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The Politics of Problem Definition: Abortion Policy in Republican-Controlled Louisiana

Clare Daniel [1,*], Anna Mahoney [2] and Grace Riley [3]

[1] Newcomb Institute, Tulane University, New Orleans, LA 70118, USA
[2] Rockefeller Center for Public Policy and the Social Sciences, Dartmouth College, Hanover, NH 03755, USA; anna.m.mahoney@dartmouth.edu
[3] School of Public Health and Tropical Medicine, Tulane University, New Orleans, LA 70112, USA; griley2@tulane.edu
* Correspondence: cdaniel5@tulane.edu

Abstract: Following the Dobbs v. Jackson Women's Health Organization decision, Republican-controlled legislatures across the U.S. initiated draconian abortion restrictions. In order to appeal to anti-abortion policymakers, advocates across the country have strategically separated "maternal and child health" (MCH) issues, such as increased insurance coverage for midwifery and doula care, from issues often labeled as "reproductive rights," such as access to sex education, birth control, and abortion. Advocates point out this strategic separation has likely contributed overall to the downfall of abortion rights. In this paper, we analyze legislative discourse to understand the legislative challenges advocates face, the strategic separations and allyships they employ, and the implications for other states and reproductive health more broadly. We find that legislators legitimate the same scientific evidence in some contexts while not in others in order to hold onto rhetorical purity within the abortion debate. In their attempts to parse the ideal abortion seeker, conservative legislators create legal ambiguities with serious consequences for healthcare.

Keywords: abortion; state policy; advocacy; Louisiana; reproductive rights; reproductive justice; policy formation; problem definition

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> "The law defines what is an abortion and what it is not an abortion." Angelique Friel (Debate on H.B. 522 2023d, 3:17:17)

1. Introduction

In August of 2022, Nancy Davis, a pregnant Baton Rouge resident, learned that despite the fatal diagnosis of fetal acrania, her hospital would not perform the abortion she and her doctors determined was the best medical option for her.[1] Recent legislation triggered by *Dobbs v. Jackson Women's Health Organization*, a Supreme Court case that eliminated the federal constitutional right to abortion, prohibited doctors in Louisiana from performing abortions unless very strict conditions were met. Davis' hospital acknowledged that their reluctance to perform the abortion was due to confusion surrounding which diagnoses met the conditions codified by the state health department. At a press conference, Davis said, "Basically, they said I had to carry my baby to bury my baby. . .I want you to imagine what it's been like to continue this pregnancy for another six weeks after this diagnosis. This is not fair to me, and it should not happen to any other woman" (El-Bawab 2022). For Davis, the political definition of permissible abortion became a life-or-death issue (Sasani and Cochrane 2022).

To some Americans, "abortion" is the equivalent of a dirty word that they would be reluctant to say in front of children. This stigmatization is often the case even in politically liberal contexts, not to mention the conservative Southern society of Louisiana. The term "abortion," perhaps partly independent of the set of medical practices to which it typically

refers, carries the weight of decades of heated debate over gender, sex, family, class, and race (Norris et al. 2011). In the wake of *Dobbs*, the national discourse over the issue has become more complex as the public has been faced with some of the ways that variable access to abortion affects reproductive health outcomes more broadly. Stories about pregnant women being denied lifesaving procedures or having their care delayed because of state abortion bans have raised concerns about what counts as abortion and who gets to decide (El-Bawab 2023; Elyse 2023).

Nowhere is this better illustrated than in Louisiana's 2023 legislative session, as the quote above from the assistant attorney general, Angelique Friel, suggests. These debates about medical versus legal definitions of "abortion" register not just differences in disciplinary terminology, but longstanding strategies on many sides of the debate to erect a clear separation between maternal health and abortion. The framework of reproductive justice, developed by Black feminists in the 1990s, seeks to resist the artificial separation of abortion and contraception from the broader context of forces that shape people's reproductive lives (Price 2020; Luna 2020). Emphasizing how histories of reproductive injustice have been shaped by structural racism and economic inequality, this framework is especially relevant in the Louisiana context, where the intersecting forces of racism, poverty, and gender-based oppression produce stark disparities in reproductive health outcomes. Indeed, reproductive justice advocates and public health scholars have argued for years prior to *Dobbs* that a lack of access to abortion leads to worse maternal and infant outcomes (Silliman et al. 2016; Ross 1992; Ross et al. 2017; Vilda et al. 2021; Bossick et al. 2023).

