

Advancing our Understanding of Legal Consciousness: Unpacking the Lived Experiences of Abortion Seekers

by

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ABSTRACT

This thesis focuses on the legal consciousness of abortion seekers, analysing how they perceive and define law and the resulting impact on their lived experiences. The research specifically examines the alignment between the existing understanding of what influences legal consciousness and the experiences of abortion seekers, exploring potential implications for enhancing abortion-related legal frameworks. As expected from existing literature, hegemony, identity, and mobilisation emerge as interconnected factors shaping the legal consciousness of abortion seekers. However, analysis of an original collection of social media narratives demonstrates that this existing understanding of legal consciousness does not fully capture the complexity of abortion seekers' interactions with or lived experience of the law. The research highlights that the legal consciousness development for abortion seekers is shaped by social, cultural, religious, and gender norms, showcasing its pluralistic nature; however, the geopolitical context of abortion, other intersecting laws, and stigma further impact legal consciousness.

Moreover, social media proves to be a dynamic platform for rapid information exchange, support, and mobilisation facilitating the evolution of legal consciousness. Abortion seekers experience the law as a continuous flow, engaging in mutual learning. This transcends geographical confines, allowing adaptation to an ever-changing legal landscape. Social media further enables the development of a collective legal consciousness with broader implications for health and well-being and is a powerful tool for societal transformation. As a result, the thesis suggests a more responsive and personalised legal approach to abortion regulation.

Individuals articulate a preference and need for an ideal law that acknowledges individual circumstances and better aligns with personal values and notions of right or wrong. They call for the legal recognition of reproductive rights and access to quality healthcare, with the acknowledgement of abortion as an essential service. The expressed need for human-centred legal design that demonstrates a more holistic understanding of social context to improve abortion-related legal frameworks and seekers' well-being challenges the assumption that mere legal knowledge is sufficient to assert one's rights. These findings collectively contribute to a nuanced understanding of the legal consciousness of abortion seekers, providing valuable insights for policy development and societal transformation.

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LIST OF ACRONYMS

AI	Artificial Intelligence
CSE	Comprehensive Sexuality Education
GAPD	Global Abortion Policies Database
MDW	Migrant Domestic Worker
NHS	National Health Service
OU	Open University
SAAF	Safe Abortion Action Fund
TFMR	Termination For Medical Reasons
U.S.	United States
WHO	World Health Organization

INTRODUCTION

“If women just knew about the law, all would be fine.”

Interest in the research topic

Unbeknownst to me at the time, my interest in this research had been developing since my upbringing in a family of immigrants in Queens, New York. I grew up in a community where women played a much more significant role in the family than men. I felt a deep appreciation for the sacrifices these women made on my behalf and for having the knowledge and support I needed to develop into the woman I am today. During my undergraduate studies in History and Sociology of Science, I studied the intricate relationship between medicine and society. I gained insight into a phenomenon I had observed my whole life known as the "second shift" - continued domestic responsibilities even after working all day.¹ This learning experience helped me recognise how access to healthcare and maintaining control of one's body enabled a woman to function in this capacity. At the same time, I began working at a community-based organisation situated in Philadelphia, Pennsylvania.² This organisation's mission was to amplify awareness and enhance accessibility to a spectrum of reproductive, sexual, and maternal/child health services. As a hotline counsellor within this organisation, I found myself fielding calls from individuals spanning all age groups, focusing predominantly on abortion-related inquiries. These callers sought counselling, information dissemination, and guidance regarding service locations. They often felt they needed to justify their choices based on their circumstances. This

¹ Arlie R Hochschild, 'The second shift: working parents and the revolution at home/ Arlie Hochschild: With Anne Machung' (New York: Viking 1989)

² The entity went by the name CHOICE-Hotline. However, it has ceased its operations.

experience further ignited my passion for understanding and advocating for the empowerment of individuals in making informed decisions about their reproductive health. Recognising the potential to advocate more effectively for individuals navigating reproductive healthcare decisions, I determined that attending medical school should be my next step.

