The War on the Womb:
A socio-legal analysis of women’s bodies as battlegrounds for biopolitical control and regulation by the Trump Administration

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Abstract
This thesis explores how reproductive rights regulations in the U.S. by the Trump administration perpetuate the biopolitical control of women’s bodies. Through the use of a socio-legal method, the legislation and policies regarding reproductive rights passed by the Trump administration on both a federal and state level in Missouri and California will be analyzed. This analysis will examine how reproductive rights are regulated and how this regulation in turn influences women’s ability to secure access to their reproductive rights and freedom. The theoretical framework applied to the analysis is a combination of Michel Foucault’s biopolitics theory, Giorgio Agamben’s zone of indistinction, and feminist theory. This thesis determines that restrictive reproductive rights regulations perpetuate the biopolitical control of women’s bodies and hinders women’s access to secure their reproductive rights and freedom. The analysis also identifies that the legislation and policies passed by the Trump administration are inherently misogynistic and racist.

Key Words: Biopolitics, Feminism, Reproductive Rights, President Trump, The U.S.

Word Count: 13,929
List of Abbreviations

ACA - Affordable Care Act
CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women
DOL - Department of Labor
HHS - U.S. Department of Health & Human Services
HIV – Human Immunodeficiency Virus
ICCPR - International Covenant on Civil and Political Rights
LGBTQ+ - Lesbian, Gay, Bisexual, Transgender, Queer +
NGOs - Non-Governmental Organizations
OHCHR - Office of the United Nations High Commissioner for Human Rights
STD - Sexually Transmitted Diseases
UDHR - Universal Declaration of Human Rights
U.S. - United States
USDT – United States Department of the Treasury
WHO - World Health Organization
WWII - World War Two
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1. Introduction

1.1 Background

Biopolitical power revolves around the knowledge and control of populations and their environments.\(^1\) Within biopolitics, biology and the right to life have become political objects of power that ensure the visibility of bodies for regulation and discipline.\(^2\) Human beings are reduced to biological organisms which can be measured and controlled.\(^3\) As biopolitics’ is primarily focused on control over life and the creation of life, one group of people are affected more than others - women.

Throughout history, women’s bodies have been heavily regulated, however, the emergence of biopolitics has led to an increase in biopolitical control and manipulation. Specifically, the reproductive choices and rights of women have become heavily regulated, monitored, and controlled. This regulation and control is heavily concentrated on fertile women; women of child-bearing age, typically between eleven and mid-fifties. As biopolitics is concerned with life, there is power and agency in the control and regulation of fertile women as they are necessary for the creation of life. Biopolitics’ regulatory power disproportionately affects women, turning their bodies into battlegrounds for control over their biological processes. At the center of this, is power over reproductive rights resulting in women being denied access to their reproductive rights, freedom, and justice.

With President Donald Trump winning the U.S. presidential election in November of 2016 with his neo-conservative pro-life campaign, there was fear that women’s reproductive rights would come under attack both nationally and internationally. Since then, the Trump administration has launched multiple attempts to control women’s reproductive rights and the organizations who provide it, such as Planned Parenthood. By passing regulatory legislation and policies such as limiting access to abortion and contraceptive services, the Trump administration has influenced women’s ability to secure their reproductive rights; a fundamental human right.

\(^1\) Foucault 1976: 245
\(^2\) Foucault 1978: 139
\(^3\) Cerwonka & Loutfi 2011: 2
1.2 Aim, Research Problem, and Research Questions

The aim and purpose of this thesis is to analyze and examine how the biopolitical control of women’s bodies is perpetuated in the U.S. through the regulation of women’s reproductive rights. Specifically, this thesis will focus on legislation and policies passed by the Trump administration that regulates women’s reproductive rights at a federal and state level. Through this analysis, this thesis aims to examine how the regulation of reproductive rights influences women’s ability to secure their reproductive rights in the U.S.

Therefore, the research problem that will be examined is:

How does the Trump administration’s policies and legislation perpetuate the biopolitical control of women’s bodies?

To answer this research problem, two sub-research questions have been identified:

1. How are women’s reproductive rights regulated at a federal and state level in the policies and legislation passed by the Trump administration?
2. How has this regulation influenced women’s ability to secure their reproductive rights and freedom?

1.3 Theory, Material, and Methodology

The theoretical framework applied to the analysis includes a combination of Michel Foucault’s biopolitics theory, Giorgio Agamben’s zone of indistinction, and feminist theory. Together with the use of a socio-legal methodology, this combination of theory and method will provide a comprehensive framework and foundation to analyze the regulation of women’s reproductive rights in the U.S. It will specifically focus on legislation and policies passed on a federal level and state level by concentrating on the following two American states: Missouri and California.

1.4 Relevance to Human Rights

Reproductive rights protect both one’s reproductive freedom and choices while also ensuring that reproductive health care services are available, accessible, inclusive, comprehensive, and adequate to medical standards. Reproductive rights fall under the right to health which is
codified in most primary human rights treaties, however there is no treaty that focuses solely on reproductive rights.  Although not legally binding, the UDHR is considered customary international law and thus the right to health is a universal and fundamental human right.  Article 25 of the UDHR specifies that, “everyone has the right to a standard of living adequate for the health and well-being of himself,”. Moreover, the UDHR specifies that motherhood is entitled to special care and assistance. The UDHR does not specify reproductive rights nor reproductive health but it is specified in CEDAW. Article 12 of CEDAW specifies that states have the responsibility to ensure women have access to health care including family planning services.

Reproductive rights are both positive and negative rights as they create an obligation for states to provide reproductive health care services, such as gynecologic care, as well as obligating states not to interfere with women’s freedom in making individual reproductive choices. According to the WHO, sexual and reproductive health care is composed of five aspects:

1. Contraceptive and Infertility Care and Information
2. Maternal Health
3. STD Testing and Treatment
4. Eliminating Unsafe Abortions and Providing Post-Abortion Care
5. Promoting Healthy Sexual Practices.

In 2006, the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, reported that the right to health includes women’s right to reproductive health care and information regarding their reproductive health. Additionally, the Special Rapporteur declared that women’s reproductive health care services must be ‘available in adequate numbers,’ ‘accessible physically and economically,’ ‘accessible without discrimination,’ and ‘of good quality’. The OHCHR has also stated that women’s reproductive health relates to multiple other human rights such as, the right to life, privacy, education, and the prohibition of discrimination. Preventing access to women’s reproductive rights results in the management of all aspects of their future for example, their educational and professional

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4 UNFPA et al. 2014: 21
5 Armstrong et al. 2012: 156
6 Universal Declaration of Human Rights 1948:
7 Convention on the Elimination of All Forms of Discrimination Against Women 1979: 5
8 UNFPA et al. 2014: 24
9 UN General Assembly A/61/338 2006: 6-7
opportunities. Furthermore, the OHCHR commented that violations of women’s reproductive rights are often due to institutionalized patriarchal values that place women’s value in their ability to reproduce. These values also regulate women’s sexuality and their reproductive choices.10

1.5 Previous Research

An analysis of the research within the thesis topic highlighted that while there is a significant bit of research conducted, there is still quite a large gap of knowledge. Research conducted either focused on biopolitics and its control over women or legislation and policies that hinder women’s access to reproductive rights. The majority of the research does not connect and analyze these two topics together. However, in Ruth A. Miller’s book, *The Limits of Bodily Integrity: Abortion, Adultery and Rape Legislation in Comparative Perspective* (2007), Miller analyzes biopolitics in relation to the control states exercise over women’s bodies. Miller uses Foucault and Agamben’s theories on biopolitics and declares that despite their gender neutrality, their work is applicable to the struggles of women. Miller builds on Agamben’s zone of indistinction and examines how women’s wombs have become political objects which reduces them to mechanisms for reproduction. Thus, women end up being both protected and unprotected by law as they occupy the zone of indistinction.11 This analysis was further built upon by Allaine Cerwonka and Anna Loutfi in their article, *Biopolitics and the Female Reproductive Body as the New Subject of Law* (2011). Cerwonka and Loutfi examine how feminism and Foucault have influenced each other and deduce that “biopolitical theory cannot avoid making the female body central to its analysis of human life as an undefined essence both protected and unprotected by law.”.12 Cerwonka and Loutfi also comment on how biopolitics reduces women to mechanisms for reproduction as biopolitics attempts to control human life.13

In Jack Holland’s 2006 book, *A Brief History of Misogyny: The World’s Oldest Prejudice*, Holland does not examine biopolitics per say but he does analyze body politics and the intersection of the public and private sphere in relation to misogynistic attitudes towards women’s bodies.14 Holland comments that as fertility and reproductive technologies have become more advanced, the

10 OHCHR 2015
11 Miller 2007: 29
12 Cerwonka & Loutfi, 2011: 3
13 Ibid
14 Holland 2006: 197
struggle for control over women’s bodies and their reproductive capabilities has increased. Holland further states that a woman’s ability to control her reproduction is essential for her securing bodily autonomy; the denial of bodily autonomy is perpetuated by misogyny and women’s subordination by society. The introduction of the birth control pill in the early 1960s threatened the patriarchy that reinforced the biological subjugation of women to men, through the absence and/or refusal of contraceptive services. Finally, Holland highlights that, “women’s rights are human rights. Any foreign policy that fails to recognize this effectively dehumanizes half the human race,”.