Nonetheless, advocates in Louisiana have struggled to push legislation that would improve conditions for birthing people and address the state's abysmal maternal and infant mortality rates without embracing that artificial separation between a stigmatized medical procedure and all the other health interventions related to reproductive care (KFF 2023; National Center for Health Statistics 2023). Advocates are confronted with a staunchly anti-abortion legislature—one that, prior to *Dobbs,* had instantiated one of the most restrictive policy landscapes for reproductive rights in the country and that paints efforts to improve access to abortion as a conspiracy on the part of the "abortion industry" (Guttmacher Institute 2024; Debate on H.B. 461 2023i, 2:33:22). Despite this repressive context, in the wake of *Dobbs* and Louisiana's near-total abortion ban, some advocates believe that highlighting connections between reproductive rights and maternal health may be the best opportunity to pass laws that improve reproductive self-determination and resist conservative attempts to shape the debate. As George Lakoff stated so definitively, "The issue of the morality of abortion is settled once the words are chosen" (Lakoff 1996, p. 264).

Abortion access is only one political right among many considered to be under attack within authoritarian regimes or in places where right-wing politicians come into power. Misogyny has been identified as a tool authoritarians have used to villainize progressive policy and justify restrictive policies (Kaul 2021). Hostile sexism and right-wing authoritarian views contributed to stigmatizing abortion attitudes (Patev et al. 2019) with "abortion or the rights of LGBT+ people [ultimately] treated as threats to the future of the nation and its people" within authoritarian regimes (Rosamond and Davitti 2022). While Louisiana does not meet the criteria of an authoritarian regime, Norris (2022) has demonstrated through national survey data that U.S. Republican voters hold more authoritarian views than other conservative parties throughout the world and that these views are correlated to the adoption of draconian abortion policies. Following *Dobbs*, 21 Republican-controlled state legislatures moved to ban or further restrict abortion (NYT 2024). Despite the overwhelming opposition to reproductive rights within conservative political contexts, advocates have seized political opportunities. In Mexico, for example, abortion advocates were able to co-opt the state's interest in population control to further their agenda, while in Argentina a maternal health crisis exacerbated by economic conditions led to an expansion of reproductive rights (Lopreite 2009).

Recognizing the powerful role framing political problems plays in the policymaking process, in this paper, we analyze legislative debates about key reproductive health-related

bills in the 2023 Louisiana legislative session. We consider how advocates navigate an increasingly authoritarian setting in which the discursive conditions of possibility have become progressively narrower, concerns with medical and scientific accuracy are only selectively applied, and rigid expectations around gender and sex are the norm. In particular, we examine how advocates appeal to the need to improve maternal health in their efforts to pass bills that would loosen aspects of the abortion ban. We compare this to similar appeals in debates about bills that would address other aspects of maternal health that do not trigger the same political animus. Rather than finding a new reality in which maternal health serves as a lever to improve abortion access in the state, we find that in eliding abortion language, reproductive rights advocates are also ceding new ground discursively with no apparent policy gains. Instead, small wins are made for maternal health, so long as its separation from abortion is maintained. Moreover, the main opportunity for loosening the abortion ban, outside of a ballot initiative, which in Louisiana requires a legislative majority to initiate, seems to lie in redefining the term "abortion" to maintain its stigmatized status and exclude any instances of it that anti-abortion legislators view as unacceptable.

As legislators resist softening their position on abortion access, patients like Nancy Davis find themselves at those legislators' mercy while they manipulate bureaucratic systems to have their political cake and eat it too. Not wanting to appear punitive toward sympathetic abortion seekers, lawmakers must allow for muddied exceptions to their strict abortion bans while simultaneously maintaining their anti-choice bona fides. Rather than amend the ban, Louisiana lawmakers maintain their vague exceptions that create legal ambiguity for hospitals, doctors, government agencies, and patients. Sustaining this ambiguity rather than including additional exceptions or repealing the ban allows legislators to maintain their anti-choice political title and keep the public debate simple—for or against—while the reality of the policy is complicated and rife with inefficiencies. Jones et al. (2014) theorize that "winners" within policy conflict want to contain conflict while "losers" wish to expand it, and the political maneuvering in Louisiana serves to maintain the rhetorical boundaries established by conservatives, closing off nuances that may serve to shift public opinion even further in favor of abortion access even beyond its relative popularity now (Jones et al. 2014).[2] By maintaining strong boundaries on the language used in these debates, conservative legislators are controlling the casual story about pregnancy and abortion in an attempt to control their citizens, including doctors and patients (Stone 1989). In so doing, they determine the policy possibilities by determining the language.