During my time in medical school, I assumed a leadership position within Medical Students for Choice, a network with a mission of nurturing the next generation of abortion providers and pro-choice physicians.³ In this capacity, I devoted significant attention to highlighting physicians' abilities to function as effective advocates, including by working within their respective institutions and extending their presence and influence within the broader communities in which they serve. This commitment led me to actively engage in political gatherings of medical professionals and other fora to discuss the prevailing state of healthcare. Together, these experiences illuminated the significant impact of politics, policy decisions, and various legal frameworks on the provision and accessibility of essential medical services for women, thereby impacting their everyday lives.

Through these encounters, I quickly realised how legal knowledge would complement my medical training, motivating me to pursue law school. My interest in law extended beyond mere familiarity with legal terminology; it was driven by a desire to deeply understand how legal principles contribute to advancing and delivering healthcare services. By combining medical and legal knowledge, I better understood the nuances that shape the intersection of healthcare, law, and reproductive autonomy, including the contributions of culture and

³ Medical Students for Choice <<https://msfc.org/>> accessed 26 August 2023

bioethics to the formulation of health policy. These experiences guided me towards a residency in obstetrics and gynaecology, with a subsequent a specialised focus in Complex Family Planning. This subspecialty not only provides individuals with comprehensive training in areas such as abortion and contraception but also presents opportunities for them to emerge as research and policy development leaders.

Against this backdrop, I began working with various policymakers in-country as a World Health Organization (WHO) medical officer. In this role, I support the development of evidence-based norms and standards to reduce unsafe abortion and provide technical support for health system strengthening towards the provision of quality comprehensive abortion care. I also contribute to research efforts aimed at gaining deeper insights into the needs of individuals seeking abortion services, as well as how these needs are reflected in existing policies. More recently, in conducting this research, my focus has shifted towards better appreciating the on-the-ground implementation of abortion regulations.

What I knew from existing research was that limiting access to abortions does not result in a decrease in the overall number of abortions.⁴ Moreover, countries with highly restrictive abortion laws have a higher proportion of unsafe abortions compared to less restrictive countries.⁵ I also already had a wealth of knowledge as the manager of the Global Abortion Policies Database (GAPD), an interactive repository encompassing abortion-related laws and

⁴ Jonathan Bearak and others, 'Unintended pregnancy and abortion by income, region, and the legal status of abortion: estimates from a comprehensive model for 1990–2019' (2020) 8(9) *The Lancet Global Health* e1152-e1161

⁵ Bela Ganatra and others, 'Global, regional, and subregional classification of abortions by safety, 2010–14: estimates from a Bayesian hierarchical model' (2017) 390(10110) *The Lancet* 2372

policies across all United Nations member states.⁶ As a co-creator of this resource, I have invested countless hours analysing legal and policy documents, conducting thorough content assessments, documenting progressive and regressive reform instances, and reviewing reproductive health indicators. My responsibilities have entailed detailed reviews of pertinent concluding observations issued by Human Rights Treaty bodies. These reviews consistently underscore the concern about countries' non-compliance in safeguarding human rights. Related to implementation, in my experience, colleagues and various stakeholders in-country have emphasised the significance of comprehending how knowledge of abortion laws influences decision-making processes. But for me, I wanted to know more, including what role the law plays, if any, in shaping abortion seekers' decisions, as well as whether and how individuals were engaging with these laws. Do abortion seekers themselves even consider the role of government in safeguarding human rights? Thus, this research was inspired by a desire to explore how individuals perceive and navigate the actual intricacies of abortion laws. I not only wanted to learn more about the theoretical concepts underpinning the experiences of abortion seekers related to the law, but I also wanted to uncover the personal and human experiences of women as they navigate the broader legal landscape.

Description of the Issue and Research Objective

Approximately 73 million abortions occur each year; however, many are not provided using a method recommended by the WHO⁷ (i.e., using a method that is appropriate to the pregnancy

⁶ World Health Organization, 'Global Abortion Policies Database' (2018) <<https://abortion-policies.srhr.org/>> accessed 21 November 2022