Some of the research that examined the legislation and policies passed by the Trump administration’s reproductive rights regulations, includes the article, *Turning Back the Clock? Violence against Women and the Trump Administration* (2019) by Dawn L. Rothe and Victoria E. Collins. This article highlights that the neo-conservative policies and legislation by the Trump administration threaten not just women but people of color, people with disabilities, and the LGBTQ+ community. These policies passed by President Trump all aim “at ensuring the continuation of an inept, violent status quo benefiting a white, wealthy power elite,”. Rothe and Collins also emphasize that these neo-conservative policies and legislation influence public discourse as the power of the President is far-reaching and “political speech does not exist in a vacuum or as an abstract realm separate from society and culture,”. Finally, Rothe and Collins highlights that these policies and legislation will have ripple effects long after President Trump is no longer the president of the U.S. The examination of previous research highlighted the existence of a large gap of knowledge that this thesis fills by connecting biopolitical control over women to legislation and policies that influences women’s access to their reproductive rights.

### 1.6 Delimitations

As the focus of this thesis is on female reproductive organs as the source and setting of biopolitical power, in terms of terminology within this thesis and when referring to women, it refers to people whom have female sex organs regardless of their gender identity. Therefore, this

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15 Ibid: 206
16 Ibid: 208
17 Ibid: 231
18 Rothe & Collins 2019: 965
19 Ibid: 969
20 Ibid: 973
thesis will not examine transgender people in detail. However, this thesis does recognize that transgender women and men may relate to aspects discussed, however, due to space and time constraints, the unique set of problems they face in regard to accessing their reproductive rights will not be examined.

Additionally, this thesis will be limited by focusing on the current political climate in the U.S. Women’s access to reproductive rights has a long and tumultuous history in the U.S. that has influenced the current circumstances, however, due to time and space constraints, this history will not be examined. Moreover, it is important to note that the current issues surrounding access to reproductive rights and the severity of the situation were present before the Trump administration. However, this thesis hopes to examine how the legislation and policies passed by the Trump administration (2016-2020) have reinforced the biopolitical control over women’s reproductive rights. Furthermore, it is important to note that although religion and freedom of religion are often discussed in relation to reproductive rights, religion will not be examined in greater detail.

Finally, one cannot analyze reproductive rights in the U.S. without also acknowledging and examining the role racism plays within women’s reproductive rights and the biopolitical control perpetuated over women’s bodies. Along with many other factors and aspects, racism will be analyzed, however, due to constraints, the full role of racism within reproductive rights and biopolitics will not be discussed in greater detail.

1.7 Ethical Aspects

This thesis aims to ensure a degree of sensitivity and awareness fitting with the sensitive nature of any topic that analyzes human rights issues people are facing especially as reproductive rights concern many personal matters. Additionally, this thesis aims to be inclusive and to ensure that the struggles of women of color are acknowledged and not ignored. Through this inclusivity, the plights of all women and not just white women are examined. Furthermore, a degree of objectivity was maintained to avoid confirmation bias.

1.8 Thesis Outline

After the introduction, in chapter 2, this thesis starts with an examination of the two theoretical frameworks that will provide a basis for the analysis: biopolitics and feminism. After exploring the theoretical frameworks, chapter 3 will discuss the chosen material from both a
federal and state level. In chapter 3, there will also be a discussion of the chosen methodology: a socio-legal analysis. Chapter 4 concerns the analysis where the socio-legal method is applied onto the chosen material. Finally, this thesis ends with chapter 5 which presents a discussion of the findings from chapter 4 as well as a conclusion and opportunities for further research.

2. Theory

2.1 Biopolitics and Foucault

In his lectures from 1976, Society Must Be Defended, Foucault examined power relations within society. Foucault discussed how power is an abstract intangible presence that cannot be possessed but it can be exercised over others; power is capillary.21 People are both subjects of and to power.22 With the introduction of modernity from sovereignty, power shifted from ‘taking life and letting live’ to ‘making live and letting die’.23 This shift was gradual and occurred as “the problem of life began to be problematized in the field of political thought”.24 The shift in power and advancements in biology resulted in a new technique of power focused on life itself: biopolitics.25

Biopolitics focuses on knowledge and control of life including the biological processes of populations and their environments.26 It entails the surveillance, discipline, control, and regulation of life and its processes such as birth rates, fertility, mortality rates, etc.27 As biology and life have become political objects of power, biopolitics ensures the visibility of bodies for regulation and discipline.28 It reduces humans to biological organisms that can be measured and controlled along with their environments.29 Moreover, the discipline exerted by modern biopolitical states “increases the forces of the body” to make it more economically profitable for capitalist societies while also diminishing the forces of the body to ensure political obedience.30 The body is the location of political investments which make the body more productive and subjective; “the body

21 Foucault 1976: 27
22 Ells 2003: 215
23 Foucault 1976: 241
24 Ibid: 241
25 Ibid: 242
26 Foucault 1976: 245
27 Ibid: 243
28 Foucault 1978: 139
29 Cerwonka & Loutfi 2011: 2
30 Foucault 1977: 138
must be taken up, inscribed upon with aptitudes that are then harnessed for use,". Moreover, with the emergence of the modern biopolitical state, racism became a mechanism of power as the modern biopolitical state cannot operate without being involved in modes of racism. According to Foucault, racism has evolved into state racism which evolves into biological power control over life. Racism gives modern biopolitical states the power to ‘make live and let die’. 

Along with the shift in power to biopolitics, there was a shift in how sex was viewed and managed within societies. According to Foucault, sex became a political issue as it is the point where the individual body and the population meet and life is created; “sex became a crucial target of power organized around the management of life,”. Sex and power become entangled and interdependent. Sex grants the means to assess and regulate women’s fertility and their reproductive choices because women are the necessary ‘vessels’ for the creation of life. A woman's body is seen and treated as a mechanism for reproduction because of their ability to ensure the existence and vitality of future populations. Therefore, in a modern biopolitical state, a woman’s ability to reproduce characterizes them as a political citizen. The power a biopolitical state has over women’s bodies is not located solely in social and political institutions but is entangled throughout society. As biopolitics centers around the investment and management of life, it is apparent as to why women’s bodies are battlegrounds for the facilitation of biopolitics’ power over life because of women’s ability to create and carry life.

Foucault’s lectures and books can be considered to be relatively gender neutral, and his analysis did not examine the regulation of women and link it to biopolitics. Despite this, Foucault’s theories can still be applied to gender and feminism discourses to analyze the regulation of women’s bodies and their reproductive rights. Both feminists and Foucault see the body as a site of power; “a surface inscribed with culturally and historically specific practices and subject to political and economic forces.” However, it is important to note that the application of Foucault’s theories to feminist issues and discourse is not self-evident. While it is possible to

31 Ells 2003: 214
32 Foucault 1976: 254-255
33 Ibid: 256
34 Foucault 1978: 147
35 Cerwonka & Loutfi 2011: 4
36 Ells 2003: 218
37 King 2004: 30
38 Munro 2001: 548
apply Foucault to a feminist analysis of state control over women’s reproductive rights, a critical understanding needs to ensured. This is vital as there is the possibility of negating women’s true experiences while also obscuring women’s individual and collective efforts against regulatory state powers. Applying a critical lens to the relationship between feminism and Foucault does not diminish the usefulness of Foucault’s theories but ensures a comprehensive and inclusive understanding of the topic.

2.1.1 Agamben’s Zone of Indistinction and the Womb as the Biopolitical Space

In his book *Homo Sacer* (1998), Agamben examines the zone of indistinction in relation to Nazi WWII concentration camps to build on Foucault’s work. According to Agamben, the emergence of advancements in biology is the emergence of modernity and the introduction of the modern biopolitical state. In comparison with Foucault, Agamben interprets sovereignty and the biopolitical state as always visible while Foucault holds that the more a state becomes biopolitical, the less sovereignty is visible.

Individuals that live in a modern biopolitical state are both subjects of power and objects of power. These individuals exist within the zone of indistinction within the camp. According to Agamben, the camp represents the paradigm of political space and the transformation of politics to biopolitics as the location where “power confronts nothing but pure life,”. Agamben uses Nazi concentration camps as examples of the camps in modern biopolitical states. Agamben views the treatment of Jews in Nazi concentration camps as an example of how one can be reduced to bare life and stripped of subjectivity while also being in the center of biopolitics’ power. When one is in the camp, they are stripped of their bios (political life) and reduced to zoē (biological animal life). However, Agamben clarifies that the Nazis did not invent the camp, they just provide a clear example of the zone of indistinction present in modern biopolitical states.

Similarly, to Foucault, Agamben’s theories were relatively gender neutral, but his theories can still be applied to the analysis of how women’s bodies and reproductive rights are regulated.

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39 Deveaux 1994: 230
40 Ibid: 244
41 Agamben 1998: 122
42 Ibid: 9
43 Ibid: 171
44 Ibid: 170-171
45 Ibid: 166
According to Miller, it is not concentration camps but women’s wombs that have become the paradigm of the camp and the biopolitical space; women are both the subject and setting for biopolitical power.46 Similar to Agamben’s theories about the camp representing the shift from politics to biopolitics, Miller argues that it is in fact women’s wombs that hold the position of the camp.47 Biopolitics politicizes life and as a result the womb becomes politicized as it is a carrier for life. Reproductive health care such as abortion and contraception are irrevocably tied to and influenced by the womb and vice versa. Miller highlights that reproductive rights legislation perpetuate the biopolitical control and manipulation of women’s bodies through the womb and thus directly and indirectly affect the womb.48 Miller points out that a woman’s body is a political space and “this space was articulated above all in legislation having to do with sexuality and reproduction.”.49 The establishment of the womb as the camp and the predominant biopolitical space results in the transformation of women’s bodily borders into national (political) borders that can be regulated.50 Women’s bodily borders is representative of their bodily integrity and the establishment of the womb as the camp transforms women’s intrinsic bodily borders into national and political borders. This transformation opens up women’s bodies and thus the womb to regulatory biopolitical practices.

