

Response to testimony of Guy Page re: H-57 | House Human Services Committee | January 22, 2019 |

By Catherine Palmer, 3653 Thaddeus Stevens Road, Danville VT 802-424-5390

*You may refer to the written remarks submitted by Mr. Page and other witnesses as posted on the committee's website [here](#).*

Mr. Page notes “that the societal earth on which the legalization of abortion rested in January 1973 has shifted” and provides four points for your consideration. I would request the committee consider additional context provided below to each of these points.

### **1. “Population control is no longer a driving concern.”**

While Mr. Page notes that “live births in Vermont in 2017 were the lowest since 1857” and Vermont does not have “enough workers,” I would argue that there is no correlation between population control and reproductive liberty in the United States. There is absolutely no data to suggest that an individual would make the difficult and personal choice to maintain or terminate a pregnancy based on the availability of labor resources in her State. I cannot believe that Mr. Page was trying to imply that, in order to meet an economic need, the State might compel women to conceive, deliver, and raise children. And thankfully, he negates his own thesis by noting that technology (not more workers) is helping to increase food and farm productivity.

Facts do show that fertility<sup>1</sup> rates globally are on a slight decline, but it should be noted that any description of the world's population growth as having ‘fizzled’ is not accurate. The current world population of 7.6 billion is expected to reach 8.6 billion in 2030, 9.8 billion in 2050 and 11.2 billion in 2100.<sup>2</sup>

Declining fertility rates are impacting more than 80 nations globally. However, the policies being proposed or put in place to increase birth rates have nothing to do with limiting an individual's reproductive liberties, but instead focus on promoting work-family balance; providing access to high-quality, affordable childcare; tax breaks, flexible employment schedules, and expanding maternity and parental leave policies.<sup>3</sup> Policies I am hopeful that this committee would support as well.

### **2. “Shame is no longer a driving concern.”**

It has been 27 years since Vice President Dan Quayle publicly shamed fictional character Murphy Brown for having a child out of wedlock, but women are still very much the targets of

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<sup>11</sup> Total fertility is the mean number of children a woman would have by age 50 if she survived to age 50 and were subject, throughout her life, to the age-specific fertility rates observed in a given year. The total fertility is expressed as the number of children per woman. Source

(<http://www.un.org/en/development/desa/population/publications/dataset/fertility/total-fertility.shtml>)

<sup>2</sup> : United Nations – Department of Economic and Social Affairs, *World Population Prospects 2017 Revisions*, 21 June 2017; <https://www.un.org/development/desa/publications/world-population-prospects-the-2017-revision.html>

<sup>3</sup> Yale University, Replacement Fertility Declines Worldwide, 12 July, 2018; (<https://yaleglobal.yale.edu/content/replacement-fertility-declines-worldwide> )

public scrutiny. The term “slut-shaming”<sup>4</sup> may not be known to Mr. Page, but I promise you that most young women are all too familiar with it. It’s been only a few weeks since an anonymous Twitter user attempted to shame U.S. Congresswoman Alexandria Ocasio-Cortez for dancing in a video while a college student.<sup>5</sup> You need look no further than the Trump administration's ban on transgender people serving in the military<sup>6</sup> or the alarming increase in cyberbullying<sup>7</sup> to know without doubt that “shame” and ostracism are very much alive and thriving in this country.

That Mr. Page would make this statement reflects an obliviousness to the times we live in and moreover, bears no relation to the protection of an individual’s right to an abortion. Women choose to end pregnancies because of the personal impact having a child will have on their physical or mental health, their economic security, their families, their ability or capacity to raise a child and often because the prospects for their unborn child are grim - whether because of genetic or other abnormalities or because of the environment they would live in.

Shame may very well be a factor for these women, but the Vermont legislature has the very real opportunity to help alleviate that shame by protecting their right to make the decisions that are best for them and their families.

