Newly-enacted Ohio law designed to “end abortion in America”

Ed Hightower
15 December 2016

Two developments this week in Ohio and Oklahoma underscore the growing attacks on reproductive rights in the United States.

The first is the passage in Ohio of a reactionary abortion ban that forbids the procedure after 20 weeks of pregnancy, with no exception for cases of rape or incest. Signed into law Tuesday by Ohio Governor and recent Republican presidential candidate John Kasich, the new law exceeds any existing state law or federal regulation in curtailing the right to an abortion.

Prior to the new law, Ohio already banned all abortions after 24 weeks, and required a medical opinion of fetal unviability for aborting a fetus between 20 and 24 weeks, with exceptions for rape, incest, or risk of death to the mother.

The anti-abortion group Ohio Right to Life supported the new 20-week ban law.

The group’s president, Michael Gonidakis, bluntly explained the law’s intention to the *Columbus Dispatch*, saying, “The 20-week ban was *nationally designed to be the vehicle to end abortion in America.* It challenges the current national abortion standard and properly moves the legal needle from viability [the legal standard under *Roe v. Wade*] to the baby’s ability to feel pain.” (emphasis added)

As if the above perspective lacked anti-abortion vigor, a still more fanatical group called Faith2Action promoted a parallel measure, known as the “heartbeat bill,” which would have outlawed terminating pregnancies after the sixth week. This measure passed the state Senate and House, but did not survive Governor Kasich’s veto.

The veto represented a tactical, not an essential, deviation from Kasich’s extreme anti-abortion views. As Kasich explained, “Senate Bill 127 [the 20-week ban] is the best, most legally sound and sustainable approach to protecting the sanctity of human life.”

The heartbeat bill would have been the most restrictive law of its kind in the nation had it been signed into law, but it would have met with at least some opposition in the US Supreme Court. Kasich and the more prudent anti-reproductive rights advocates preferred a more incremental rollback of the right to abortion, as explained by Gonidakis.

To date, some 17 US states have enacted 20-week abortion bans. In two cases federal courts have found such laws unconstitutional.

The second development is a ruling by the Supreme Court of Oklahoma striking down a state law requiring abortion doctors to have “admitting privileges” at a hospital within 30 miles of their place of practice.

The opinion follows a June 2016 US Supreme Court ruling in *Whole Woman’s Health v. Hellerstedt*, which struck down provisions of a Texas law also requiring admitting privileges.

The *Hellerstedt* ruling strengthened the requirement that state laws limiting abortion access cannot create an undue burden to women. Put another way, state laws would have to show some medical rationale for limiting access to the procedure.

Because abortions are generally such safe procedures, no such rationale exists. Neither the American Medical Association nor the American College of Obstetricians and Gynecologists supports the admitting privileges requirement.

In keeping with this line of reasoning, the Oklahoma Supreme Court found that the law in question created an undue burden on access to abortion, in violation of the federal and state constitutions.

Challenges to similar laws in North Carolina, Missouri and Alaska were filed last month.

According to the Guttmacher Institute, one quarter of

all abortion-restricting laws enacted since the 1973 *Roe v. Wade* decision date from the period between 2011 and 2016, a figure which highlights the increasingly reactionary and antidemocratic character of American politics.

The *Washington Post* reported that in the past legislative session alone, nine states introduced measures banning all abortions, and while none became law, Oklahoma's bill did make it to the governor's desk, where it was vetoed.

Louisiana, Alabama, Mississippi and West Virginia banned the most common method of second-trimester abortions. Louisiana and Kentucky also lengthened the waiting period for abortions, while South Dakota and South Carolina both enacted bans on abortions after 20 weeks, bringing the total number of states with such bans to 17.

Indiana enacted a law that violates the principles in the *Roe* and *Hellerstedt* cases, making it unlawful to terminate a pregnancy because of the fetus' ethnicity or because it carries Down syndrome.

It goes without saying that none of these measures restricting access to the legitimate, private medical procedure known as abortion furthers any progressive or constitutionally permissible goal. Least of all are they aimed at helping the women who have chosen, as is their right, to have the procedure. The premises underlying all such measures are the religious conception that life begins at the moment of conception, and that a fetus has rights that are *at least* equal to that of the mother carrying it.

The newest round of restrictions on abortion are one component of an attack on reproductive rights specifically and the democratic rights and social position of the working class generally.

The author recommends:

US Supreme Court strikes down Texas anti-abortion law
[28 June 2016]