated her. The criteria and regulations are pragmatic, but they do express an underlying moral concern for the welfare of the woman and her future child in the determining of whether to authorize a legal abortion. Indeed, several countries impose a further moral element in their criteria governing access to abortion in wanting to ensure -- in deciding whether to authorize an abortion or not -- that the newborn will be well taken care of, nurtured, and loved by a caring mother.

Clearly, European legislatures have realized that for the protection of the health and well-being of pregnant women who are seeking an abortion, there is a need for regulations – embodied in legislation – to set forth the process to be followed and the support systems that need to be in place. It is recognized that a pregnant woman has the right to request an abortion but does not possess an unfettered individual right to have an abortion. The State ensures that any woman requesting an abortion will receive counselling to make her aware of the nature and seriousness of the operation, alternatives to an abortion, and the availability of support organizations should she decide to carry the child to term. Moreover, the State ensures that a medical examination will take place to ensure that the prospective patient and the fetus, if it had developed by that point, are in good health. However, the decision whether to authorize a legal abortion is made by medical practitioners based on clearly established criteria embodied in legislation in each country.

The situation in Canada is entirely different with no legislation currently in force governing abortions. In Canada, abortions are completely legal during any stage of a pregnancy, and access to abortion is unrestrained and ungoverned by any law. In the United States, state legislatures have adopted a wide variety of different approaches to the abortion issue, ranging from an almost total ban on abortions, to a

strict limits on access to abortion, to the recognition of a fundamental right of a woman to have an abortion.

The Canadian Experience

Prior to 1969, abortion was a crime in Canada. Under the then-existing Criminal Code, anyone performing an abortion faced life imprisonment upon conviction, with the woman concerned subject to a two-year prison sentence. However, in that year, the Liberal government of Prime Minister Pierre Trudeau amended the Criminal Code to legalize an abortion where the pregnancy threatened the life of the pregnant woman -- as determined by a committee of doctors -- with the operation required to be performed by a doctor in a hospital.

Subsequently, the Royal Commission on the Status of Women (December 1970), recommended that abortion be legalized for the first 12 weeks of pregnancy; and that after 12 weeks, an abortion should be legal if the life of the pregnant woman was threatened, or the child would be born "greatly handicapped", mentally or physically. However, no legislation followed. Public debate in Canada during the 1970s-1980s revolved around whether a woman had an absolute right to choose to end her pregnancy and whether a fetus had a right to life.

In 1988, the Supreme Court (*Regina vs Morgentaler*) ruled the Criminal Code requirement that an abortion could be authorized only by a committee of doctors was ineffective and "manifestly unfair". The reasoning being that forcing a woman to carry a fetus unless she met certain criteria for an abortion, was a profound interference with her "life, liberty and security of person" under the new Canadian Charter of Rights and Freedoms (1982). Hence, the existing abortion law in the criminal code was struck down, and Canada was left with no legislation regulating access to an abortion. Subsequently, the Supreme Court did rule on the question of fetal rights, and the question of parental rights of the father.

In 1989, the Supreme Court (*Tremblay vs Daigle*) ruled that constitutional rights pertain only to a person; that the constitutional rights are activated at the moment of live birth; and that the father of the fetus had no proprietary interest in a fetus and no right to interfere with the woman's right to choose to have an abortion. In effect, while not saying so, the Supreme Court recognized that a pregnant woman had an unrestricted right to choose to have an abortion, and that a fetus had no rights in being 'a non-person'. In 1990, the Conservative Government of Prime Minister Brian Mulroney tried to re-criminalize abortion and to severely restrict access to abortion. A bill was passed by the House of Commons that legalized abortion only in a situation where the pregnancy threatened the life of the woman, as determined by a doctor. However, the bill was defeated by the Liberal Party majority in the Senate.

Subsequently, abortion became a divisive political issue with 'pro-life' groups calling for the re-criminalization of abortion, and 'pro-choice' groups seeking to maintain an unrestricted access to abortion and to secure public funding for the procedure. On its part, the Liberal Party of Canada has taken a firm pro-choice stand in support of a woman's supposedly unfettered human right to choose to have an abortion, and to have access to an abortion on demand. For Modern Liberals who are moral relativists (choose you own morals), abortion does not raise a moral issue.