2. Defining Political Problems

"There are great stakes in problem definition" (Kingdon [1984] 2003, p. 110). Advocates frame circumstances as public problems in need of a collective intervention by government, and how they do this and to whom they attribute blame determines who will be taxed, regulated, subsidized, incarcerated, drafted, and memorialized (Stone 1989). In some instances, advocates are fighting against the status quo that refuses to recognize a public problem in the first place. Other times, advocates are opposed by those who agree there is a problem but assign blame to different parties or propose alternative solutions as a result of their different interpretation of the circumstances (Stone 1989). Both sides then rally evidence, witnesses, and political argumentation to win in the court of public opinion as well as see their favored proposal adopted.

In order to convince policymakers to choose their proposals, advocates bring various types of evidence to the debate. They carefully choose the voices who will speak on the issue and lend credibility to their framing of the issues. They may also choose to present scientific evidence or rely on professional expertise. Alternatively, or sometimes in concert with this approach, advocates may present emotional appeals to humanize those impacted by the issue and incentivize policymakers to act (Kerschner and Cohen 2002). These decisions carry high stakes as "Each legislator has a preference in terms of the tools he or she would like to use to make informed decisions; therefore, the type of information presented by the interest groups can either quickly capture the attention of the legislator or further push the

issue off of the legislator's radar screen" (Teater 2008, p. 213). Further, advocates must be careful to protect their credibility because "If an expert becomes too closely associated with a particular ideological bent—say, a priori devotion to either public-sector salvations or market theology—he or she risks losing credibility as an expert" (Peterson 1997, p. 1091). Throughout this process, legislators rely on various informants but their degree of reliance on them varies according to the stage of the process, with vote casting (as opposed to bill formation or vote whipping) being influenced by the smallest, most trusted circles—those most likely to share the same ideology as the legislator, resulting in predictable partisan voting patterns on most votes (Mooney 1991).

The constructivist nature of policymaking means that political debates are about meaning making that frequently creates villains and victims as well as contradictions rife with legislative inefficiency (Lobasz 2018). This categorization of those deserving of good public policy and those deserving of state-disseminated punishment impacts not only the nature of public policy solutions but also the type of instrument used for implementation. In turn, public policy shapes these populations' understanding of the nature and utility of government itself (Schneider and Ingram 1993). When advocates tell stories to achieve their desired ends, their impact outlasts any particular bill debate or legislative session. This political rhetoric establishes what is legitimate political behavior, who is deserving of government support or punishment, and the scope of political possibility. Deborah Stone (1989) tells us, "They are fights about the possibility of control and the assignment of responsibility" (p. 283).

In debates over abortion access, political elites demonstrate a higher level of extremism, while public opinion has tended to reflect a more moderate perspective, with most Americans supporting some regulation on the medical procedure but rejecting complete bans (Blazina 2022). Despite pro-choice advocates' attempts to educate legislators about the health impacts of complete bans, the issue remains partisan, with the gap only expanding in recent decades (Pew Research Center 2022b). In fact, research demonstrates that more information about an issue may only serve to reinforce polarized positions rather than mediate them (Zelizer 2018). Rather than taking in new information from a wide range of sources, those with whom the legislator agrees and disagrees, much of policy formation is reliant on existing policies with little room for revolutionary ideas (Peterson 1997). Past becomes prologue as existing abortion policy and rhetoric narrows the possibility for more creative policy alternatives. The political party organization of government furthers this entrenchment where resources are scant and their facilitation of information distribution is heavily relied upon (Ringe 2009).

Advocates on both sides carefully craft their message not only to achieve short-term policy goals but to grant legitimacy to their position, maintaining and growing their base and constraining their opponents' public position. Public health as a field grew out of the necessity of collective solutions to shared problems—the very reason governments were created. This reliance, however, also results in healthcare policy being politicized when competition for resources exists and regulations are placed upon individuals and providers. Healthcare is not immune to typical political fights about who gets what when and how, which means that advocates must establish frames that favor their preferred policy outcome and cast their supporters as virtuous and their proposed solution as in the best interests of the collective (Lasswell 2018). The result in the case of abortion is that advocates in today's political environment, especially Louisiana, may not have the luxury of taking the position of former Planned Parenthood CEO Leana Wen, that "The best way to protect abortion is to be clear that it is not a political issue but a health care one" (Kliff and Goldmacher 2019).