⁷ Bearak and others (n 4)

duration and by someone with the necessary skills⁸). Estimates from the period of 2010–2014 reveal that approximately 45% of all induced abortions are categorised as unsafe, with roughly one-third of these procedures being conducted under the least safe conditions (by untrained persons using dangerous and invasive methods).⁹ Developing countries experience the overwhelming majority, around 97%, of all unsafe abortions, and the distribution of these cases varies by region. Abortions occurring in Asia, for example, represent over half of all unsafe abortions. In Latin America and Africa, most abortions (roughly 75%) are considered unsafe, with almost half of all abortions in the African region taking place under the least safe conditions.¹⁰ As a result, it is estimated that 4.7–13.2% of maternal deaths each year can be attributed to unsafe abortion.¹¹ For those that survive, morbidity can be high, with women and girls experiencing complications such as incomplete abortion, haemorrhage, infection, and uterine perforation.¹²

Formulating my research question then came after working in various legal contexts, where I interacted with policymakers who recognised that women would pursue abortion when circumstances demanded it, irrespective of the legal framework. In restrictive contexts, these policymakers saw a role for law in upholding specific moral or ethical stances. Thus, from their perspective, despite the presence of unregulated providers, the knowledge that abortion is illegal should be enough to deter abortion-seeking. In settings where abortion laws allowed

⁸ World Health Organization, 'Abortion care guideline' (2022)

⁹ Ganatra and others (n 5)

¹⁰ *ibid*

¹¹ Say, Lale, Dr and others, 'Global causes of maternal death: a WHO systematic analysis' (2014) 2(6) *The Lancet Global Health* e323-e333

¹² S. Singh and I. Maddow-Zimet, 'Facility-based treatment for medical complications resulting from unsafe pregnancy termination in the developing world, 2012: a review of evidence from 26 countries' (2016) 123(9) *BJOG: an international journal of obstetrics and gynaecology* 1489

access under specific conditions, policymakers believed they had fulfilled their necessary obligations. They frequently asserted that if women were simply aware of the law, they could or should be able to access abortion services. However, while awareness related to the legality of abortion may be a relevant factor, individuals are often propelled towards unsafe providers and choices.¹³ These claims are also made despite the fact that due to the regulation of abortion-related care primarily through criminal law, abortion care stands apart from most other medical care.¹⁴ Any misstep in accessing legal health care carries significant risks, which could lead to criminal consequences such as fines or even lifetime imprisonment.¹⁵ This means that individuals must recognise and understand the linkages between health care and the law and know how to negotiate for a health service often tied to severe legal consequences if executed incorrectly. It assumes a basic level of knowledge and awareness of the law and a shared understanding of when it applies and does not apply.

This standpoint also presupposes that there are no additional obstacles in the process, whether legal or of any other nature. For example, it assumes that individuals possess the skills to negotiate for a health service when interacting with others who apply the law, like healthcare workers who function as gatekeepers. However, power dynamics can significantly influence one's capacity to interact effectively with the law or assert their rights, assuming those rights do indeed exist. Abortion seekers are also often faced with providers who may be overly restrictive

¹³ Sonia Chemlal and Giuliano Russo, 'Why do they take the risk? A systematic review of the qualitative literature on informal sector abortions in settings where abortion is legal' (2019) 19(1) BMC Women's Health 55

¹⁴ World Health Organization, 'Abortion care guideline' (n 8)

¹⁵ Sanhita Ambast, Hazal Atay and Antonella Lavelanet, 'A global review of penalties for abortion-related offences in 182 countries' (2023) 8(3) BMJ Glob Health e010405

in their interpretations of the law due to fear of liability.¹⁶ As a result, access to quality medical abortion care may be impeded. Additional legal prerequisites connected to obtaining an abortion also exist, including restrictions based on the stage of pregnancy, mandates for third-party authorisations, designated waiting periods, and even regulations pertaining to medications and who can provide care.¹⁷ Abortion regulation may further coincide with the regulation of other medical conditions, such as those related to HIV or maternal health,¹⁸ especially where such conditions are specified grounds within the applicable abortion law. Laws such as those related to access to contraception, including for minors or unmarried women, as well as laws related to access to information or financial coverage, are also often at play.¹⁹ The existence of multiple legal frameworks may lead to confusion, especially where contradictions or inconsistencies exist, or exacerbate fears where abortion is criminalised.²⁰

Compounding these experiences is the issue of stigma as it relates to abortion. Stigma has been defined as an "attribute that is deeply discrediting" that takes someone "from a whole and usual person to a tainted, discounted one".²¹ However, stigma research has expanded this definition to consider how individuals create categories that are linked to stereotyped beliefs and discrimination.²² Thus, stigma can be seen not as a "mark" or "something in [a] person" but