In attacking the pro-life views of Andrew Scheer -- the Conservative Party leader during the 2019 federal election campaign -- Prime Minister Justin Trudeau declared that he was staunchly pro-choice; that he had no qualms about abortion; and that his government would strongly defend a woman's right to choose. However, what Conservatives have found deeply disturbing were actions taken by the Trudeau Liberal government to impose its pro-choice abortion policy on Canadian society and other levels of government, in an effort to marginalize and silence pro-life voices. Equally disturbing to Conservatives was the Liberal government funding of unregulated abortion programmes in Third World countries.

In Canada, prior to the October 2015 federal election, Justin Trudeau declared that no pro-life Canadian would be allowed to run for Parliament as a Liberal candidate, and during his first term of office as Prime Minister -- at the head of a majority government (2015-2019) -- financial grants from the Canada Summer Jobs Program were denied to churches that refused to declare that they supported the Pro-Choice position of abortion on demand. Moreover, the Liberal majority in the House of Commons blocked a female Conservative member from becoming the chair of the Status of Women Committee because of her pro-life views, and the Liberal government threatened to withhold health care funding from Prince Edward Island if the province continued to refuse to offer abortion services. Thereafter, in July 2021, the Trudeau government withheld healthcare funding from New Brunswick for its refusal to fund an abortion clinic in Moncton. Internationally, the Trudeau government announced (May 2016), that the \$750 million annual development aid funding that Canada provides in support of developing nations would henceforth include funding for abortion clinics. Subsequently, in October 2020, the Trudeau government contributed \$8.9 million to international abortion organizations working in developing countries. No doubt there were other major Liberal government spending initiatives in support of abortion on demand of which Canadians were not informed or parliament consulted.

For Conservatives, abortion is a moral issue that needs to be approach from that viewpoint. On its part, the Conservative Party of Canada embraces both pro-life supporters who want abortion to be re-criminalized, and members who want to see abortion regulated and restricted by law in the manner of the legislation governing legal abortions in European countries. For Conservatives, there is a middle ground approach to the abortion issue.

The Moral Issue

All Conservatives can agree that access to abortion needs to be regulated by law; however, the extent to which abortion should be permitted, and under what conditions, are questions that ought to be discussed in public and debated in parliament. The following is an analysis of several limited circumstances wherein a resort to an abortion could be justified on moral grounds.

Where the principle of a woman's right to choose is concerned, the woman has control over her own body in consenting to sexual intercourse, and if she becomes pregnant it is a consequence of an action undertaken by her own free will. A woman who does not want to have a child can employ different means of birth control and, if foolish enough to indulge in unprotected sex, can take a morning-after pill within five days to prevent conception, or within 6 to 12 days if a pregnancy test proves positive. Otherwise, the woman ought to accept the consequences of her own action. Abortion ought not to be used as a method of birth control. A healthy pregnant woman of sound mind does not have any individual natural right, or any universal human right, to avoid the inconvenience of having a baby through undergoing an abortion to kill the fetus whenever she pleases. Such an option is an abomination and contrary to the very meaning of life.

Once a woman becomes pregnant, she is no longer a solitary being with an absolute control over her own body and a free will to do what she wants. During the first 15 weeks of pregnancy, a woman ought to have the right to request a legal abortion, and to have her case for a legal abortion appraised. However, it is society, thought the elected members of parliament, that has the right to legislate regulations governing access to a legal abortion.

During the initial stages of her pregnancy, the woman ought to be provided with counselling and medical assistance, and information on alternatives to abortion. If she still wants an abortion, and meets the established grounds for a legal abortion, she should be permitted to have a legal abortion at any time within the period established in law. However, once that period for obtaining a legal abortion has passed,

then access to an abortion should be refused and the baby carried to term. In such cases, both during the pregnancy and after the birth, continued counselling and a ready access to social services should be provided, with arrangements being made for the new-born to be put up immediately for adoption to a couple prepared to love, raise, and nurture a child.