The presence of a womb transforms women’s bodies into a space that is both included and excluded from the rule of law, at the same time as being protected and unprotected by the law.51 The biopolitical politicization of life has led to the politicization of the womb as the carrier of life. The resulting regulations of women’s bodies and reproductive capacities reduces them to mechanisms for reproduction and undefined essences.52 Regulations protect women and ensure their existence as mechanisms for reproduction while simultaneously leaving them unprotected as their bodies have become battlegrounds for public policy. Moreover, the establishment of women’s wombs as the camp ensures women’s bodies are constantly available for regulation and control.53 Women are the paradigmatic setting and source of biopolitical power.54

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46 Miller 2007: 29-30
47 Ibid: 173
48 Ibid: 175-176
49 Ibid: 176
50 Ibid: 149
51 Ibid: 173
52 Cerwonka & Loutfi 2011: 3
53 Miller 2007: 175
54 Ibid: 29
2.2 Feminism and Women’s Rights

Feminism is an ideology, a tool for social justice, and a “decentralized movement with no hierarchy of leadership,” that strives for gender equality within society.\(^{55}\) As a movement, feminism is generally seen as divided up into multiple waves, each corresponding with objectives and goals to promote gender equality. Similar to Foucault, feminists analyze power structures in society that reinforce gender discrimination, subordination, and oppression, particularly power imbalances between the sexes.\(^{56}\) The relationship between gender and power has always been a topic of contestation with politics, as “for scientists, feminists, governments alike, the question posed by the idea of gender revolved around the problem of how to govern sex.”\(^{57}\) The control of sex and gender is really the control of reproduction; reproduction is not solely a biological capability but a multifaceted problem which is influenced by state, race, freedom, individuality, and economic prosperity.\(^{58}\) Control of women’s reproductive capacities cannot be separated from other rampant social issues such as housing inequalities, racial and sexual hierarchies, healthcare, immigration, environmental issues, etc.\(^{59}\) A feminist analysis of this control of women’s reproductive capacities highlights the continued existence of patriarchal societies which reinforces cultural hegemonic ideals and gendered socializations. These in return reinforce power imbalances in society, which causes systemic social and health inequalities, which reinforce the political perpetuation of patriarchal societies; thus, the cycle continues.

Feminism exposes power relations in all parts of society including judicially. The exposure of power relations within legislation can result in an increase in resistance as well as a shift in power between those in power and subordinated groups.\(^{60}\) Specifically, feminist legal theorists suggest that structure of the modern legal system is hierarchically gendered.\(^{61}\) Discriminatory and misogynistic laws continue to be a source of gender inequality, injustice, and social control; “women’s needs are rarely the focus of legislation,”.\(^{62}\) The introduction of CEDAW in 1979 attempted to eliminate discrimination against women worldwide by requiring ratifying states to

\(^{55}\) Ukockis 2019: 20
\(^{56}\) King 2004: 32
\(^{57}\) Repo 2015: 8
\(^{58}\) Murphy 2012: 6
\(^{59}\) Brown 2019: 92
\(^{60}\) Smart 1989: 25
\(^{61}\) Lacey 1998: 2
\(^{62}\) Paltrow 2017: 25
ensure women can enjoy all their human rights. Ratification of CEDAW establishes both negative and positive obligations on states. The negative obligations ensure state actions do not interfere with women’s enjoyment of their rights while positive obligations require states to ensure the development of women’s rights. CEDAW promotes the civil, political, economic, social, and cultural rights of women and aims to be the international bill of rights for women.63

2.2.1 Critical Reflections on Feminism

For the most part, feminism focuses on women as a social collective; the analysis of power relations in society focuses on how this power affects and governs women’s equality and freedom. Critics such as Iris Marion Young have pointed out problems that arise when you focus on women as a social collective. In her article Gender as Seriality: Thinking about Women as a Social Collective (1994), Young argues that viewing women as a social collective with the same experiences of oppression can lead to normalizations and exclusions.64 This is problematic as a woman’s gender is not her sole characteristic. Moreover, you cannot isolate gender from other identities such as race, class, age, sexuality, and ethnicity.65 The unique combination of identities affects how one is subordinated and oppressed in society. Each category of identity carries and expresses “relations of privilege and subordination,”.66 By viewing women as a collective it negates the experiences of women of color and other minorities as feminism has often focused on the struggles of white, middle-class, heterosexual women. However, Young also acknowledges that there are pragmatic political reasons for viewing women a social collective.67 By viewing women as a group, their experiences of oppression are no longer individual and hidden but become relatable to a group of people; “denial of the reality of a social collective termed women reinforces the privilege of those who benefit from keeping women divided.”.68 Moreover, if feminists cannot conceptualize women as a group then their policies and theories lose value.69 Young argues that gender like other identities is composed of layered, multifaceted, and complex social structures. For example, “the female body as a practico-inert object toward which action is oriented, is a rule-

63 Smith 2014: 240
64 Young 1994: 713
65 Ibid: 714
66 Ibid: 715
67 Ibid: 713-714
68 Ibid: 719
69 Ibid: 719
bound body, a body with understood meanings and possibilities.”. Biological processes such as pregnancy are not solely biological processes but also come with social rules which “constitute the activity within which the women live as serialized.”. This raises dilemmas as to a certain degree women are a social collective, but how does one view women as a collective without also negating the unique struggles that accompany their other identities? Therefore, Young suggests that women are seen as a serial collective, a group that is defined not by common identities or characteristics but by “structural constraints and relations to practico-inert objects that condition action and its meaning.”.

Similar to Young, many other critics of feminism, such as Bell Hooks and Wendy Brown, have highlighted the lack of inclusivity in feminism as well as the insufficient focus on the integral role of race. As much of feminist discourse focuses on the experiences of white women, the experiences of women of color are negated. There is a lack of understanding among white women of their political status compared to individuals who face systemic racism and classism and the continued psychological impact of this. Moreover, it is important to note that gender was not created nor is regulated separately from other identities; “they do not operate on and through us independently, or linearly, or cumulatively, and they cannot be radically extricated from one another in any particular historical formation.”. Another central problem to feminism is the absence of agreed upon definitions of what feminism really is and what it entails. Due to an absence of unified definitions, feminism “lacks a sound foundation on which to construct theory or engage in overall meaningful praxis.”.

2.2.2 Critical Reflections on Women’s Rights

In Wendy Brown’s article, *Suffering Rights as Paradoxes* (2000), Brown reflects on the value of women’s rights such as CEDAW by discussing the paradoxes that are present in women’s rights discourse. Brown discusses how the creation of CEDAW does not resolve the issues and human rights violations women face. Although women’s rights mitigate the effects of

70 Ibid: 729
71 Ibid: 729
72 Ibid: 733
73 Ibid: 737
74 Hooks 2015: 4
75 Brown 2000: 235-236
76 Hooks 2015: 18
subordination it does not dismantle the patriarchal and misogynistic institutions, mechanisms, mindsets, and regimes that are the cause of the subordination of women in society.\(^{77}\) The paradox that Brown highlights is that women’s rights “entrench the regulation of women through the regulative norms of femininity,” while universal human rights “entrench the subordinated status of women by augmenting the power of the already powerful.”\(^{78}\) Specific human rights such as women’s rights prevent women from becoming independent from their subordinate political identity. On the other hand, universal human rights reinforces the subordination of women by disregarding women’s unique needs and the root causes of injustice.\(^{79}\) Whether human rights are universal or specifically for women, “to have a right as a woman is not to be free of being designated and subordinated by gender.”\(^{80}\)

3. Material and Methodology

3.1 Case Study: United States

To analyze the perpetuation of biopolitical control over women’s bodies through the regulation of women’s reproductive rights, the U.S. was chosen as a single interpretative case study. Interpretative case studies are selected based on an interest in the case rather than an interest in a general theory.\(^{81}\) The U.S. was chosen because despite their considerable influence in world politics as a high-income and well-developed country, human rights are not protected, including women’s reproductive rights. Additionally, women’s reproductive rights are central to many other political issues in the U.S. such as racism, classism, systemic poverty, religious freedom, foreign policy, etc.\(^{82}\) Furthermore, women’s access to reproductive freedom has a long and complicated history in the U.S going all the way back to the colonization of the U.S, to the slave trade and goes into present day; “this history calls attention over and over to the vulnerabilities of people without institutionalized power.”\(^{83}\) Interpretative case studies also apply a theory to a specific case with the intention of highlighting the chosen case rather than developing the theory.\(^{84}\) This thesis aims

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\(^{77}\) Brown 2000: 231

\(^{78}\) Ibid: 232

\(^{79}\) Ibid: 231

\(^{80}\) Ibid: 232

\(^{81}\) Lijphart 1971: 692

\(^{82}\) Briggs 2017: 4

\(^{83}\) Ross & Solinger 2017: 13

\(^{84}\) Lijphart 1971: 692
to use biopolitical and feminist theory to analyze the biopolitical control of women’s bodies that transpires when women’s reproductive rights are regulated but does not aim to advance biopolitical or feminist theory.

