What will become of reproductive issues in Trump’s America?

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Abstract: The election of Donald Trump to the presidency came as a severe and unexpected shock to the already beleaguered pro-choice movement in the US. This article will review what the president-elect said during the campaign about abortion and what his administration is likely to do after his inauguration.

DOI: 10.1080/09688080.2017.1287826

The campaign: public gaffes and behind-the-scene tactics

Trump, who earlier in his career had been on record as a strong supporter of abortion, only mentioned abortion a few times during the campaign and, in at least one instance, his remarks caused a considerable stir within the anti-abortion movement. When asked by the TV journalist Chris Matthews whether women who received abortions should be punished, if abortion was made illegal, Trump replied that they should (while also stating that there should be no punishment for their male partners). Trump, in this conversation, clearly showed his unfamiliarity with one of the main talking points of the contemporary anti-abortion movement, which holds that women who receive abortions are “victims” and those who should be punished are the abortion providers. The Trump campaign quickly issued a clarification to that effect.

The second major comment on abortion by Trump came during the third and last debate with Hillary Clinton, in which he responded to a question about later abortion by offering a sensationalised and wildly inaccurate statement: “If you go with what Hillary is saying, in the ninth month, you can take the baby and rip the baby out of the womb of the mother just prior to the birth of the baby.” This time, Trump’s comment received no negative response from the anti-abortion movement, though it did spur a number of women to write openly about their wrenching abortions late in pregnancy due to foetal anomalies.

But though Trump was not particularly articulate when discussing abortion, his campaign acted very strategically with respect to gaining support of evangelicals and other abortion opponents. First, after firing two earlier campaign managers, Trump finally settled on Kellyanne Conway, an experienced pollster who had long-standing ties with the anti-abortion movement and other social conservative activists. Similarly, choosing Mike Pence, the Governor of Indiana, as his running mate was a powerful signal to abortion opponents, as he was known as a strong opponent of both abortion and gay rights. Additionally—and significantly—though it did not receive much attention in the mainstream press at the time, in September, his campaign released a letter from Trump to anti-abortion leaders in which he pledged his commitment to their core concerns: among other promises, he stipulated that he would nominate only anti-abortion judges to the US Supreme Court; that he would sign a ban on abortion after 20 weeks (even though such a ban would clearly violate <i>Roe v Wade</i> and subsequent US Supreme Court decisions on abortion); and that he would “defund Planned Parenthood” (that is, prohibit low-income women who rely on Medicaid to pay for their health care from using that health coverage to pay for non-abortion-related health services delivered by a Planned Parenthood clinic). These actions worked to secure the commitment of abortion opponents: Trump ended up with 80% of votes cast by evangelicals, in spite of earlier doubts voiced by some in that community about a
thrice-married non-religious individual who bragged about sexual conquests. This 80% of the evangelical vote put him slightly ahead of the total votes received from that constituency by George W. Bush, who could credibly present himself as a bona fide “born again” Christian.

The post-election transition period
Trump’s commitment to social conservatives was very evident immediately after the election as well. He named Ken Blackwell – a long-standing player in religious right circles, perhaps best known for his belief in “pray the gay away” conversion therapy for homosexuals and his strident opposition to abortion – as the head of domestic policy on his transition team. He also named to this committee Marsha Blackburn, another high-profile social conservative, who recently chaired the highly controversial Congressional Select Investigative Panel on Infant Lives. This Committee – repeatedly denounced as “a witch hunt” by Democrats and others – was established in response to the discredited sting videos released in 2015 that purported to show that Planned Parenthood clinics and other abortion-providing facilities were “selling” foetal tissues to researchers.

Trump’s first round of nominations for his cabinet also gave much comfort to the anti-abortion movement. His pick for Attorney General (AG), Jeff Sessions, is arguably best known for an anti-civil rights record, which led the Senate in 1988 in a bipartisan vote to deny him a federal judgeship. But Sessions also has a record of virulent opposition to abortion, as does Trump’s nominee for the head of the Department of Health and Human Services, Congressman Tom Price. The latter is expected to play a significant role in eviscerating the Affordable Care Act (ACA – Obamacare) as well as the executive order that mandated contraceptive coverage without a co-pay. (Neither of these individuals has been confirmed as of this writing in early January, though both are expected to be confirmed, in spite of strong opposition among some Democrats.) Other administration officials who also can play important roles in limiting reproductive health policy, such as the Surgeon General, the head of the Federal Drug Agency, the head of the National Institutes of Health, and the Deputy Assistant Secretary for Population Affairs, have not been named as of this writing. It is increasingly clear, however, that with respect to reproductive health issues, the Trump administration will follow the playbook of previous Republican administrations since that of Ronald Reagan in 1980, and appoint to relevant positions those with dubious professional qualifications but staunch ideological opposition to abortion and, in some cases, birth control. For example, in early January, the Trump team announced the appointment of Katy Talento to serve on the president-elect’s Domestic Policy Council, focusing on healthcare policy. Talento is known for having made such blatantly false statements as that the use of hormonal birth control causes miscarriages and infertility.

