

When It is Time to Break the Law

When a legislature passes a law that takes away a woman's inalienable right to have power over her own body, when the highest court in the country refuses to stop the law from going into effect, then it is time to break the law.

There is a long tradition of civil disobedience in the United States. According to the Declaration of Independence, the purpose of government is to secure human rights. Pregnant women have a right to life, liberty, and the pursuit of happiness. When governments become "destructive of these ends, it is the right of the people to alter or to abolish it."

I say: It is also the right of the people to refuse to obey unjust laws so that those laws can be overturned. The anti-abortion forces in the American body politic have appropriated the right to life language found in the Declaration, but this is a misappropriation since no individual, born or not, has a right to another person's body. Thus, an unborn human being does not have a right to a woman's body. Human rights begin at birth, so the rights language in the Declaration applies to women and not to the unborn.

When we have an artificial uterus where pregnancies can come to term outside of a woman's body, then we can talk about fetal rights.

The Texas law, SB 8 that prohibits abortion after six weeks with a provision that ordinary citizens have the power to enforce the law through civil action with the guarantee of a \$10,000 bounty if they win in court, is an unjust law. It is unjust because it violates *Roe v. Wade*, and it violates a woman's right to life, liberty, and the pursuit of happiness. It violates a woman's rights under the 9th, 10th, 13th, and 14th amendments.

Using the textual interpretative method of the plain reading of the text, we find a woman's right to have power over her body in these amendments. The ninth amendment of the Constitution says: "The enumeration in the Constitution of certain rights, shall not be construed

to deny or disparage others retained by the people.” The plain meaning of the text helps us to understand that because the Constitution does not explicitly say a woman has a right to an abortion, does not mean that the right does not exist. Because the Constitution does not explicitly say that a woman has a right to privacy, does not mean that this right does not exist.

The 10th amendment says: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people.”

Women are people who ought to have power over their own bodies.

The 13th amendment of the Constitution says: “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” To force a woman to carry a pregnancy to term against her will, forces her into involuntary servitude which is a violation of the 13th amendment.

The 14th amendment says in part: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” In Roe, the Supreme Court recognized a right of privacy found in the due process clause of the 14th amendment.

I say: a woman’s right to choose is protected under the privileges and immunities of citizens. Women ought to have the privilege to decide what happens inside her body, and she ought to be immune from involuntary servitude for the nine months that she is pregnant.

The rights of privacy, bodily integrity and freedom from involuntary servitude belong to every human being. However let us consider the average woman who seeks an abortion. According to the Guttmacher Institute, a pro-choice organization that tracks abortions in the United States, based on 2014 figures, the average woman who seeks an abortion is under 30 years-old who

already has had at least one birth. She seeks her abortion before twelve weeks of gestation. She pays the \$508 for the abortion out of her own pocket even though she has insurance that will cover it. She lives less than 25 miles one way from an abortion provider. She is poor or low-income. She got pregnant after using a condom or a “short acting hormonal method.”
([gutmacher.org/fact-sheet/induced-abortion-united states](http://gutmacher.org/fact-sheet/induced-abortion-united-states))

Any law that violates this woman’s rights or any woman’s rights is an unjust law. It is time to break the law.

In his essay “On the Duty of Civil Disobedience”, Henry David Thoreau asks the question when one ought to break the law: “Unjust laws exist: shall we be content to obey them, or shall we endeavor to amend them, and obey them until we have succeeded, or shall we transgress them at once?”

I say: transgress this Texas law at once. Pregnancy is time sensitive, and since women still die in childbirth, it is a matter of life and death. However, as long as this Texas law stands, every human being on earth is in jeopardy.

Martin Luther King, Jr. writes in “The Letter from Birmingham City Jail” that he agrees with St Augustine that an unjust law is no law at all. King reminds us: “Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny.”

Susan B. Anthony, whose name has been misappropriated by an anti-abortion organization, who opposed abortion because she thought it was a way for men to avoid financial responsibility, but who would surely support a woman’s right to decide what happens inside her own body, after casting an illegal vote for president in the 1872 gave a speech in 1873. She said:

“The only question left to be settled now is: Are women persons? And I hardly believe any of our opponents will have the hardihood to say they are not. Being persons, then, women are citizens; and no state has the right to make any law, or to enforce any old law, that shall abridge their privileges or immunities. Hence, every discrimination against women in the constitutions and laws of the several States is today null and void, precisely as in every one against Negroes.”

It is time to break the Texas law for the sake of Texas women, our own consciences, and for the moral evolution of all of humankind.