3.1.1 Federal Level

The U.S. federal government is composed of three branches: legislative, executive and judicial. The legislative level creates laws; the executive level consists of the President, Vice-President, and Cabinet and carries out laws; and the judicial level evaluates laws. These three branches were composed to ensure power is dispersed.85

President Trump ran his election campaign on a pro-life and neo-conservative stance which he has advanced and developed in his presidency. President Trump has made efforts to regulate reproductive rights nationally and internationally, as well as limiting reproductive health care providers such as Planned Parenthood. One of the leading reproductive health care providers in the U.S. is Planned Parenthood. Planned Parenthood provides high-quality, affordable reproductive health care services. This includes abortion services, birth control, HIV services, LGBTQ+ services, men’s health services, pregnancy testing and care, sex education, STD testing and treatment, and vaccinations.86 Statistics show that one in five U.S. women have used Planned Parenthood at least once in their life. 87

The material that will be used to analyze how reproductive rights are regulated at a federal level includes the Title X Gag Rule (2018) and the Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act Rule (2019). In 2018, the Trump administration announced a gag rule for Title X providers. This gag rule bans providers whom receive Title X funding from telling patients how to safely access abortions or providing abortion services.88 This means that providers such as Planned Parenthood either have to stop providing abortions to receive funds used for preventive care or stop receiving Title X funds to continue offering abortion services. Attempts were made to prevent the Title X ban, however on February 24th 2019, the 9th Circuit Court of Appeals ruled against Planned Parenthood and voted

85 USA Gov webpage
86 Planned Parenthood Services webpage
87 Planned Parenthood About Us webpage
88 Title X of the Public Health Service Act 2018: 7715
to uphold the *Title X Gag Rule.*[^89] Title X was established in 1970 by President Richard Nixon and is the only federal family planning service which provides birth control, wellness exams, STD tests, cancer screenings, etc.[^90] Title X provides affordable birth control and reproductive health care services to over four million people who cannot afford reproductive healthcare otherwise.[^91] This gag rule mainly affects the reproductive health of young women of color as they are the majority of patients at Planned Parenthood who receive care through Title X funds.[^92]

The *Religious Exemptions and Accommodations for Coverage of Certain Preventive Services under the Affordable Care Act Rule* came into effect January 2019. This rule allows employers and insurers to decline the provision of birth control if it violates their religious or moral beliefs.[^93] This rule goes against a rule created by the Obama administration which made companies provide free birth control; fifty-five million women benefited from this Obama administration rule. Two judges (Judge Haywood Gilliam and Judge Beetlestone) blocked this rule from being implemented first in thirteen states and then nationwide.[^94] However, in January 2020, the Supreme Court agreed to hear the Trump administration’s case and whether the federal judges had the right to block this rule and put President Trump’s policy on hold.[^95]

### 3.1.2 State Level

As the U.S is composed of fifty states, each with their own laws and policies concerning reproductive rights, an analysis of all states would not be possible due to time and space constraints. Therefore, two states were chosen to compare: Missouri and California. These two states were chosen by considering three different factors. The first factor involved selecting one Democratic state that voted for Hilary Clinton and one Republican state that voted for President Trump during the 2016 Presidential election. It is important to note that for this factor, this thesis recognizes that the population in neither state voted entirely for President Trump or Hilary Clinton. In Missouri, President Trump won the majority vote while Californians primarily voted for Hilary

[^89]: Planned Parenthood Tracking Trump webpage 2020
[^90]: Ibid
[^91]: Ibid
[^92]: Ibid
[^93]: Ibid
[^94]: Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act 2018: 57536
[^95]: BBC 2019
[^95]: McCammon 2020
Clinton as she won the majority vote. Neither state is purely Democratic or Republican, both lean towards these political affiliations but a portion of their population voted for the candidates that did not win the majority. This is important to note as there is a connection between political affiliation and mindsets surrounding women’s reproductive rights and freedom.\(^{96}\) The second factor considered was whether the state had passed policies and legislation concerning reproductive rights since the election of President Trump. Finally, the third factor was whether any of the states had passed any policies, regulations, and/or legislation concerning CEDAW through the *Cities for CEDAW* campaign. As the U.S. has not ratified CEDAW, they are not obligated to revise their policies and legislation to ensure the implementation, promotion, and protection of the CEDAW principles.\(^{97}\) However, *Cities for CEDAW* provides tools and guidance for cities, counties, and states to implement CEDAW principles in their local regulations, policies, and legislation.\(^{98}\)

Between January 1\(^{st}\) 2011 and July 1\(^{st}\) 2019, states in the U.S. enacted 483 new abortion restrictions which account for almost 40% of all abortion restrictions enacted since Roe v. Wade in 1973.\(^{99}\) In 2019, California was only one of nine states that protected and/or expanded abortion access while Missouri was one of seventeen states that enacted abortion restrictions.\(^{100}\) Restrictions on abortion access has resulted in women having to travel far distances to access abortion services. In 2017, 97% of Missouri counties had no clinics that provided abortions and 78% of the female population of Missouri lived in those counties.\(^{101}\) In comparison with California, 40% of California counties had no clinics that provided abortions and only 3% of the female population lived in these counties.\(^{102}\) However, it is important to note that while this thesis will compare Missouri and California, there is a big population difference between these states. This population difference can have an impact on the prevalence of abortion clinics and other reproductive health care service providers. As well as being more populous, California is a larger state than Missouri.

To analyze the regulation of reproductive rights on a state level, legislation pertaining to abortion access will be analyzed in Missouri and California, as well as their *Cities for CEDAW* campaigns.
regulations. The material for the analysis of regulations in Missouri consists of Kansas City Resolution No.141045, University City Resolution 2015-13, and House Bill No.126. The material chosen for the analysis of regulations in California consists of Senate Concurrent Resolution No.78 - Relative to The Convention on the Elimination of All Forms of Discrimination Against Women and CA EDUC §99251.

3.1.2.1 Missouri

Missouri has been a Republican state consecutively since 2000 and in the 2016 Presidential election, primarily voted for President Trump as he won by 56.8%.103 Two cities within Missouri have adopted CEDAW resolutions through Cities for CEDAW. Kansas City passed Resolution No.141045 in 2014 which states that Kansas City supports CEDAW. The resolution also expressed Kansas City’s desire to ensure women can enjoy their rights and thrive in their city by refusing to tolerate discrimination. Finally, in this resolution Kansas City commits to eliminate all forms of discrimination against women.104 Similarly, University City passed Resolution 2015-13 in 2015, that states that University City is committed to ensuring women can enjoy their rights and that they are committed to eliminating all forms of discrimination against women.105 In 2019, Missouri’s Governor Parson passed House Bill No. 126, which bans abortion from eight weeks except in cases of emergency and anyone that performs an abortion will be guilty of a class B felony. This bill aims to protect the life of unborn children.106

3.1.2.2 California

California has been a Democratic state consecutively since 1992 and primarily voted for Hilary Clinton during the 2016 Presidential election with Hilary Clinton winning by 61.7% compared to President Trump with 31.6%.107 Similarly, with Kansas City and University City in Missouri, multiple cities within California also adopted similar resolutions. In 2018, California passed Senate Concurrent Resolution No.78 - Relative to The Convention on the Elimination of All Forms of Discrimination Against Women. This resolution declares that there continues to be a

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103 270 to win: Missouri webpage 2020
104 Resolution No.141045 2014: 1
105 Resolution 2015-13 2015: 1
106 House Bill No.126 2019: 6
107 270 to win: California webpage 2020
need to protect the human rights of women in California as well as address the continued discrimination by implementing the principles of CEDAW. 108 It also recognizes health care as a vital human right.109 In 2019, California enacted CA EDUC §99251, which expands abortion access by requiring that all public university student health centers offer medication induced abortion services by January 1st, 2023.110

3.2 Discussion of Material

Case studies often consist of multiple variables that need to be restricted to allow for a thorough and detailed analysis.111 For example, reproductive rights cover many issues such as abortion, birth control, sex education, pre-natal care, pregnancy testing, STD testing and treatment, etc. Therefore, to allow for a thorough analysis this thesis will only analyze regulations regarding abortion access and contraception access. Abortion and contraception access were chosen to focus on as they are heavily regulated and provide a comprehensive overview of biopolitical regulations concerning women’s bodies. The analysis of reproductive rights regulations on a federal level will analyze restrictions regarding abortion and contraception while the analysis on a state level will focus on regulations concerning abortion restrictions in Missouri and California. Another factor of case studies is the possibility of confirmation bias, this thesis will attempt to avoid confirmation bias by analyzing the contradictions within the chosen material.

When selecting which states to focus on, three factors were used to narrow down the pool of possibilities. Two of these factors selected similarities between states: the enactment of legislation and/or policies concerning reproductive rights since President Trump’s election and the existence of Cities for CEDAW regulations. These two similar factors were kept as constant and controlled variables while one factor (whether the state voted for Hilary Clinton or President Trump) was used as a differential independent variable. This approach to selecting states aimed to avoid selection bias and confirmation bias.

108 Senate Concurrent Resolution No.78 2018: 4
109 Ibid: 2
110 CA EDUC §99251 2020: 1
111 Lijphart 1971: 685
3.3 Socio-Legal Method

Sociology of law is a multidisciplinary and theoretical research approach that intertwines law and sociology to “examine the interrelations between legal practices, institutions, legal doctrines and their social context.”\(^{112}\) As law exercises power at every level of society, sociology of law analyzes this interdependent and intertwined relationship between law and society.\(^ {113}\) Compared to legal dogmatics which views law as a collection of rules, decisions, and principles, sociology of law also recognizes law as behaviors and practices as well as rules. Sociology of law acknowledges that the power of law is also present in mindsets which can affect institutions, social and cultural practices, politics, and people’s behavior.\(^ {114}\)

Considering this, the chosen methodology is a socio-legal analysis. This method allows for a legal analysis of the regulation of women’s reproductive rights as well as an analysis of the broader social and political context in which they are regulated. The socio-legal method provides an interdisciplinary study of law through a combination of other academic disciplines such as feminism, political science, history, sociology, economics, and psychology.\(^ {115}\) Moreover, a socio-legal analysis through a feminist and biopolitical lens provides opportunities to highlight the gendered power relations present in legislation.