¹⁶ Antonella F Lavelanet and others, 'Global Abortion Policies Database: a descriptive analysis of the legal categories of lawful abortion' (2018) 18(1) BMC Int Health Hum Rights 44

¹⁷ World Health Organization, 'Abortion care guideline' (n 8)

¹⁸ World Health Organization, 'Towards a supportive law and policy environment for quality abortion care: evidence brief' (2022)

¹⁹ *ibid*

²⁰ Lavelanet and others (n 16)

²¹ E. Goffman, *Stigma: Notes on the Management of Spoiled Identity* (Touchstone 1963) 3

²² Bruce G Link and Jo C Phelan, 'Conceptualizing Stigma' (2001) 27 Annual Review of Sociology 363 <<http://www.jstor.org/stable/2678626>>

instead as a “designation or tag” that is attached to a person²³ based on social processes.²⁴ Stigma is thus applied when individuals label others based on identified differences that are considered important socially.²⁵ Stereotyping occurs based on dominant cultural beliefs, whereby specific undesirable characteristics are associated with certain labels. Perceived “transgressions of stated norms about who, when, why, and how to have sex” contribute to ideological struggles about the meaning of family (and who should be mothers), impacting the acceptability of abortion.²⁶ As a result, abortion seekers often face discrimination but also status loss²⁷ in their ability to make autonomous decisions about their reproduction or in their claims related to the right to health. Ultimately, differentials in power result in disapproval, rejection, and exclusion.²⁸

Recognising that various factors can make the abortion process more complex, especially for those who lack necessary resources such as cultural or social support, I needed to develop a deeper comprehension of the role that the law plays in the decision-making of individuals seeking abortion. I suspected that these various factors distinguished abortion from other experiences or engagement with the law, but I did not know how. With this information I could better address policymakers' questions about why mere knowledge of the law falls short in guiding abortion-related decision-making. More specifically, I needed to understand how the law impacts and shapes the lived experience of these individuals. This involves not only

²³ *ibid* 366

²⁴ *ibid* 368

²⁵ *ibid* 367

²⁶ Anuradha Kumar, Leila Hessini and Ellen M Mitchell, ‘Conceptualising abortion stigma’ (2009) 11(6) *Culture, health & sexuality* 625, 628

²⁷ Link and Phelan (n 22), 367

²⁸ *ibid*

grasping how abortion seekers perceive and construe the law but also uncovering the significance they attach to it, examining the process through which this significance evolves, and discerning the circumstances under which they invoke the law.

It is with these questions that I came to learn about legal consciousness. The origin stories of legal consciousness have been linked to exploring the gap between the 'law in books' and 'law in action'.²⁹ With the introduction of empirical methods to legal research, research became less focused on the study of law and more on the study of law and society.³⁰ Large-scale surveys revealed a mistrust of legal institutions but a belief in the possibility of equal and fair treatment. At the same time, ethnographic studies exposed a nuanced approach to law, with local norms and customs leading to resistance and avoidance of legal engagement.³¹ Research further highlighted that lower socio-economic status and power influenced differences in legal engagement.³² Legal competence and a self-perception as rights possessors were crucial for engaging with the law, but structural inequalities within the legal system hindered opportunities for claims-making.³³ Research repeatedly revealed that "power [was] dispersed through social structures and meanings", whereby "hegemony is produced and reproduced in everyday transactions".³⁴

²⁹ Roscoe Pound, 'Law in Books and Law in Action' (1910) 44 American law review 12

³⁰ Anne Wyvekens, 'The Historical Roots of Legal Consciousness Studies. Susan Silbey as Observer and Actor' [2018] *Droit et société* 627

³¹ Susan S Silbey, 'After Legal Consciousness' (2005) 1 Annual Review of Law and Social Science 323 <<https://www.annualreviews.org/doi/abs/10.1146/annurev.lawsocsci.1.041604.115938>>

³² *ibid*

³³ Jerome E Carlin, Jan Howard and Sheldon L Messinger, 'Civil Justice and the Poor: Issues for Sociological Research' (1966) 1(1) *Law & society review* 9 <<http://www.jstor.org.bham-ezproxy.idm.oclc.org/stable/3053046>>