3. Case Study: Louisiana

In the 2023 legislative session, Republicans held the majority in both houses, with 27 of 39 seats in the Senate and 71 of 105 in the House. Democrat John Bel Edwards was serving his second term as governor; however, he has historically not supported abortion

access (NCSL 2023). During this session, Louisiana ranked 45th in the country for women's descriptive representation, with only 5 women among the 39 state senators and only 23 of the 105 house members, making them only 19% of total representatives in the state (CAWP 2024). Of these women, two state senators were Black women and 9 of the 23 house members were Black women.

In this session, Louisiana was restricted to a fiscal session, meaning legislators may only submit five general bills; the rest must pertain specifically to fiscal matters, therefore limiting the number of proposals related to maternal and child health or abortion that did not have a financial component. In total, 894 bills were proposed, 29 constitutional amendments, and 723 study resolutions (Louisiana House of Representatives 2023).

In recent decades, Louisiana has maintained a status as one of the most restrictive states in the nation in terms of abortion access (Center for Reproductive Rights n.d.). As Roth and Lee illustrate in their study of state-level abortion policy between 1994 and 2022, abortion-restrictive policies increased during this period in certain states, even as other states passed abortion-supportive policies (Roth and Lee 2023). These trends intensified polarization among the states, which set the stage for the post-*Dobbs* context in which some states, like Louisiana, banned abortion almost entirely, while others effectively became abortion "safe haven" states (Shah 2022).

At the same time, Louisiana has consistently had some of the worst maternal and infant health outcomes. The state ranked fifth worst in terms of maternal deaths between 2018 and 2021 and sixth worst in infant deaths in 2021 (KFF 2023; National Center for Health Statistics 2023). Poor maternal health and infant health outcomes are also starkly racially disparate in the state (Evans et al. 2022), reflecting a long history of structural racism (March of Dimes 2023), including one of the highest levels of incarceration in the world (Prison Policy Initiative 2024). Dyer et al. illustrated an association between the incarceration of Black Louisianans and adverse birth outcomes (Dyer et al. 2019). Despite both a wealth of evidence showing the varied structural causes of racial disparities in maternal and infant health, and the rising public profile of these issues on a national scale over the last several years, advocates have faced challenges of various types in their efforts to address these issues. For one, several leaders among the anti-abortion legislators in Louisiana are Democratic Black women, contradicting Williams (2016), who finds Black women to be among the most important abortion rights defenders. Secondly, a statement in 2022 by a Republican state senator, Bill Cassidy, illustrates one of these challenges: "If you correct our population for race, we're not as much of an outlier as we appear" (Bellamy-Walker 2022). Claiming he was not "minimizing" the problem of pregnancy-associated mortality, Cassidy's comment revealed a lack of concern for the health of Black Louisianans.

There is increasing evidence that, likely intertwined with structural racism, the poor state of reproductive rights in Louisiana is a causal factor in the state's abysmal maternal and infant health outcomes (Karletsos et al. 2021; Sudhinaraset et al. 2020; Vilda et al. 2021). In her review of the public health effects of abortion bans beyond their effects on wanted abortion care, legal scholar and medical sociologist Maya Manian suggests that "Reframing abortion as a core health care concern for a wide swath of the public—as opposed to a debate about a constitutional right to privacy—offers a potentially powerful strategy for resisting anti-abortion legislation" (Manian 2023). Indeed, abortion bans likely increase reproductive coercion (Sherman 2023), endanger miscarriage and high-risk pregnancy care (Felix et al. 2023), delay prenatal care (Westwood 2022), and potentially limit fertility treatment (Caryn Rabin and Ghorayshi 2024). While emphasizing the effects of abortion restrictions and bans on the health of people with wanted pregnancies represents an important potential strategy, this approach can draw criticism from reproductive rights, health, and justice advocates who have decried the ongoing stigmatization of "elective" abortion in the service of perceived wins in other areas of reproductive health (Daniel 2022; Watson 2018).

Nonetheless, and despite a longer history of attempting to strategically separate reproductive rights issues (typically understood to be abortion, contraception, and sex education) from maternal and child health issues (e.g., postpartum insurance coverage,

paid family leave, etc.), reproductive health and rights advocates took this approach in the 2023 Louisiana legislative session. Recognizing the highly restrictive political context, they attempted to loosen the abortion ban, in some cases by forming unlikely alliances with pro-life legislators. They marshalled testimony by physicians who treat women with high-risk pregnancies and women who experienced high-risk pregnancies, to argue that the ban endangers the health of pregnant people whose pregnancies are wanted.