Specifically, the socio-legal method used in this thesis will undertake a qualitative, descriptive, top-down approach. As the research questions this thesis attempts to answer are ‘how’ questions, this thesis is descriptive. However, it is important to note, that through the socio-legal method this thesis will go beyond the descriptive category by also “seeking a deeper understanding of the underlying mechanisms of social developments,” that is typical of explanatory theses.\(^ {116}\) A top-down approach to the socio-legal method was chosen as it starts with an examination of legislation and then an analysis of the social and political impact of the legislation.\(^ {117}\) Law is analyzed in relation to society. This approach is best suited for this analysis as it allows for an examination of women’s reproductive rights and how the social and political impact of this regulation influences women’s ability to secure their reproductive rights.

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\(^{112}\) Ervasti 2008: 141

\(^{113}\) Ibid: 142

\(^{114}\) Ibid: 142-143

\(^{115}\) McConville & Hong Chui 2007: 5

\(^{116}\) Banakar 2019: 8

\(^{117}\) Ibid: 4
3.4 Methodological Reflections

Although a socio-legal method is best suited for this thesis topic, there are some reflections and observations that need to be taken into consideration. With this chosen method and the top-down approach, there is a possibility of not focusing on law’s authority and legitimacy and thus overlooking power relations present in legal institutions.\footnote{118}{Ibid: 4-5} To prevent this disregard, the thesis will ensure that the socio-legal method will be conducted through a feminist and Foucauldian lens, as both feminism and Foucault focus on power structures. There is also a possibility of subjectivity as “law is not objectively ascertainable,” and one’s understanding of a political and social context may differ from someone else’s.\footnote{119}{Dobinson & Johns 2007: 32} A lack of objectivity can lead to certain biases such as confirmation bias.

4. Analysis

In the following section, the chosen material will be examined and analyzed through a socio-legal method. This analysis will also be examined through a biopolitical and feminist lens. The analysis starts with an examination of the federal level and the \textit{Title X Gag Rule} which aims at restricting abortion services nationwide. Following this, the Trump administration’s legislation that regulates birth control will be analyzed. After this, abortion regulations will be analyzed in Missouri and California, along with the relationship between political affiliation and reproductive rights regulations.

4.1 Federal level

4.1.1 Abortion

One of the laws that the Trump administration passed that regulates and restricts access to abortion was the \textit{Title X Gag Rule}. This rule prevents reproductive health care providers such as Planned Parenthood from receiving Title X funds and referring, providing, promoting or supporting abortion services. This rule calls for the physical and financial separation from reproductive health care clinics that provide abortion as a method of family planning.\footnote{120}{Title X of the Public Health Service Act 2018: 7715} The HHS stated that the rule aims to protect Title X as the only domestic, federal grant program focused on...
the provision of cost-effective family planning services. It also aims to protect “the statutory integrity of the Title X program, to eliminate the risk of commingling or misuse of Title X funds, and to prevent the dilution of Title X resources.”.\footnote{121} Moreover, the rule states that the regulations from 2000 that required abortion to be considered a family planning service are “inconsistent with federal conscience laws,” as well as “inconsistent with the health care conscience statutory provisions,”.\footnote{122} The White House has stated that the Trump administration’s abortion restrictions are passed to ensure the protection of “the sanctity of life.”.\footnote{123}

The \textit{Title X Gag Rule} is similar to two other legislative policies that Trump implemented: \textit{HJ Resolution 43} and the \textit{Mexico City Policy/Global Gag Rule}. \textit{HJ Resolution 43} was signed into law by President Trump in April 2017 and nullifies a previous HHS rule which prohibited states from excluding family planning providers from receiving Title X funds. This law goes hand in hand with the \textit{Title X Gag Rule} as it ensures and reinforces that states are allowed to withhold essential federal funds from clinics such as Planned Parenthood.\footnote{124} Moreover, the \textit{Mexico City Policy} also known as the \textit{Global Gag Rule} was reinstated in 2017 from previous Republican administrations which bans U.S. foreign aid from being used for abortion related services. President Trump expanded this rule by requiring that foreign NGOs that receive U.S. health assistance prove that they do not use U.S. funds to provide or advocate for abortion services.\footnote{125} Along with the \textit{Title X Gag Rule}, the White House describes these regulations as President Trump protecting religious freedom and “restoring the foundational link between freedom and faith in the U.S.”.\footnote{126} Other changes made by the Trump administration to the \textit{Title X Gag Rule} was it encouraged family participation in family planning decisions of minors as well as no longer requiring pregnancy counseling.\footnote{127} Despite attempts by the House of Representatives at preventing the gag rule, by passing a pro-reproductive health spending bill, Republican leaders blocked the bill and the 9th Circuit Court of Appeals voted to uphold the gag rule.\footnote{128}
Research indicates that the repercussions of this gag rule are severe and anywhere between 1.6 to 4 million women will be affected across the U.S.\textsuperscript{129} This gag rule led to reproductive health care providers choosing between receiving necessary funds for preventive care or ceasing abortion services. It is estimated that roughly, one in four providers which previously used Title X left the program to ensure their patients still had access to abortion services as well as crucial preventive care.\textsuperscript{130} Research indicates that for these providers, their capacity to provide preventive care decreased by roughly 46\%.\textsuperscript{131} For Planned Parenthood alone, Title X funds helped them prevent over one million pregnancies through birth control, as well as administer more than 720,000 pap tests, more than four million STD and HIV tests and more than one million breast exams.\textsuperscript{132} On a state level, the \textit{Title X Gag Rule} reduced the capacity to provide preventive services by 50-89\% in California and 25-49\% in Missouri.\textsuperscript{133} Marginalized and underprivileged women will be most affected by the \textit{Title X Gag Rule} as the majority of patients that received care from Title X funds were living below the federal poverty line.\textsuperscript{134}

The introduction of the \textit{Title X Gag Rule} highlighted that reproductive health care providers such as Planned Parenthood aren’t being regulated because they provide preventive care such as breast exams. They are under ‘attack’ because they provide services such as abortion; they provide women control over their lives and bodies.\textsuperscript{135} Access to abortion provides women power over Foucault’s idea of ‘make live and let die’, this power previously belonged to the modern biopolitical state. By controlling and regulating access to abortion, the modern biopolitical state is reclaiming power to ‘make live and let die’ while also reinforcing gendered beliefs of women’s roles by repressing bodily autonomy. The power of these regulations such as the \textit{Title X Gag Rule} are interwoven in cultural, social, and political structures. Sociology of law has indicated that law is not just solely rules but also mindsets, behaviors, and practices.\textsuperscript{136} One can draw a connection between the conservative rhetoric, practices, and mindsets from the Trump administration and restrictive reproductive rights regulations. Especially, as the Trump administration considers the

\textsuperscript{129} Guttmacher Institute webpage 2020
\textsuperscript{130} Guttmacher Institute webpage 2020
\textsuperscript{131} Ibid
\textsuperscript{132} Planned Parenthood Tracking Trump webpage 2020
\textsuperscript{133} Guttmacher Institute webpage 2020
\textsuperscript{134} Flannery 2018
\textsuperscript{135} Brown 2019: 85
\textsuperscript{136} Ervasti 2008: 142-143
right to religious freedom more imperative and pertinent than women’s rights and access to reproductive health care. Furthermore, these regulations establish women’s bodies as sites of power, specifically women’s wombs and their ability to carry life. Women’s wombs have become the paradigm of the camp highlighted by Agamben; they are the source, subject, and setting of biopolitical power. The politicization of the womb has introduced regulations that treat the body as a commodity that is only protected to ensure the perpetuation of women as mechanisms for reproduction.

4.1.2 Birth Control

The Religious Exemptions and Accommodations for Coverage of Certain Preventive Services under the Affordable Care Act Rule, protects the religious beliefs of corporations who are subject to provide birth control coverage through the ACA. This means that employers and insurers are no longer mandated to provide birth control if it infringes on their religious or moral beliefs. Instead birth control coverage is optional. The HHS, DOL, and the USDT stated that the rule is a necessary expansion to ensure the protection of “sincerely held religious objections of certain entities and individuals,” and to “minimize the burden imposed on their exercise of religious beliefs,”. This rule protects entities on religious grounds from penalties and fines if they were to fail to comply with contraceptive coverage mandates. This rule raises legal issues as well as human rights dilemmas and contradictions such as the right to health vs. the right to freedom of religion, and if one right outweighs the other.

Since his election, President Trump has expressed his intentions to protect the right to freedom of religion and to “restore the foundational link between freedom and faith in the U.S.”. In January 2020, the Supreme Court agreed to hear arguments whether this rule can pass and in May 2020, the Supreme started hearing arguments but remained divided. Government reports estimate that between 70,000 and 126,000 women will lose access to birth control as their employers will no longer cover it. Women’s ability to access birth control options ensures bodily

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137 Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act 2018: 57536
138 Ibid: 57537
139 Ibid: 57538
140 White House webpage 2018b
141 Liptak 2020
142 Ibid
autonomy, independence, power, and equality. Control over birth control is also representative of control over women’s sexuality. Regulations concerning contraceptive services relates back to knowledge over the historical ontology of sex. As Foucault established, sex is irrevocably tied to the confluence and merging of individual bodies and the population; control over sex signifies control over populations. The ability to manipulate populations through regulating sex and fertility allows modern biopolitical states to “achieve specific demographic, political, and cultural goals.” Moreover, one can deduce that biopolitical birth control regulations are also sexist as men’s sexual freedom and sexual citizenship is favored over women’s. The value of women’s sexuality and sexual citizenship is limited to their reproductive capacities, therefore women’s access to contraceptive services is hindered.

