

A Defining Moment From South Dakota

Abortion Ban Presents Opportunity to Reframe the Debate

*A **Third Way Message Memo** by Rachel Laser, Director of the Culture Project*

The Message:

We can dramatically reduce the number of abortions in America while protecting personal liberties. The South Dakota abortion ban reveals the conservatives' goal: reducing abortions through criminalization and incarceration.

The South Dakota ban provides a unique opportunity for progressives to redefine themselves and conservatives on abortion in a way that wins the battle of reasonableness among the vast majority of Americans — the so-called “abortion grays.” “Abortion grays” believe that abortion should neither always be legal nor always be illegal and make up 63% of the electorate. Over the past decade, they have consistently voted for Republicans (see our issue brief *Who Is Winning the Abortion Grays?* at www.third-way.com).

We believe progressives must use this opportunity to define themselves as seeking to reduce the number of abortions in America while preserving individual liberties. Thus, progressives support the basic right to choose while also setting a goal of reducing the prevalence of abortion in America. **We suggest progressives define conservatives as seeking to criminalize abortion and putting people in prison.** Thus, conservatives support a goal of reducing abortion through criminalization and incarceration — which is what the South Dakota bill accomplishes, and what bills in other states intend to do.

Sample message statement:

“The conservative plan to criminalize abortion and put people in prison is wrong for America. It would tear this nation apart and turn the 1.3 million women who have abortions every year into criminals. We need to reduce the number of abortions in America while preserving personal liberties. We can prevent unintended pregnancies that lead to abortion and support women once they become pregnant. That’s a better way to reduce abortions than putting people in prison.”

Why do we suggest these frames?

- Over the past 15 years, social conservatives have successfully changed strategies and tactics on abortion in order to win the battle of reasonableness among abortion moderates. Social conservatives were once typified by pro-life zealots, marching with fetuses in jars, advocating the bombing of abortion clinics, seeking the overturn of *Roe*, and calling abortion murder. It didn't work. So they redefined themselves as abortion regulators — seeking to regulate and reduce abortions by banning certain gruesome procedures (“partial-birth”), requiring teens to notify parents, and establishing waiting periods.
- While pro-life conservatives changed strategies and tactics, pro-choice progressives did not. What moderates now see is that pro-life tactics acknowledged the moral complexities most people associate with abortion; pro-choice tactics continued to acknowledge only the necessity of the right to an abortion.
- As a result, Republicans (the party associated with the anti-abortion movement) have consistently won majorities among self-described abortion moderates in congressional and presidential races between 1996 and 2004. Democrats still win the majority of abortion absolutes (whom we call “polars” — those who believe abortion should be either always legal or always illegal), but their margin is far too small, and the number of abortion polars is far too few to swing elections.
- The SD abortion ban is a break from the successful conservative strategy of regulation and is a return to the unpopular position of banning abortion. It shows their true colors.
- This break in strategy makes conservatives vulnerable, but only if progressives handle it correctly. Conservatives are most vulnerable on the subject of criminalization of abortion. It is exceedingly unpopular and unpalatable. It takes away conservatives' advantage on moral complexity and allows progressive to seize it. It is no accident that the title of the SD bill talks about protecting life, but not about putting people in jail. It is no accident that only doctors, nurses and other health care professionals will be imprisoned under the bill (5 years), yet the woman who seeks the abortion, pays for the abortion, and has the abortion is not culpable. They fear that imprisonment goes well beyond what average people will accept.
- One in five pregnancies results in abortion. Almost all voters think that's too many, and progressives must take that on directly. Conservatives have been in charge in Washington for more than five years, and they have done nothing do deal with this problem other than to tinker at the margins (Late-term abortions account for just 8 out of every 10,000 abortions annually.). Their other tactic, it now appears, is criminalization.

Conservatives are split and nervous about the SD measure. Republican Governor Rounds was lukewarm about it, and he questioned whether the ban's approach is the right strategy to reduce the number of abortions. The pro-life movement is split between those who say "it's about time" and those who caution "not yet." But if this is seen as one perceived extreme position (abortion on demand) versus another (abortion against the law), we fear that it will be a wash.

We want to dramatically reduce the number of abortions in America while preserving basic individual liberties. They want to criminalize abortion and put people in prison.

This is a strong position that appeals to those who have always supported abortion rights and those who support rights but have moral qualms about abortion. For more strategic information on abortion, as well as policy options that would reduce abortions without criminalization or coercion of women — please go to our website at www.third-way.com and read our message memo *Winning the Abortion Grays*.