Pro-lifers cheer new Texas law, while abortion advocates show their true colors

When the U.S. Supreme Court refused the request of Texas abortion providers to grant an emergency application to block the State's new Heartbeat Act, the nation's most restrictive abortion law went in to effect. The Texas statute permits any private citizen to sue in state court any individual who "aids and abets" an abortion after the detection of a fetal heartbeat, except in cases of what the law defines as "medical emergencies."

Texas SB8 allows for any individual who is aware that an abortion has been performed on a pregnant woman – after a fetal heartbeat is present – to sue those involved in the abortion for civil damages. Women undergoing the procedure are explicitly exempt from the lawsuits. The language of the law specifically notes that it "may not be construed to authorize the initiation of cause of action against, or prosecution of, a woman on whom an abortion is performed."

In drafting the law in this remarkably novel way, the Texas state legislators essentially tied the hands of the abortion industry to obtain judicial relief. Because the Constitution does not apply to actions by private parties (with the exception of the 13th Amendment's ban on slavery), and the Texas law explicitly prohibits state government officials from either directly or indirectly enforcing it, the 5-4 Supreme Court majority indicated they could not block the law from going into effect relief, reasoning that "it is unclear whether the named defendants in this lawsuit can or will seek to enforce the Texas law against the applicants in a manner that might permit our intervention."

And while Planned Parenthood of Greater Texas was able to obtain a temporary restraining order just two days later against Texas Right to Life and "persons in active concert with them," that still leaves a multitude of other private parties with the right to pursue a cause of action against abortion providers and their staff.

Many of the reactions to the law were predictable. Pro-life organizations across the country rejoiced that, at least temporarily (and only in Texas), the law will, in the main, protect most unborn children from being privately killed. Supporters of legal abortion expressed dire fear for the future of women's equality this law portended, including President Joe Biden, who strongly criticized the law and redoubled his commitment to "protect and defend" *Roe v. Wade*, noting in a later interview that he has changed his previous campaign position and no longer believes that human life begins at conception.

But what was truly shocking was the brutal honesty of those for whom abortion is about much more than a "woman's right to choose." Richard Hanania, the president of the Center for the Study of Partisanship Ideology, tweeted, "You can't screen for Down syndrome before about 10 weeks, and something like 80% of Down syndrome fetuses are aborted. If red states ban abortion, we could see a world where they have five times as many children with Down syndrome, and similar numbers for other disabilities."

The loved ones of people with Down syndrome publicly asked why, when abortion becomes a national topic of discussion, so many supporters of the legality of the procedure seem to immediately turn to people with genetic disabilities as a reason abortion needs to remain not just legal but widely available.

Given abortion's long (but not widely known) association with eugenics, it wasn't necessarily surprising that some opposing

the new Texas law voiced concerns about “too many children with Down syndrome being born” and other equally appalling statements about people living with a variety of disabilities.

Indeed, Planned Parenthood founder Margaret Sanger was a eugenicist, a fact that the nation’s largest provider of abortion itself has acknowledged, going so far as to remove her name from their Manhattan clinic, noting her harmful connections to the eugenics movement.

But the new Texas law emboldened those with ableist sentiments, causing them to publicly admit what they have privately believed and advocated for years. The rather insidious references to the very existence of those with disabilities and special needs rightly caused some who are “on the fence” about the Texas law – and abortion law in general – to take notice. And in advance of what many legal scholars believe may be the overturning of *Roe v. Wade* and *Planned Parenthood v. Casey* in the upcoming Supreme Court case *Dobbs v. Jackson*, that new awareness of the dignity of the vulnerable – and their vulnerability – is both an unintended outcome of the Texas law and a very good thing.

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