³⁴ Silbey (n 31), 330

From this lens, as defined by Ewick and Silbey, legal consciousness is generally understood as the “participation in the process of constructing legality”³⁵ or legal meaning, as an “ongoing structure of social action”³⁶. However, other scholars have also put forth definitions for legal consciousness. For example, Trubek views it as encompassing all societal ideas about law's nature, function, and operation.³⁷ Merry sees legal consciousness in how people perceive law as the 'natural' ways of doing things,³⁸ while McCann sees legal consciousness as a “dynamic process of constructing one’s understanding of, and relationship to, the social world through the use of legal conventions” ... “as citizens seek to advance their interests in everyday life”.³⁹ Chua and Engel emphasise that legal consciousness involves cognition and behaviour in navigating situations where the law could play a role, whether or not it is invoked at all.⁴⁰ Initially focused on hegemony and power dynamics, the field has expanded to cover identity, including the formation of meanings, identities, and subjectivities, along with mobilisation.⁴¹ This expansion has been partly driven by the field's growth outside of the United States (U.S.), mainly where some have considered that a focus on the law's hegemony may be less relevant

³⁵ Patricia Ewick and Susan Silbey, ‘The common place of law: stories from everyday life’ (Chicago; London: University of Chicago Press 1998) 45

³⁶ Patricia Ewick and Susan Silbey, ‘Sociology of legal consciousness and hegemony’ in Jiří Přibáň (ed), *Research Handbook on the Sociology of Law* (Edward Elgar Publishing 2020) 164

³⁷ David M Trubek, ‘Where the Action Is: Critical Legal Studies and Empiricism’ (1984) 36(1/2) *Stanford Law Review* 575, 592

³⁸ Sally E Merry, *Getting justice and getting even: legal consciousness among working-class Americans* (University of Chicago Press 1990) 5

³⁹ Michael W McCann, *Rights at work: Pay equity reform and the politics of legal mobilization* (Language and legal discourse, 2nd ed. University of Chicago Press 1997) 7

⁴⁰ Lynette J Chua and David M Engel, ‘Legal Consciousness Reconsidered’ (2019) 15(1) *Annu Rev Law Soc Sci* 335, 2

⁴¹ For a comprehensive overview of diverse studies exploring legal consciousness and its themes of hegemony, identity, and mobilization, See *ibid*; Mihaela Șerban, ‘The Loss of Property Rights and the Construction of Legal Consciousness in Early Socialist Romania (1950-1965)’ (2014) 48(4) *Law & society review* 773; Chua and Engel note that despite their categorization of these three broad schools of research, investigators often draw on more than one in their work. In doing so, they demonstrate the ways in which hegemony, identity and mobilisation intersect.

when considering the needs of affected populations, including those in marginalised situations.⁴² Despite the existence of this literature, there is little known about the legal consciousness of abortion seekers beyond a study focusing on activists turned litigants.⁴³ While other research has explored the knowledge and awareness of legal aspects among abortion seekers,⁴⁴ the alignment between these seekers' experiences and the established constructs of legal consciousness remains largely unexplored.

Thus, to better understand whether and how the existing legal constructs of legal consciousness align with the experiences of abortion seekers, this thesis will address the following research questions:

1. In what ways do the prevailing themes of hegemony, identity, and mobilisation manifest among abortion seekers?
2. To what extent do the observed manifestations align with or diverge from the existing literature, and how might these themes be interconnected in the experiences of abortion seekers?
3. What are the implications of these findings for understanding the legal consciousness of abortion seekers?

In addressing these questions, I employed a qualitative methodology, specifically narrative analysis. I used a hybrid approach to data analysis and integrated a priori and emergent coding

⁴² Sida Liu, 'Law's Social Forms: A Powerless Approach to the Sociology of Law' (2015) 40(1) *Law & Social Inquiry* 1

⁴³ Joshua Wilson, 'Sustaining the State: Legal Consciousness and the Construction of Legality in Competing Abortion Activists' Narratives' (2011) 36(2) *Law & Social Inquiry* 455