4. Methods

In this study, we asked how and when reproductive rights advocates deployed or referenced Louisiana's high rates of maternal mortality within legislative debates related to reproductive rights and maternal health. We expected appeals to maternal mortality to resonate within debates on issues historically categorized as maternal health while remaining ineffective in debates attempting to amend the abortion ban. Despite their severity, maternal health realities are unlikely to shift longstanding positions on rights to abortion despite the deleterious effects that abortion bans have on maternal health outcomes. Although perhaps ineffective in winning votes in the short term, highlighting these realities within broad debates on maternal health reminds legislators and the public that abortion access contributes to overall reproductive health outcomes, pushing back on conservative attempts to isolate abortion from other healthcare procedures.

To investigate these expectations, we identified relevant bills within the 2023 Louisiana legislative session for thematic analysis. As a starting point, we consulted several advocacy groups' policy agendas to pinpoint key legislative initiatives and discussions related to maternal and reproductive health and the social determinants of health. We then conducted a systematic word search across the Louisiana state legislative database to ensure that we captured any bills related to reproductive or maternal health (see Table 1 for a list of search terms). We found 19 bills that matched the search criteria.

Table 1. List of search terms for bill search.

Abortion	Health	Maternal Health	Mother/Mom
Birth	Infant mortality	Maternal mortality	Pregnancy/Pregnant
Children/Child/Youth/Baby	Maternal and child health	Medicine	Sex/Sexual intercourse
Contraception	Maternal and infant health	Miscarriage	Women/Woman

Following the assembly of potential bills, we further refined the scope by analyzing transcripts from the legislative debates of each identified bill. Transcripts were obtained and compiled from official legislative records and publicly available video archives (Broadcast Archives n.d.). We counted the occurrence of relevant keywords or phrases related to maternal mortality and compared these numbers to the total length of time each bill was discussed. This quantitative approach allowed us to assess the prominence of and focus on maternal death as a rhetorical tool within these debates and prioritize bills for in-depth examination (see Table 2).

We found that mentions of maternal or pregnancy-related deaths and mortality ranged from no mentions to being mentioned an average of every 2.9 min. Of the bills that had at least one mention of these terms, the average minutes per mention was just under 6.5 min per mention. As indicated in Table 2, we found that there were six bills that had references to maternal mortality an average of once every 6.5 min, with six additional bill debates that included mentions, but far less often (an average of once per 20 min or less frequently). An additional 8 bills did not mention maternal death at all. In order to answer our research question about how advocates deployed maternal mortality as a rhetorical tool, we included the 6 bills in our study that contained frequent references (an average of 6.5 per minute or more often). Given that additional bills relevant to maternal health were also debated in this session but referenced maternal death much less frequently or not at

all, additional research beyond the scope of this paper is needed to understand how and why advocates chose when to evoke maternal death as a rhetorical strategy.

Table 2. Bills identified for possible analysis from 2023 Louisiana regular session *.

Bills	Bill Description **	Debate Total Length (mins)	Mentions of Maternal or Pregnancy-Related Mortality and Death	Mins/Mention
H.B. 461	Provides relative to exceptions to abortion	73.70	25	2.95
S.B. 135	Provides relative to Medicaid reimbursement for services provided by a licensed midwife or certified nurse midwife	39.48	13	3.04
H.B. 272	Provides relative to maternity support services of doulas	41.28	9	4.59
H.B. 598	Amends definitions relative to the crime of abortion	100.87	19	5.31
H.B. 21	Provides relative to extended leave for school bus operators and public school employees	11.13	2	5.57
H.B. 522	Provides relative to abortion	57.70	9	6.41
H.B. 596	Creates the Louisiana Family and Medical Leave Benefits Act	62.00	3	20.67
H.B. 346	Provides for exceptions to the abortion laws of this state relative to rape and incest	112.25	3	37.42
H.B. 549	Provides relative to termination of pregnancy that is the result of certain sex offenses	43.58	1	43.58
S.B. 41	Establishes a tax credit for certain maternal wellness centers	179.55	4	44.89
H.B. 648	Prohibits certain procedures to alter the sex of a minor child	595.52	1	595.52
H.B. 266	Provides relative to the civil liability and criminal prosecution of certain pregnancy outcomes	39.32	0	N/A
H.B. 5	Provides relative to pregnancy-related medical expense obligations	42.80	0	N/A
H.B. 186	Provides relative to health insurance coverage for standard fertility preservation services	54.07	0	N/A
H.B. 457	Provides for a Commemorative Certificate of Miscarried Child	25.07	0	N/A
S.B. 88	Establishes an employer-supported maternal healthcare tax credit	14.45	0	N/A
H.B. 386	Establishes a tax credit for infant adoptions and the Strong Louisiana Families Tax Credit for donations to certain social service organizations	13.03	0	N/A
H.B. 40	Provides relative to employment discrimination based on gender identity and sexual orientation	131.67	0	N/A
H.B. 117	Requires public schools to provide free menstrual products in easily accessible locations	35.65	0	N/A