### **3. “Contraception access, knowledge and options have increased.”**

On this we can agree, and we should continue to support the expansion of education and access to reproductive resources. Fortunately, H-57 will support this by codifying “the right to choose or refuse contraception or sterilization”, but we should go further.

As charming as Mr. Page’s description of “today’s [better informed] girls and boys” sounds, we know that contraception is not universally available or affordable and unintended pregnancies happen. Therefore, it is vital that women have access to medical and personal counseling to support them in their decision making when faced with an unplanned pregnancy.

This counseling must be readily available, affordable, and without prejudice. Full transparency should be required of clinics advertising pregnancy counseling, testing, or services; and no woman should be subjected to invasive procedures or unwanted counseling or harassment in exercising her right to a safe and legal abortion.

To keep abortion safe and accessible, we must also ensure the personal security of health care providers who participate in abortion services and women seeking these services. The federal Freedom of Access to Clinic Entrances (FACE) Act<sup>8</sup> prohibits intentional property damage and

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<sup>4</sup> Slut-shaming, <https://en.wikipedia.org/wiki/Slut-shaming>

<sup>5</sup> Alexandria Ocasio-Cortez: Bid to Embarrass US Congress Woman Over Dancing Video Backfires; Independent, 4-January 2019 <https://www.independent.co.uk/news/world/americas/us-politics/alexandria-ocasio-cortez-aoc-dancing-video-boston-university-breakfast-club-a8710671.html>

<sup>6</sup> Trump’s Ban on Transgender Troops, Explained, 22 January 2019, Vox, <https://www.vox.com/identities/2017/7/26/16034366/trump-transgender-military-ban>

<sup>7</sup> 11 Facts About Cyber Bullying, Do Something.Org, <https://www.dosomething.org/us/facts/11-facts-about-cyber-bullying>

<sup>8</sup> U.S. Code title 18; Section 248. Freedom of Access to Clinic Entrances; <https://www.law.cornell.edu/uscode/text/18/248>

the use of “force or threat of force or...physical obstruction” to “injure, intimidate or interfere with” someone entering a health care facility. I would urge the committee to ensure that Vermont statute ensures that state resources are committed to and utilized for enforcement of this federal law and further expand the protection within H-57 to ensure practitioner safety.

Additionally, the topic of parental notification should be addressed within the law. The American Academy of Pediatrics’ position that the “rights of adolescents to confidential care when considering abortion should be protected” as legislation mandating parental consent “increases the risk of harm by delaying access to appropriate medical care.”<sup>9</sup>

I would ask the Committee to affirm: access to contraception for all Vermonters, protection for women from coercion and fraud; fact-based and only voluntary counseling, protections from violence for providers and clients; and the right of adolescents to confidential care when considering abortion.

#### **4. Thanks to science, we know more about the individuality of the fetus.**

Mr. Page describes as “extreme” the language in H-57 which states a “fetus shall not have independent rights” and he attempts to make a moral as well as medical argument, stating that “human justice is built on the bedrock that is wrong to take an innocent life.”

The concept of fetal personhood is a shift from “centuries-long tradition in Western law”<sup>10</sup> and can be correlated to this statement from Justice Harry Blackmun’s majority opinion in Roe: “If this suggestion of personhood is established, [Roe’s] case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the [14th] Amendment.”<sup>11</sup>

This categorization of fetal personhood is enabling legislative limits on reproductive freedom and the rights of determination women have over their own bodies. According to New York Time reporting, there have been “several hundred” cases since the Supreme Court ratified Roe v. Wade where pregnant women have faced jail time, been charged with manslaughter or endangering their unborn child for simply failing to wear a seatbelt or taking legally prescribed drugs.<sup>12</sup> The State of Colorado has taken the important step to protect women from this kind of specious overreach by consistently rejecting to define a person to include any human being from

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<sup>9</sup> The Adolescent’s Right to Confidential Care When Considering Abortion, American Academy of Pediatrics Committee on Adolescence, February 2017, Volume 139, Issue 2, <http://pediatrics.aappublications.org/content/139/2/e20163861>