⁴⁴ Anisa R Assifi and others, 'Women's Awareness and Knowledge of Abortion Laws: A Systematic Review' (2016) 11(3) *PloS one* e0152224

throughout the process.⁴⁵ The methodology involved systematic data collection and coding, and the identification of key themes. In exploring the dynamics of the role of law in everyday lives, utilising social media emerged as a strategic approach. The decision was driven by a desire to comprehensively understand people's perceptions, understanding, and interactions with the law across various dimensions. Specifically, I focused on garnering insights from a diverse audience, encompassing a broad spectrum of backgrounds. This inclusivity aimed to delve into the perspectives of individuals within various cultural, geographical, and legal contexts. Moreover, as social media provides a platform for individuals to share unfiltered personal stories, I saw it as an opportunity to genuinely explore how people naturally engage with legal concepts and the law more generally.

Recognising how individuals seeking abortion understand and perceive their interaction with the law is crucial. Understanding how abortion seekers engage with the legal system and contribute to the establishment of legal meaning will help inform how abortion seekers perceive themselves as they relate to the law. This includes whether they see themselves as rights holders, even when not explicitly stated in the law. This perception informs their engagement with and approach to the legal system and whether they consider this engagement necessary or helpful at all.⁴⁶ Thus, this thesis investigates how abortion seekers personally understand and experience the law, moving beyond the practical application. This encompasses consideration of the norms and values that shape their lives, irrespective of

⁴⁵ Jennifer Fereday and Eimear Muir-Cochrane, 'Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development' (2006) 5(1) *International journal of qualitative methods* 80

⁴⁶ Austin Sarat, 'Studying American Legal Culture: An Assessment of Survey Evidence' (1977) 11(3) *Law & society review* 427 <<http://www.jstor.org/stable/3053128>>

whether these are formalised in official law.⁴⁷ Attention is redirected from a societal endorsement of the current legal framework towards the societal interpretation of the rule of law,⁴⁸ which facilitates the ability to gain deeper insights into what individuals themselves consider as significant components of the law.⁴⁹

Thesis structure and contribution

Chapter 1 provides an overarching understanding of the theoretical construct of legal consciousness. I give an overview of how legal consciousness is conceptualised within current research. There, I explore the literature to pinpoint particular aspects influencing legal consciousness. This investigation aids in understanding the alignment between established legal consciousness constructs and abortion seekers' experiences, with an eye to specific nuances that may be more relevant to abortion seeking.

Chapter 2 presents an overview of my methodological approach. I detail my research design and explain the advantages of employing social media as a data source. I describe the specific platforms utilised for this thesis. Subsequently, I outline my analytical procedure. Additionally, I address reflexivity, validity, and reliability alongside ethical considerations. Moreover, demographic information is presented in this Chapter.

Chapters 3 to 5 present the research findings, reflecting the themes of hegemony, identity, and mobilisation. In Chapter 3, I focus on hegemony and illustrate how the legal consciousness of

⁴⁷ Marc Hertogh, 'A 'European' Conception of Legal Consciousness: Rediscovering Eugen Ehrlich' (2004) 31(4) *Journal of law and society* 457

⁴⁸ *ibid*

⁴⁹ *ibid*

abortion seekers is both aligned with and distinct from the experiences of other individuals within the literature. Although I focus on the forms of legal consciousness identified by Ewick and Silbey,⁵⁰ I highlight other factors and their association with hegemony that are pivotal in the construction and evolution of legal consciousness. There, I demonstrate how the existing framework assumes a conscious recognition of the power dynamic between individuals and the law. While abortion seekers often recognise an injustice in how abortion is regulated, this does not always incite them to challenge the law. Instead, the law enforces power by promoting gender and social norms, acting as a mechanism of discrimination rather than for recourse. The narratives underscore how women, enduring disproportionate effects of the law, are forced to navigate *outside the law*.