* Bills in red fit the inclusion criteria and were included in the discourse analysis.** All bill descriptions are from the Louisiana State Legislature bill search tool found at: https://www.legis.la.gov/legis/BillSearch.aspx?sid=LAST (accessed on 16 July 2024).

Using the open-source qualitative research tool, Taguette, we coded all legislative debates related to these 6 bills, identifying key themes within and across debates for each bill, and evaluating the frequency of each theme and the particular strategies and responses with which each theme appeared to be associated.[3]

5. Discussion

Of the six bills that we included in our study, three of them—H.B. 461 ("amends vague language in abortion ban around miscarriage management"); H.B. 522 ("changes penalties in abortion ban"); H.B. 598 ("amends abortion ban to add clarity around serious pregnancy complications")—sought to amend the existing abortion ban. The other three—H.B. 21 ("provides relative to extended leave for school bus operators and public school employees"); S.B. 135 ("expands Medicaid reimbursement to include midwifery care"); and H.B. 272 ("requires private insurance to cover doula services")—sought to improve supports for pregnancy and postpartum care (and, in the case of H.B. 21, caregivers more broadly). The three bills seeking to amend the abortion ban did not pass, while the other maternal health-related bills did.

Many of the same legislators and advocates were involved in debates regarding the six bills, and these actors made passionate appeals about the need to prevent maternal death and often drew upon personal anecdotes related to their own or a loved one's pregnancy outcomes. For instance, Mary Anne Mushatt, providing testimony in support of H.B. 461, which would have amended the language in the abortion ban related to miscarriage management, recounted stories about her own miscarriage and her mother's miscarriage. She noted that both she and her mother were able to receive care that was "immediate, professional, and caring," implying (as other advocates explicitly stated) that the current ban makes it difficult for physicians to provide this level of care out of fear of criminalization. She then added, "And I would just ask you, in light of the abysmal maternal health record that Louisiana has, to consider and support this bill" (Debate on H.B. 461 2023d, 1:50:14).

Across all three debates seeking to amend the abortion ban, advocates referenced concern that the current ban increases adverse maternal and birth outcomes by creating fear and confusion among physicians, deterring them from practicing in Louisiana, and thus exacerbating the already existing maternity care desert issue. They noted that these issues decrease pregnant people's access to care and delay the care they do receive, thus increasing women's suffering and healthcare costs overall. Within a context where repeal of the ban is unthinkable, advocates have to attempt to expand and clarify the categories of exemption legislators have allowed in order to increase access to the procedure. By pointing out the failure of existing exceptions to prevent maternal death, advocates are working within the existing political possibilities.

In doing so, advocates made some discursive concessions to conventionally anti-abortion assumptions and language, indicating that concern for maternal health would only be useful if couched in terms accepted by the anti-abortion legislative majority. For instance, advocates acquiesced to what is often termed "fetal personhood" language, or language that indicates that a fetus is or should be considered a full person under the law. In their analysis of the increase in fetal personhood rhetoric by anti-abortion activists since the 1992 Supreme Court decision, Planned Parenthood v. Casey, Halva-Neuerbauer and Ziegler argue that such rhetoric is an effective strategy for weakening the right to abortion (Halva-Neubauer and Zeigler 2010). In the 2023 Louisiana legislative session, legislators and witnesses advocating for loosening the abortion ban often used the term "child" or "baby," rather than "fetus," and implicitly conceded the anti-abortion stance that "life" begins at conception. For instance, Republican representative Mary Dubuisson, in support of her bill, H.B. 461, stated that as a result of the current law, "women carrying dead babies will be forced to carry them to term, even at risk to their personal health" (Debate on H.B. 461 2023a, 1:30:14). She went on use the terms "dead child," "dead or dying baby," and "baby" in reference to what would medically be considered an "embryo" or "fetus" several more times in less than five minutes. A physician testifying in support of H.B. 522 also used

the term "baby" instead of "fetus" when discussing the case of a hemorrhaging pregnant woman and the risks of delaying her care (Debate on H.B. 522 2023a, 2:41:19).