<sup>10</sup> When Prosecutors Jail a Mother for a Miscarriage, A Woman’s Rights: Part 1, New York Times, <https://www.nytimes.com/interactive/2018/12/28/opinion/pregnancy-women-pro-life-abortion.html?action=click&module=RelatedLinks&pgtype=Article>

<sup>11</sup> The Personhood Movement, Pro Publica, Inc. <https://www.propublica.org/article/the-personhood-movement-timeline>

<sup>12</sup> When Prosecutors Jail a Mother for a Miscarriage, A Woman’s Rights: Part 1, New York Times, <https://www.nytimes.com/interactive/2018/12/28/opinion/pregnancy-women-pro-life-abortion.html?action=click&module=RelatedLinks&pgtype=Article>

the moment of fertilization,<sup>13</sup> and instead increasing penalties for those who commit crimes against pregnant women.<sup>14</sup>

Perhaps the most challenging part of the testimony on January 22<sup>nd</sup> was listening to the clinical details of an abortion. Dr. MacAfee did an admirable job with credible, clinical testimony on the abortion procedure. It was uncomfortable for me, a committed supporter of abortion rights; and I respect that law makers must wrestle with their own emotions as well. Concerns were raised about the specifics of viability, the comparison of miscarriage and abortion, and the concept of “partial birth abortion.” However, it is important that we recognize only facts and not emotions or politics when considering the reproductive liberties of Vermonters. Consider:

- “Partial birth abortion” is not a medical term; it is a political term used in 1995 by Congressman Charles T. Canady as part of a proposed bill. The term is not recognized by the American Medical Association or the American Congress of Obstetricians and Gynecologists.<sup>15</sup>
- 91.4% of abortions are performed in the first trimester (<13 weeks into pregnancy)<sup>16</sup>
- Fetal abnormalities that lead to death or extremely severe disabilities may not be identified until after the 20<sup>th</sup> week of pregnancy
- Only 1.3% of abortions are performed at or after 21 weeks<sup>17</sup>
- It’s estimated that 0.2% of all abortions involve the dilation and evacuation procedure commonly referred to by the political term “partial birth abortion”<sup>18</sup>. This practice was banned by Congress and signed into law in 2003. Several state and federal court cases have since deemed the law unconstitutional as it places an undue burden on the woman and her health.<sup>19</sup>

I would ask that the committee seek to understand the rarity of abortions performed after fetal viability and the untenable conditions under which these decisions are made. I would also ask that the committee consider the unintended consequences that placing moral (not medical) restrictions on the right to abortion may have.

*Thank you for your consideration.*

Catherine Palmer

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<sup>13</sup> Ballotpedia, Colorado Definition of Person, Initiative 48 (2008),

[https://ballotpedia.org/Colorado\\_Definition\\_of\\_Person,\\_Initiative\\_48\\_\(2008\)](https://ballotpedia.org/Colorado_Definition_of_Person,_Initiative_48_(2008))

<sup>14</sup> Fox Denver; Colorado has no fetal homicide law; 16 August 2018 (<https://kdvr.com/2018/08/16/colorado-has-no-fetal-homicide-law-shanann-watts-case-reignites-debate/> )

<sup>15</sup> Source: [https://en.wikipedia.org/wiki/Intact\\_dilation\\_and\\_extraction](https://en.wikipedia.org/wiki/Intact_dilation_and_extraction)

<sup>16</sup> Centers for Disease Control and Prevention, Abortion Surveillance – United States, 2012 (<https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6410a1.htm> )

<sup>17</sup> Ibid

<sup>18</sup> National Public Radio, ‘Partial-Birth Abortion’: Separating Fact from Spin, 1-February 2006 (<https://www.npr.org/2006/02/21/5168163/partial-birth-abortion-separating-fact-from-spin> )

<sup>19</sup> Ibid

Danville, Vermont  
palmercat33@gmail.com