Pregnant women, whether married or single, who do not want to have a child, should not be expected, or required, to keep the child after giving birth. It is far better that the child be raised within an adopted family, in receipt of love and family affection, and in a situation where she or he is wanted, appreciated, and enabled to live a good life. Yet, it ought to be recognized that there are several situations under which access to abortion can be justified on moral grounds, and these situations need to be recognized in legislation as grounds for authorizing a legal abortion:

1) An abortion can be justified on moral grounds where the life of the pregnant woman will be placed at serious risk by the continuation of the pregnancy. The saving of an existing life has a higher moral import than an embryo during the early stage of a pregnancy and the fetus at a later stage.

2) An abortion can be justified on moral grounds where the pregnancy was the result of a criminal act – sexual assault, rape, incest, or child abuse – against the will and without the consent of the female concerned. Forcing a woman to give birth to a child fathered by her criminal abuser is beyond any moral rationale. One of the worst fates that can befall a child is to be raised without a mother's love, by a woman who resents the child for having been born.

3) An abortion can be justified on moral grounds where the fetus is unhealthy or abnormal in suffering from a genetic abnormality, severe physical disabilities, or would be born with debilitating health problems, be severely mentally challenged, or stillborn. Life presents enough challenges for every newborn without being condemned to live a life of pain, suffering, distress, and continued despair and disappointment with no prospect of improvement or of ever enjoying life. It would be far more humane to abort the fetus. Life is intended to be purposeful, challenging, and fulfilling in exercising one's talents and abilities to live a good life within society.

4) Lastly, an abortion can be justified on moral grounds in situations where the mother herself poses a serious threat to the health of the embryo during pregnancy and to the health and well-being of the future baby, because of an addiction to drugs or alcohol, or a mental illness. It would be far more humane, and morally responsible, to abort the fetus rather than risk damage to the fetus in the womb, and a high probability of a baby being born with severe brain damage, a drug addiction, fetal alcohol syndrome, or birth defects, or of being stillborn.

Summary

What this analysis of the abortion question reveals is that there are clearly four situations where an abortion can be justified on moral grounds; and that these situations are already recognized as providing legal grounds for an abortion in European countries, under existing legislation that strictly regulates access to abortion. Canadian Conservatives might well consider advocating the adoption of abortion legislation in keeping with what prevails in the countries of Europe. Canadian Conservatives share with the people of the nations of Europe a common morality – a shared belief in what is morally right and what is decidedly wrong in human conduct– and that morality needs to be applied in addressing the abortion issue.

Modern liberals, who control the Liberal Party of Canada under Prime Minister Justin Trudeau, are opposed to any public discussion of abortion, do everything in their power to deny pro-life proponents a platform for expressing their views, and are determined to prevent any parliamentary debate on abortion

that might lead to the passage of legislation to regulate access to abortion. Modern liberals believe that a woman has an inalienable natural right to control her own body; and that the decision to have an abortion is strictly a matter of private judgement and personal choice on the part of the pregnant woman. For Modern liberals, abortion does not raise any moral concerns, nor is there any recognition on their part of any duty or responsibility of the State to protect the health of the woman seeking an abortion and the life of the fetus. Among western nations only Canada has no legislated limits on access to an abortion; and only the Liberal Party of Canada, and its supporters, claim that a woman has a right to 'abortion on demand' at any time of her own choosing.

In contrast, Conservatives believe that abortion is both a moral and social issue that needs to be publicly discussed; that Social Conservatives, who are totally opposed to abortion, have a right to publicly express their beliefs; and that parliament, as the sovereign power in Canada, has a moral right and a responsibility to regulate access to abortion based on clearly defined criteria, embodied in legislation for the guidance of medical practitioners. For Conservatives, legislation is needed to protect the health of pregnant women seeking an abortion, and to ensure that the woman is fully informed of what an abortion entails, the risks involved, alternatives to abortion, and the social support systems and adoption options available. Above all, abortion legislation is needed to ensure that abortion is not used as a system of birth control, and that all babies born in Canada are healthy and capable of living a good life with the support of loving and nurturing parents or parent.

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