What do the advocacy and provider communities expect might happen after Trump’s inauguration?
Shortly after the election, in an appearance on the popular news show 60 Minutes, Trump reaffirmed his intention to overturned Roe v Wade by nominating “pro-life” judges. This, however, will likely not happen very soon, as it will take two new Justices to join the three current ones who would be likely votes for overturning Roe altogether, as opposed to approving some restrictions, which has been the practice of the “swing voter” Justice Anthony Kennedy. The fights over Trump’s nominees are expected to be particularly bitter, particularly since Republicans refused to hold confirmation hearings on Merrick Garland, whom President Obama nominated to replace the late Justice Antonin Scalia. Chuck Schumer, the Democratic leader in the Senate, has threatened to block all Trump Supreme Court nominees if they are “out of the mainstream” (including those who pledged to overturn Roe), but it remains to be seen if such a strategy can be sustained for four years.

Among other things that reproductive advocates are anticipating are, as suggested earlier, that Trump will sign the ban on abortions post 20 weeks, which has previously been passed by Congress, but vetoed by President Obama. Although only between 1% and 2% of all abortions occurring in the US occur after 20 weeks, these abortions often involve cases of severe foetal anomalies, which, in many cases, are not detected until late in pregnancy. Additionally, since abortion patients in the US are disproportionately likely to be poor, and since abortion access is increasingly difficult in many states because of restrictions which have forced the closing of many clinics, many poor
women are caught in a vicious cycle: by the time they have raised the money and located a facility for a first trimester abortion, they often find themselves already in the latter part of the second trimester.

Trump has also pledged to support legislation whose purpose is to “defund” Planned Parenthood – again a measure passed previously by Congress but which was vetoed by Obama. Such a measure would likely cut Medicaid reimbursements to the organisation by about $400 million – funds that cover services such as contraceptives and cancer screening, but not abortion.\textsuperscript{15} The organisation is dedicated in the Department of Justice;\textsuperscript{19} among the Care Providers, an interagency group headquartered in Buffalo in 1998, the late Janet Reno, the then US Attorney General (AG), as mentioned, is Jeff Sessions, a long-time opponent of abortion. The AG, as head of the Department of Justice, plays a pivotal role in the health world is the safety of abortion providers in the reproductive health community will be the loss of “no cost sharing” contraceptive coverage under the ACA. Currently, the ACA mandates that all FDA-approved methods of female contraception, including the more expensive and effective ones, such as the IUD and female sterilisation, should be covered by health plans without co-pays or deductibles. More than 55 million women are currently benefitting from this coverage.\textsuperscript{16} Though Congress’s repeal of the ACA altogether will likely be a protracted affair, the contraceptive coverage can be speedily overturned, as it came about through a rule enacted by the Obama administration.\textsuperscript{17} Planned Parenthood reported a 900% increase in calls enquiring about long-acting contraceptive methods and other contraceptives immediately after the election.\textsuperscript{18}

Beyond the various services that will be cut, another concern felt by many in the reproductive health world is the safety of abortion providers in the Trump era. Trump’s nominee for Attorney General (AG), as mentioned, is Jeff Sessions, a long-time opponent of abortion. The AG, as head of the Department of Justice, plays a pivotal role in the response to violence against providers. After the assassination of an abortion provider in his home in Buffalo in 1998, the late Janet Reno, the then AG under President Bill Clinton, established a National Task Force on Violence Against Health Care Providers, an interagency group headquartered in the Department of Justice;\textsuperscript{19} among the actions Reno took were dispatching federal marshals to places where abortion providers were under particular threat, and bringing legal action to those who impeded access to abortion facilities. But though the AG has a lot of power to respond to abortion violence and disruption, s/he also has a lot of discretion. Given Jeff Sessions’s record on abortion, many doubt his commitment to protecting providers.\textsuperscript{20} The fact that Troy Newman, head of the extremist group Operation Rescue, who has written that abortion providers should be treated as murderers, “could not be happier” about Sessions’ selection, is deeply worrisome to the provider community.\textsuperscript{21,22}

Numerous other possible scenarios are also being discussed within reproductive health/reproductive rights circles. For example, it is likely, given a supportive Presidential administration, that the “refusal” movement – that is, healthcare workers refusing to participate in services with which they disagree – will only increase. This movement, which started some years ago with pharmacists refusing to fill prescriptions for Emergency Contraception, has expanded, with numerous categories of workers objecting, on grounds of “conscience”, to take part not only in abortion work, but also in assisted reproduction services for the LGBT community and in regular, as well as emergency, contraceptive provision. Tom Price, Trump’s nominee to head Health and Human Services, is a strong backer of such refusal actions.\textsuperscript{23}

In conclusion, this is arguably the most difficult period the reproductive rights/reproductive justice movement has faced since the Roe decision in 1973. A very sobering lesson to be drawn from the election is that conservatives were more focused on the issue of Supreme Court nominations, and reproductive issues generally, than were progressives, in spite of a majority of the country claiming that it wants abortion to remain legal.\textsuperscript{24} To be sure, the pro-choice movement is now mobilising in response to the Trump election – opposing his cabinet nominees, protesting the defunding of Planned Parenthood, and so on. To be sure, reproductive activists were greatly cheered by the enormous turn-out – both in the US and globally - for the Women’s March on January 21, a march about a range of issues but which had a heavy focus on defending abortion and contraceptive access. Donations to Planned Parenthood and other reproductive groups are reportedly way up. But almost immediately after this march, Trump signed an order re-imposing the Global Gag Rule and the Republican controlled Congress passed a measure making the Hyde
amendment, which denies the use of federal funds to pay for poor women’s abortions, permanent. Elections have consequences and reproductive activists are bracing for more of them.

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