Similar to abortion, legislating access to birth control is a regulatory biopolitical practice that involves the surveillance and regulation of ‘make live and let die’ as fertility is controlled, and birth rates are manipulated to increase. Power over birth control by governing access allows for the measurement and control of women’s bodies and their fertility while also reducing them to mechanisms for reproduction. Birth control affects women’s fertility and biological processes; it establishes the womb as the camp and both as the setting and the source of biopolitical power. However, by ensuring women have access to birth control, they become emancipated from the state’s biopolitical power and control and become political citizens. Moreover, it interrupts the cycle of powers that was identified in the feminist theory section. When women have access to affordable contraceptive services, it not only reduces social and health inequalities but also power inequalities as women have control over their reproductive lives and their sexual lives. Women’s power over their own reproductive capacity and sexuality undermines the patriarchal notion and gendered socialization that women’s value is located in their sexuality and ability to reproduce. Strengthening women’s economic status, bodily autonomy, health and sexuality influences women’s social mobility. Moreover, women’s control over their own reproduction and sexuality are economic drivers that threaten the biopolitical capitalization and facilitation of women’s bodies as a source for patriarchal social power. Women’s ability to control their reproductive lives, their

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143 Murphy 2012: 9
144 Foucault 1978: 147
145 Ross & Solinger 2017: 8
146 Flood 2010: 458
147 Diprose & Ziarek 2018: 190
148 Flavin 2009: 4
fertility, and their sex lives is an essential aspect to bodily autonomy and control over their economic, cultural, and political lives.

4.2 State Level

4.2.1 Missouri

Two cities (Kansas City and University City) in Missouri have passed CEDAW resolutions in which they express their support for CEDAW and its goals. In these resolutions, both cities also express that they want to ensure all women in their cities can enjoy their human rights and can thrive. Each city commits to eliminating all forms of discrimination as discrimination against women and girls will not be tolerated.¹⁴⁹ These resolutions and commitment to CEDAW’s principles entails a commitment to protecting women’s reproductive rights as stipulated in article 12 of CEDAW. Although only two cities have expressed this commitment, the introduction of House Bill No.126 from Governor Parson contradicts this commitment.

House Bill No.126 bans abortion from eight weeks onwards including non-viable fetuses except in cases of medical emergencies.¹⁵⁰ This ban also hopes that banning abortions from eight weeks will prevent abortions conducted based on the sex or race of the fetus and whether the fetus has or potentially has Down Syndrome.¹⁵¹ The bill asserts that Missouri in recognition of God as the author of life, is a “sanctuary of life” that defends the right to life and protects pregnant women and their unborn children.¹⁵² The bill also states these regulations are legally permissible as it regulates abortion “to the full extent permitted by the Constitution of the United States, decisions of the United States Supreme Court, and federal statutes.”. ¹⁵³ In 1973, in Roe v. Wade, the U.S. Supreme Court legalized abortion and ruled that women have a constitutional right to abortion services and bodily autonomy without state interference.¹⁵⁴ Roe v. Wade is considered a landmark case, however, House Bill No.126 holds that Roe v. Wade is outdated due to advancements in medicine and biology and therefore no longer considered relevant.¹⁵⁵ The bill states that banning

¹⁴⁹ Resolution 2015-13 2015: 1
Resolution No.141045 2014: 1-2
¹⁵⁰ House Bill No.126 2019: 6
¹⁵¹ Ibid: 24
¹⁵² Ibid: 4
¹⁵³ Ibid: 5
¹⁵⁴ Curry 2010: 166
¹⁵⁵ House Bill No.126 2019: 6
abortion from eight weeks onwards is based on the importance of the existence of a heartbeat within the medical field. During gestation, a heartbeat can be detected from six to eight weeks, therefore, the bill stipulates that this is a reliable indicator of the viability of the pregnancy and survivability of the fetus, thus abortion should be banned.\footnote{Ibid: 7-8} The bill also stipulates that the banning of abortion from eight weeks has more benefits than the consequences of limiting abortion access. These benefits include a decrease in health complications caused by abortions, the preservation of the integrity of the Hippocratic oath and the medical profession, an increase in societal respect for human life, and a decrease in societal tolerance of violence against human life.\footnote{Ibid: 12} To legally justify the ban, the bill refers to article 6 of the ICCPR. The U.S. Constitution states that all treaties that are ratified “shall be the supreme law of the land.”\footnote{Ibid: 13} The U.S. ratified the ICCPR in 1992 and stipulated that governments have an obligation and responsibility to implement the articles. Within its justification of banning abortion, House Bill No.126 states that Missouri takes this obligation seriously and is committed to implementing the principles of the ICCPR, specifically article 6, ‘the right to life’.\footnote{Ibid} This justification of banning abortion raises many legal issues and human rights contradictions.

In response to this bill passed by Governor Parson, Planned Parenthood brought a case against Governor Parson in the hopes of acquiring an injunction. On August 28\textsuperscript{th} 2019, U.S. District Judge Howard F. Sachs prohibited the enforcement of House Bill No.126.\footnote{Planned Parenthood v. Governor Parson 2019: 11} In the Memorandum and Order, Judge Sachs stated that the central legal issue this bill raises is whether a state has a right to intervene in the reproductive lives of women.\footnote{Ibid: 3} Judge Sachs also emphasized that the bill refused to comply with the Supreme Court’s abortion jurisprudence such as \textit{Roe v. Wade} and \textit{Planned Parenthood v. Casey}.\footnote{Ibid: 8}

It is estimated that if this bill would have been allowed to pass, it would have affected two-thirds of Planned Parenthood’s patients from accessing abortion services and around one-half of reported women seeking abortions in Missouri.\footnote{Ibid} However, according to the bill, the majority of
women seeking abortions in Missouri seek them before eight weeks therefore, the ban does not affect a lot of women.164

Missouri’s attempt to ban abortions from eight weeks including non-viable fetuses not only hinders women’s ability to secure their reproductive rights and freedom but also perpetuates the biopolitical control of women’s bodies. Biopolitical power is located in the control over reproduction; control over ‘make live and let die’. The biopolitical ability to regulate life encompasses the regulation of fertility and birth rates. Hindering access to abortion allows the modern biopolitical state to regulate women’s fertility and the birth rate by preventing women from making personal choices regarding ‘make live and let die’. The state removes the ‘let die’ option and enforces the ‘make live’ option. Moreover, these regulations demonstrate how the womb has become the setting for biopolitical power as the regulation of fertility and birth rates entails a regulation of women’s wombs. The womb as a carrier of life becomes representative of the biopolitical camp and establishes it as the source and setting of biopolitical power and regulation. Women’s wombs become the zone of indistinction as examined by Agamben thus both unprotected and protected by law. Restrictive regulations such as House Bill No.126 protect women as it controls their existence while simultaneously establishing them as mechanisms for reproduction, thus renouncing them as unprotected and politically undefined essences. Moreover, the establishment of the womb as the camp to some degree strips women of their bios but it also creates a cycle and continuum where women remain objects and subjects of power.

As biopolitical power cannot be separated from racism, the regulation and restriction of abortion access is inherently racist. Those most affected by abortion regulations are minority groups as “restrictions on abortion and birth control are interwoven with the sex, race, and class agenda of the power structure.”.165 According to the bill, African-American women undergo abortions at three and a half times the rate than white women and also undergo more repeat abortions.166 If House Bill No.126 had passed, it would have greatly impacted women of color and hindered their access to secure their reproductive rights; a fundamental human right. The connection between restrictive reproductive rights regulations and racism will be further discussed in chapter 5.1.3.

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164 House Bill No.126 2019: 12
165 Brown 2019: 128
166 House Bill No.126 2019: 24
4.2.2 California

The introduction of Senate Concurrent Resolution No.78 - Relative to The Convention on the Elimination of All Forms of Discrimination Against Women in 2018 asserted California’s commitment to CEDAW and women’s rights. In this resolution, California acknowledged that there is a continued need to ensure that state departments, governmental policies, programs, and legislation are not discriminatory towards women and girls. If discrimination is identified, then it should be immediately remedied. Moreover, this resolution acknowledges that many aspects of women’s healthcare needs to be addressed including maternal health while also acknowledging the effect of racism on women’s healthcare access. Finally, in this resolution, California commits to protecting women’s human rights by complying with the principles of CEDAW as well as continuously analyzing all state operations, departments, policies, and legislation to identify discrimination. The introduction of this resolution demonstrates California’s support of CEDAW but also demonstrates their commitment to promoting and protecting women’s human rights. This commitment is reflected in how California regulates reproductive rights and how this regulation influences women’s ability to secure their reproductive rights and freedom.

In 2002, California passed Health and Safety Code §123462 which governs that “every individual possesses a fundamental right of privacy with respect to personal reproductive decisions.” This includes the right to choose or refuse birth control and to choose to bear a child or obtain an abortion. Moreover, this law specifically states that the state shall not deny nor interfere in women’s fundamental reproductive rights and choices regarding abortion. Since the introduction of this law, California has passed multiple policies and laws that build on this law by expanding and protecting women’s access to reproductive rights, including CA EDUC §99251. In 2019, California passed CA EDUC §99251 which expands access to abortion services throughout California by requiring that every public university student health center offers medication induced abortion services onsite. To ensure the provision of these abortion services, $200,000 will be allocated to each campus to help fund the direct and indirect costs of abortion services.

167 Senate Concurrent Resolution No.78 2018: 1
168 Ibid: 3
169 Ibid: 4
170 Reproductive Privacy Act 2002: 1
171 Ibid
172 CA EDUC §99251 2020: 1
Furthermore, this law requires that a report will be submitted each year to the legislature providing updates on the provision of onsite abortion services.\textsuperscript{173} The expansion of abortion access through \textit{CA EDUC \S\ 99251} influences and facilitates women’s ability to secure their reproductive rights especially young women.