Relatedly, advocates for amending the abortion ban sometimes conceded the idea that being anti-abortion means being "pro-life" and that "life" begins at the point of conception or fertilization. Dubuisson, for instance, avowed her personal "pro-life" stance, and another advocate in support of H.B. 461 referred to the bill itself as "pro-life" in an apparent effort to distance it from the goal of expanding abortion access (Debate on H.B. 461 2023c, 1:34:17; Debate on H.B. 461 2023e, 2:00:51). Similarly, Democratic representative Candace Newell, speaking in support of her bill, H.B. 598, conceded the long-debated beginning point of "life" when she stated that the current law will result in "two lives" being "lost" (the mother and the embryo/fetus/unborn child) under certain circumstances instead of just "one" (i.e., the embryo/fetus/unborn child) (Debate on H.B. 598 2023a, 08:17).

However, anti-abortion legislators and advocates were apparently not persuaded by these concessions, opposing these bills by claiming that the respective current laws were already clear and adequate. They often suggested that each of these bills represented a kind of "wolf in sheep's clothing" (Debate on H.B. 598 2023d, 1:12:51), either allowing physicians to perform abortions "before viability" (Debate on H.B. 461 2023h, 2:28:22), allowing physicians to no longer try hard to save the "unborn child's" life (Debate on H.B. 598 2023c, 1:02:30; Debate on H.B. 598 2023e, 1:13:19), or potentially allowing a physician to abort a "healthy baby" (Debate on H.B. 522 2023c, 3:02:29). The linguistic concessions failed to win over legislators in a bid to expand exceptions. As a counter, anti-abortion legislators recast the central concern of the legislation as the "baby" rather than the dying woman—making her invisible and discounting the scientific evidence regarding maternal health.

While appeals to the need to prevent maternal mortality were widespread in all six sets of debates we examined, they, along with appeals to medicine, science, and data, appeared to be persuasive only in debates about bills that did not directly pertain to the abortion ban. For instance, speaking in support of H.B. 21, which allowed school districts to implement extended leave time for school bus drivers and school employees, Cynthia Posey stated the following:

> In April, [Louisiana] ranked 51st and that is 51st in the nation for best and worst states for working moms and we also had the highest [maternal] mortality rate in the U.S. So this bill takes a step in the right direction towards improving the statistics by allowing school employees the opportunity of receiving leave for personal illness related to pregnancy, illness of an infant under one year of age, or for the required medical visit certified by a physician relating to infant or maternal health. (Debate on H.B. 21 2023, 45:30)

H.B. 21 was debated for less than 11 min and passed unanimously. Similarly, debates about H.B. 272, which required private insurance companies to cover doula services, circled primarily around the financial components of the bill, while legislators on all sides professed their concerns for "moms and babies" and accepted the premise that scientific evidence proved that doulas improve birth outcomes. This bill passed the House of Representatives with 96 supporters and only one "nay" (Debate on H.B. 272 2023, 1:17:30). While advocates had been working on these issues for years leading up to the passage of these bills, indicating that substantial legwork was necessary to get them passed, these examples also suggest that maternal mortality is a compelling issue to legislators across the political spectrum, helping reproductive health advocates to push through important supports for pregnant and postpartum people.

In contrast, debates about the abortion ban-related bills revealed the limitations of an argument centered on maternal health in the conservative context of Louisiana. Repeatedly, anti-abortion legislators would acknowledge their deep concern for the health and wellbeing of "pregnant women" (Debate on H.B. 522 2023b, 2:50:40), but maintain that the existing abortion ban accounted for them. In the face of testimony from physicians and personal anecdotes recounted by women who had suffered negative health effects and increased risks to their health as a result of the ban, legislators and anti-abortion advocates

held that the current law was clear and adequate. Supporters of these bills argued that they would only make "modest changes" to the existing law (Debate on H.B. 461 2023f, 2:06:17), and that, in some cases, the proposed bill was not even "about abortion" (Debate on H.B. 461 2023b, 1:30:38), but such framing ultimately failed. Evidence that was legitimate and referenced by members of both political parties in committee rooms regarding the need for improved maternal healthcare was discounted in committee rooms debating exceptions to the abortion ban.