California’s different approach to governing reproductive rights by expanding abortion access and ensuring women can secure their reproductive rights transfers biopolitical power from the state to women. When women have the ability to secure their reproductive rights, they receive power over ‘make live and let die’. When the modern biopolitical state no longer considers women’s bodies as the source and setting of biopolitical power then women’s bodies are no longer battlegrounds for control. Additionally, it disestablishes women’s wombs as the setting of the camp as discussed by Agamben. Moreover, it is not solely woman’s ability to reproduce that characterizes them as political citizens as the power of ‘make live and let die’ is no longer exercised over their bodies through restrictive reproductive rights regulations.

The recognition of racial factors affecting women’s access to healthcare and reproductive rights emphasizes that reproductive rights are linked to other social issues such as widespread systemic and institutionalized racism. The U.S. has a long, pervasive, and tumultuous history of racism, colonialism, and imperialism and the effects of it are still present throughout society including institutions. Women of color have been historically oppressed and now face social and political exclusion from restriction reproductive rights regulations. Factors such as chronic poverty and systemic discrimination shape the reproductive lives of women and women’s access to reproductive services. Although \textit{CA EDUC \S\ 99251} does expand abortion access, it does not consider other factors that hinder women’s ability to secure access to their reproductive rights such as race, ability, class, income, age, sexuality, gender etc.\textsuperscript{174} In California, women are more likely to live below the poverty line than men, and women are more likely to live in extreme poverty with incomes less than 50% under the federal poverty line.\textsuperscript{175} Although, women are more likely than men to live below the poverty line, there is a disparity in poverty rates among women of color compared to white women.\textsuperscript{176} Power inequalities such as poverty can lead to social and health

\textsuperscript{173} Ibid: 2
\textsuperscript{174} Hessini et al. 2017:40
\textsuperscript{175} Mount Saint Mary’s University 2017: 3
\textsuperscript{176} Ibid: 21
inequalities as different types of oppression become interlocking and interwoven perpetuating a cycle of subordination and marginalization.

4.2.3 Political Affiliation and Reproductive Rights

When comparing the regulation of reproductive rights in Missouri and California, one can make a connection and correlation between the political affiliation of the state and reproductive rights. The commitment made by each state to not only CEDAW, but women’s rights and reproductive rights is indicative of their political affiliation. California is a Democratic state and liberal states are more likely to promote and protect women’s reproductive rights as they see reproductive rights as a fundamental human right. This is demonstrated not only in the stronger commitment California made to CEDAW than Missouri but in 2019, California was only one of nine states that protected and/or expanded abortion access and services while Missouri restricted it. When women’s rights are respected and protected, not only is access to reproductive rights expanded but women’s bodies are not seen as a commodity. Missouri ranks forty-fourth out of fifty and California ranks ninth in the *Women’s Status on the Reproductive Rights Composite Index*, which measures factors such as parental consent, waiting periods for abortions, mandatory sex education, public funding, etc.¹⁷⁷ Missouri only has one Planned Parenthood clinic that provides abortion services and their attempting to prevent its license renewal.¹⁷⁸ In comparison, California has 111 Planned Parenthood clinics and 104 offer abortion services on site.¹⁷⁹ Similarly, in California all contraceptive services are available to minors while Missouri only offers a limited range of contraceptive services to minors.¹⁸⁰ Moreover, California is one of seven states that have laws that guarantee women’s birth control will be filled.¹⁸¹ The treatment of women’s bodies as a commodity by regulating reproductive rights not only hinders women’s ability to secure these rights but also perpetuates the biopolitical control of women’s bodies. It is important to note, that although California has a different approach to regulating reproductive rights that to some extent disestablishes women’s wombs as the camp and predominant biopolitical space, women remain

¹⁷⁷ Status of Women in the U.S. webpage 2015
¹⁷⁸ Tavernise 2019
¹⁷⁹ Planned Parenthood California Health Centers webpage 2020
¹⁸⁰ Guttmacher Institute Minor Consent Laws webpage 2020
¹⁸¹ NARAL webpage 2020
objects and subjects of power. As power is capillary and cycles through society, in both Missouri and California, women are objects and subjects of power although this looks different in each state.

However, it is important to note that this analysis is only of two states: Missouri and California. Although to a certain degree observations and generalizations can be made, these are not indicative of all states in the U.S. Further research is required to further analyze the correlation between political affiliation and women’s reproductive rights. As well as analyze if there are any states that would be considered outliers to the hypothesis that more conservative states are more likely to implement and enact restrictive reproductive rights regulations.

5. Discussion and Conclusion

5.1 Discussion

Since President Trump was elected, the Trump administration has attempted to pass legislation and policies that regulate reproductive rights on both a state and federal level. Although not all of these regulations have passed, “policymakers did considerable harm while also signaling their intentions for further attacks in the years ahead.”.\(^{182}\) Whether or not these regulations have passed, they have had lasting effects on reproductive rights and women’s rights in the U.S. These regulations and the status of women are indicative of power relations and attitudes in society and the institutions that enforce them.\(^{183}\) When reproductive rights are heavily regulated and access is hindered, it establishes women’s bodies as sites of power that can be controlled and regulated. These biopolitical and disciplinary powers are present throughout society but especially social and political institutions that control women’s fertility. Restrictive reproductive rights regulations are centered around regulating who can access their reproductive rights and under what circumstances. When regulations such as House Bill No.126 are blocked, the biopolitical power does not cease to exist instead it cycles through society.

The effects of the biopolitical power of the Trump administration will exist even after his presidency; “long after Donald Trump leaves the seat, his fingerprints will still be on our justice system.”.\(^{184}\) The analysis of how women’s reproductive rights are regulated on a federal and state

\(^{182}\) Hasstedt & Boonstra 2018

\(^{183}\) Chemaly 2018: 243

\(^{184}\) Rothe & Collins 2019: 967
level by the Trump administration exposed three key themes: the nexus between law and medicine, misogyny, and racism.

5.1.1 Power and the Law and Medicine Nexus

Biopolitical power over women’s bodies intersects at the nexus between law and medicine. As biopolitics centers around the investment and management of life, biology and medicine are regulated through legislation and policies. The regulation of reproductive rights by the Trump administration as seen at a federal level and in Republican states such as Missouri, treat women’s reproductive health as a commodity. Since 1987, women’s maternal mortality has steadily been increasing in the U.S. and in 2016, the number of pregnancy related deaths per 100,000 live births was 16.9.\textsuperscript{185} The U.S. is the only developed country whose maternal mortality rate is increasing.\textsuperscript{186} Among these statistics, there is a big disparity between women of color and white women.\textsuperscript{187} The maternal mortality statistics along with the regulations of reproductive health care highlight that reproductive rights are not considered nor protected as a fundamental human right in the U.S.

The biopolitical power exerted over women’s bodies through restrictive, regulatory, and conservative legislation threatens women’s reproductive freedom. In modern biopolitical states, a woman’s political worth is defined by her reproductive capacity and fertility as controlling women is necessary to control and manipulate populations.\textsuperscript{188} The nexus between law and medicine established by biopolitical power uses sexuality and fertility “to achieve specific demographic, political, and cultural goals,” to perpetuate the subordination of women.\textsuperscript{189} The regulation of reproductive rights demonstrates the complexity of biopolitical power as not solely being present in social and political institutions but also in the nexus between law and medicine. As Foucault established, biopolitical power is everywhere, therefore, one cannot escape it. However, women can momentarily evade it through temporary resistance. Moreover, the regulation of contraception is “embedded in complex webs of state and nonstate investments in women’s bodies, reproduction, health, and sexuality.”\textsuperscript{190} In a modern biopolitical state, laws are used to shape the sexual, medical, and reproductive lives of women; “the focus on biopolitics helps eliminate a false dichotomy

\textsuperscript{185} CDC webpage 2020  
\textsuperscript{186} Delbanco et al. 2019  
\textsuperscript{187} CDC webpage 2020  
\textsuperscript{188} Brown 2019: 58  
\textsuperscript{189} Ross & Solinger 2017: 8  
\textsuperscript{190} Takeshita 2012: 3
between public and private, and exposes how both liberal and authoritarian governments can promote policies that restrict women’s rights.”.\(^{191}\) Furthermore, restrictive biopolitical reproductive rights regulations are inherently misogynistic and racist.

5.1.2 Misogyny

Misogyny is a pervasive, persistent, protean, and pernicious force that has been present throughout history.\(^{192}\) The reduction of women to mechanisms for reproduction is inherently misogynistic as it constrains women’s capacity and locks them into a patriarchal cycle that denies them the right to reproductive freedom. When women’s capacity is further restrained by other social factors such as poverty it further hinders their ability to secure access to their reproductive rights.\(^{193}\) The regulation of reproductive rights by the Trump administration is an example of how misogynistic attitudes and mindsets can be translated into legislation that neglects women’s fundamental human rights.\(^{194}\) It is important to note that the Trump administration is not the sole administration that implemented misogynistic reproductive rights regulations nor did they construct a patriarchal society but they do have a role in advancing it.\(^{195}\)

Biopolitics works in tandem with misogyny and racism and “targets women’s reproductive self-determination as biopolitical threats to democratic plurality.”.\(^{196}\) A woman’s ability to control their reproductive choices is hindered by biopolitical legislation that works together with poverty, racism, homophobia, misogyny, etc.\(^{197}\) The legislation from the Trump administration not only perpetuates the biopolitical control of women’s bodies but also works together with other political, social, and environmental restrictions. Moreover, misogyny is located in the complex intersection of the public and private sphere and is present in the biological, sexual, psychological, social, economic, and political spheres.\(^{198}\) Patriarchal societies that place women’s value in their reproductive capacity influences cultural hegemony and gendered socializations which reinforce this belief. This translates in power inequalities which induces social and health inequalities. These

\(^{191}\) Flood 2010: 459
\(^{192}\) Holland 2006: 234
\(^{193}\) Flavin 2009: 5
\(^{194}\) Ukockis 2019: 4
\(^{195}\) Harman & Davies 2018: 495
\(^{196}\) Diprose & Ziarek 2018: 18
\(^{197}\) Silliman et al. 2004: 27
\(^{198}\) Holland 2006: 235
inequalities then in turn reinforce social and political reproductions of the patriarchy and paternalistic sentiments resulting in a continuous cycle. Gendered socializations seek to “dehumanize women through restrictive definitions of what their ‘true’ role supposedly is and in making sure they are confined to it.”\textsuperscript{199} These socializations reinforce biopolitical power in legislation and policies that reduce women to mechanisms for reproduction and perpetuates the biopolitical control over women’s bodies. Moreover, gender socializations have a lot of influence to affect powerful social and political institutions such as legislation.\textsuperscript{200} The legislation and policies passed by the Trump administration that perpetuates biopolitical power and that are inherently misogynistic reinforces the continued power of patriarchal societies.