The question of what is and what is not considered an abortion became important on both sides of these debates in the context of an avowed bipartisan concern for maternal health. For instance, Democratic representative Denise Marcelle questioned New Orleans Health Department director and emergency medicine physician Jennifer Avegno, while testifying in support of H.B. 598: "If there's an emergency situation, sometimes there may not be enough time to really try to find an attorney to get an answer. And we're putting women at risk without a clear definition of what abortion is. Is that what you're saying?" (Debate on H.B. 598 2023b, 29:03). Avegno agrees with this, implying that some pregnancy terminations may not be rightfully considered "abortions." Although elsewhere in her testimony, Avegno differentiates between an "elective termination" and the termination of a pregnancy for medical reasons (referred to in medical literature as a "therapeutic abortion") (Smorti et al. 2020), she also acknowledges that they both involve the same medical care or procedure.

Although both types are referred to as "abortion" in the field of medicine, and reproductive health advocates maintain that the distinction is somewhat facile (and stigmatizing) (Watson 2018), some anti-abortion advocates attempted to redefine "abortion" to exclude certain types of procedures. In her testimony in opposition to H.B. 461, Louisiana Right to Life legal consultant Dorinda Bordlee (Plaisance) noted that "the performance of a medical procedure necessary in good faith medical judgment" is "not an abortion" (Debate on H.B. 461 2023g, 2:23:47). Maintaining that the current ban is clear, Bordlee nonetheless suggested that certain pregnancy terminations are not legally considered "abortions." Likewise, Evelyn Griffin, a physician testifying against H.B. 522, stated that "Physicians understand that treating a miscarriage is not an abortion" (Debate on H.B. 522 2023e, 3:23:16). Despite the many recent examples of cases that complicate a clear division between miscarriage and abortion, and the medical terminology that betrays the fact that "elective" and "therapeutic" terminations require the same care, Griffin and other anti-abortion advocates attempt to erect a hard boundary between acceptable pregnancy terminations and stigmatized abortions.

For reproductive health advocates seeking to loosen the abortion ban and improve maternal mortality rates, the moving target of this boundary could represent an inroad in an otherwise inhospitable environment. For reproductive justice more broadly, however, this strategy would appear to further concretize "abortion" as an untouchable issue in an increasingly authoritarian context.

6. Conclusions

Our analysis of these debates reveals the limited terms of engagement for reproductive rights and maternal health advocates in Louisiana state politics, which are likely to become even more limited with the election of staunchly anti-abortion and far-right Governor Jeff Landry in 2023. While these groups have been able to push through important legislation for improving the state's status concerning maternal and infant health outcomes, their attempts to deploy maternal health toward loosening the abortion ban and improving access to lifesaving care have been largely unsuccessful. Indeed, in their efforts to make relatively small changes to the existing law, advocates have even couched their arguments in anti-abortion rhetoric and acquiesced to attempts to redefine what constitutes an abortion in the first place. These incredibly limited conditions of possibility reveal both the pitfalls surrounding the rhetorical use of maternal health for abortion access and its potential for success in a conservative context seeking to replicate authoritarian conditions wherein

individual rights are sacrificed for a state vision of women and family. Ballot initiatives, such as have occurred in places like Kansas, Kentucky, and Ohio, seem to be a more effective strategy to align policy with public opinion. However, Louisiana does not have a citizen-initiated process for placing an issue on the ballot, making it more difficult to achieve.

How advocates and legislators talk about abortion access and exceptions matters. How they interpret scientific evidence, birthing people's lived experience, and their own ethics has material consequences for women like Nancy Davis. Existing public policy tolerates dire maternal health statistics because of the construction of abortion as deviant, sought after by individuals who should be held individually responsible for the conditions that led to their pregnancy. When reality complicates that narrative, such as when a woman's pregnancy puts her life at risk, rather than publicly recanting their position, opponents redefine what constitutes an abortion. Retconning the medical procedure when the abortion seeker adheres to the sympathetic victim trope allows anti-choice legislators to maintain the rhetorical boundaries that reinforce their moral superiority while preserving their humanity and electability. It also results in inefficient provision of and dangerous regulation of a common medical procedure. Language that distorts medical evidence results in public policy that confuses hospitals and doctors and puts patients at risk, all the while preserving anti-abortion legislators' and advocates' compassionate conservatism.

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Notes

[1] Acrania is a rare congenital condition in which the flat bones of the skull are partial or absent (Bianca et al. 2005).

[2] Currently, 61% of Americans say abortion should be legal in all or most cases (Pew Research Center 2022a).

[3] Taguette is a free and open-source qualitative research tool that allows researchers to highlight words, sentences, or paragraphs and tag them with created codes (https://www.taguette.org/ accessed on 16 July 2024).

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