Patriarchy is a continuation of biopolitical power that focuses on regulating, controlling, and monitoring women’s bodies because of their ability to reproduce.\textsuperscript{201} Misogyny was historically created, however is being politically maintained by the perpetuation of the biopolitical control of women’s bodies through legislation that regulates women’s reproductive rights.

\subsection*{5.1.3 Racism}

The long and pervasive history of racism in the U.S. has had a substantial impact on the reproductive rights of women of color; “the reproductive lives of women of color have been shaped by a long history of abuses.”\textsuperscript{202} The reproductive rights regulations passed by the Trump administration has hindered women’s access to secure their reproductive rights and freedom. However, systemic and institutionalized racism along with many other factors establishes further obstacles for women to secure their reproductive rights.

Reproductive rights cannot be separated from other socioeconomic and political inequalities; “women of color in the U.S. negotiate their reproductive lives in a system that combines various interlocking forms of oppression.”\textsuperscript{203} When applying an intersectionality socio-legal analysis on the material, it highlights “the continuance of historical discrimination and the social construction of marginalization,” that affects the reproductive rights of women of color.\textsuperscript{204} Moreover, it highlights that different forms of oppression are not additive but integrative and

\begin{itemize}
\item \textsuperscript{199} Holland 2006: 209
\item \textsuperscript{200} Lacey 1998: 3
\item \textsuperscript{201} Takeshita 2012: 24
\item \textsuperscript{202} Fried 2013: 11
\item \textsuperscript{203} Silliman et al. 2004: 27
\item \textsuperscript{204} Skeet 2020: 273-274
\end{itemize}
interdependent. An analysis of the marginalization of women of color through biopolitical regulations highlights the continued existence of structural injustice.

Structural injustice refers to multiple different aspects within society and institutions that prevent women of color from securing their reproductive rights. Regulations that limit abortion access by either banning it as seen in House Bill No.126 or limiting abortion providers as seen in the Title X Gag Rule all aim at preventing abortion. By guaranteeing that women have to travel far for abortion services or insurance agencies refusing to cover abortion ensures that women cannot access a crucial reproductive health care service. Moreover, with women of color more likely to face economic struggles due to systemic and historic racism and discrimination, they are less likely to be able to fund their reproductive health care. Abortion and birth control regulations force women to do reproductive labor in unfavorable reproductive working conditions such as paid parental leave and affordable childcare.

Control over women’s reproductive rights cannot be separated from power both political and social power. Specifically, reproductive rights regulations that disproportionately affect women of color cannot be disassociated from white supremacy and white privilege. The focus of these biopolitical regulations is the control and manipulation of populations, specifically life and its biological processes. Therefore, women are disproportionately affected, and their reproductive rights are heavily regulated as they are the necessary ‘vessels’ for the creation of life. However, it is important to note that although white women are heavily affected by the Trump administration’s biopolitical regulations, women of color are disproportionately affected by the white supremacist agenda present in these regulations. Within this agenda, it can be argued that “the biological imperative to ‘make live’ applies more to the reproductivity of white women and is offset by ‘let die’ being applied to the reproduction of subjugated nations,” in the U.S. Biopolitical power is not solely control and regulation but also the manipulation and management of populations. By controlling and regulating access to abortion and contraceptive services, it allows for the indirect management of the population to achieve the demographic ideals of the Trump administration. An analysis of the reproductive rights legislation and policies by the Trump

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205 Ross & Solinger 2017: 74-75
206 Brown 2019: 16
207 Ibid: 127
208 Bond 2017: 15
209 Diprose & Ziarek 2018: 183
administration did highlight that these regulations are inherently racist, but it also raises questions. It can be argued that these regulations aim to perpetuate the biopolitical control of women’s bodies rather than the direct manipulation of populations that reflect the neo-conservative ideals of the Trump administration. Instead by perpetuating the biopolitical control of women’s bodies these regulations attempt to preserve the structural forms of injustice and oppression that women of color face. The regulations still establish women’s wombs as the paradigm of the camp and biopolitical space and through systemic oppression and racism, women of color are disproportionately affected.

Those who are affected by forms of structural injustice such as racism, poverty, income and housing inequalities, etc. bear the brunt of biopolitical regulations.\textsuperscript{210} The interwoven existence of different forms of oppression and subordination means that women cannot secure their reproductive rights without addressing the other forms of injustice they face.\textsuperscript{211}

\textbf{5.2 Conclusion}

Women’s reproductive rights are without a question a fundamental human right. They emphasize the belief that women have an inherent right to control their own body and biological processes just like their male counterparts. Moreover, women’s ability to secure their reproductive rights links to their ability to secure other pertinent human rights, such as the right to life, education, privacy, etc. As a positive and negative right, it requires that states provide reproductive health care services but that they do not interfere in women’s reproductive freedom.

Legislation and policies that regulate women’s reproductive rights are a representation of modern biopolitical states interfering with women’s reproductive freedom. Restrictive regulations influence women’s reproductive rights by hindering their ability to access and secure these rights. With the election of President Trump and the establishment of a neo-conservative administration, women’s reproductive rights and those who provide it have come under attack. Through the use of a socio-legal method, this thesis analyzed the legislation and policies passed by the Trump administration to examine how they perpetuate the biopolitical control of women’s bodies. This analysis also examined how women’s reproductive rights are regulated at both a federal and state level and how this influences women’s ability to secure their reproductive rights.

\textsuperscript{210} Flavin 2009: 182
\textsuperscript{211} Bond 2017: 15
Through a biopolitical and feminist lens, this socio-legal analysis demonstrated that restrictive reproductive rights regulations perpetuate the biopolitical control of women’s bodies as women are seen as mechanisms for reproduction. These biopolitical regulations target women’s reproduction because of women’s ability to create and carry life, thus, regulating women allows for the regulation and manipulation of populations. The womb has become the setting and source of biopolitical power. This was highlighted by the birth control and abortion regulations on a federal level as well as by the abortion regulations in Missouri. On the other hand, California is one of the few states that does not restrict abortion access but instead passed legislation and policies to protect and expand abortion access. California enacted Senate Concurrent Resolution No.78 - Relative to The Convention on the Elimination of All Forms of Discrimination Against Women and committed to promoting and protecting CEDAW. This commitment is translated in their reproductive rights regulations as instead of restricting women’s access they aim to protect women’s reproductive rights. Although two cities in Missouri did commit themselves to implementing CEDAW principles, they have contradicted their commitment by attempting to enact multiple restrictions on abortion. The difference between California as a Democratic liberal state and Missouri as a Republican conservative state as well as restrictive federal regulations passed by the Trump administration highlights many socio-legal issues and social implications.

The legislation and policies passed by the Trump administration on both a federal and state level illustrates that health care specifically reproductive health care is seen as a commodity not a fundamental human right. Instead other human rights such as freedom of religion and freedom of speech are prioritized over reproductive rights. Women’s reproductive rights and freedom is heavily regulated and restricted. These biopolitical regulations are inherently misogynistic as they discriminate and violate women’s human rights. Another socio-legal issue that this analysis highlighted was that racism remains institutionalized and pervasive in the U.S. Women’s reproductive restrictions are interwoven and interdependent with other forms of oppression such as racism, xenophobia, homophobia, etc. Moreover, structural injustices such as poverty and housing inequalities cannot be separated from women’s inability to access their reproductive rights.

Through a socio-legal analysis, this thesis has demonstrated that the regulation of women’s reproductive rights through restrictive legislation and policies on a federal and state level by the Trump administration perpetuates the biopolitical control of women’s bodies. It has also
demonstrated that this influences women’s ability to secure their reproductive rights and freedom by hindering access.

Finally, this thesis highlighted the words of Dr. Leana Wen, the former president of Planned Parenthood:

“Keeping people unhealthy is a tool of oppression. Stigmatizing reproductive healthcare is a tool of misogyny. What these politicians are doing has nothing to do with medicine and science. They have everything to do with power and control over women’s bodies.”

5.3 Future Research

There are many possible further research directions one can take to expand this thesis topic. This includes analyzing the relationship between environmental justice and reproductive rights specifically looking at Native Americans in the U.S. and how the injustices they face from both topics are interdependent and interwoven. Additionally, a deeper analysis can be done between the biopolitical control of reproductive rights and the race and class struggle in the U.S. Moreover, research can be done on the denial of reproductive rights as non-essential health care during a global pandemic such as COVID-19. Another possibility to further this thesis topic is to examine this topic by comparing additional American states or comparing the U.S. with other countries who currently have neo-conservative administrations. This examination would allow for more generalizations to be made and would result in an increase in the external validity of the thesis. Finally, a deeper examination can be conducted on the relationship between two important rights: freedom of religion and reproductive rights. Through a biopolitical lens and a human rights framework, these two human rights can be analyzed together to examine the conflict and contradictions between them.

212 Dr. Leana Wen in AJ+ webpage 2019
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