Building on the insights from Chapter 3, Chapter 4 explores identity, including how it is interconnected with hegemony and mobilisation in the context of abortion seekers. There, I analyse the construction of diverse identities and their interactions with the law. I demonstrate how legal consciousness is shaped by a fusion of experiences and structural standings, influencing individuals' comprehension of their rights and their interaction with the law. I illustrate how the legal consciousness of abortion seekers continually evolves through interactions with various normative frameworks, cultural contexts, and societal influences. This entails investigating whether individuals can relate to the law and their notions of an ideal legal system. The transnational nature of abortion care and stigma impact these experiences. These concepts will be expanded on in Chapter 5, where I explore mobilisation in the context of

⁵⁰ Ewick and Silbey Susan S. (n 35) 45

abortion seeking. I will scrutinise how individuals perceive of rights and consider their relevance when faced with a problem. This Chapter highlights the rise of a collective legal consciousness, where individuals make decisions about utilising the law to pursue personal goals but also to facilitate broader societal transformation.

Throughout each of these Chapters, I will explore additional social and structural contextual considerations that should be considered when examining the legal consciousness of abortion seekers. Some of these factors resemble those described in more recent legal consciousness literature; however, some elements are specific to the abortion experience, adding nuance to the legal consciousness literature. I illustrate that abortion seekers' perceptions and experiences of the law and their evolving legal consciousness extend beyond the established framework of hegemony, identity, and mobilisation. Specifically, I demonstrate how the interplay of the geopolitical context and coexisting laws generates uncertainties surrounding the distinction between what is legal and illegal in abortion seeking. I emphasise the intricacies arising when multiple legal pathways intersect, influencing individuals' encounters with the law, and highlight the roles of various actors in this process. The analysis underscores how laws often fail to safeguard individuals from discrimination or stigma; instead, laws compel women to operate *outside the law*. I will demonstrate that abortion seeking is unlike seemingly mundane experiences.⁵¹ I will show how the notion of time is a contextual element that impacts legal consciousness. This impact manifests in various ways, including due to the nature of pregnancy, how time is regulated in law, challenges related to delay, and the shaping of ideas

⁵¹ *ibid*

concerning when justice claims can be asserted. This places the abortion experience in a distinct position among others in the literature in that although legal consciousness is, of course, constantly evolving for abortion seekers, that consciousness is in constant flux at the time of abortion seeking itself. I will show how these contextual factors are pivotal in comprehending how structural and personal circumstances concurrently influence the dynamic evolution of legal consciousness.

Like others within legal consciousness literature, the experiences of abortion seekers are shaped by the relational aspect of legal consciousness. However, the use of social media as a mechanism to simultaneously reflect personal emotions and experiences while also remaining responsive to the interactions and perspectives of others in real time is a specific feature that comes out for abortion seekers in this thesis. Social media facilitates swift information exchange, support, and idea transfer, influencing legal consciousness's perpetual evolution and transformation. For abortion seekers, this exchange, and the resultant impact on legal consciousness in both directions distinguish their engagement when compared to others in the literature in that abortion seekers' experiences with the law go beyond their personal experiences. More specifically, these experiences are informed by the experiences of others, which are geographically unrestricted, facilitating broad perspectives on legal and other issues. Recognising the power of sharing their stories, legal consciousness itself then serves as a powerful methodology capable of driving comprehensive societal transformation with the explicit goal of advancing the realisation of rights. Social media is the means by which a collective consciousness of rights awareness is built, informing individuals' perceptions of important legal elements and ideals, and challenging the assumption that mere legal

knowledge is sufficient to understand, navigate and engage with the law. As a result, social media also serves as a powerful tool in collecting this information.

Finally, the concluding Chapter will summarise the research findings. It underscores the congruence between existing legal consciousness constructs and abortion seekers' experiences while also identifying areas of insufficiency. The implications for understanding abortion seekers' legal consciousness and enhancing abortion-related legal frameworks are then further discussed. Specifically, I will draw upon key findings from the thesis to articulate the necessity of a human-centred legal design and shed light on a collective desire for a more just legal system that facilitates access to quality care. I will show how the pronounced yearning for the recognition of personal circumstances, coupled with an increased appreciation of the barriers within the legal system, emphasises the imperative for a shift towards human-centric approaches. Furthermore, the documented challenges of individuals unable to effectively engage with the law, often resulting in their exclusion, underscore the need for a more empathetic and inclusive legal framework. In this concluding Chapter, the thesis will then assess the impact of my research on the field of legal consciousness. I describe the specific contributions made, shedding light on new dimensions and perspectives within legal consciousness research. Additionally, I scrutinise the limitations of my research and offer areas where further exploration is needed. Lastly, the thesis outlines prospects for future research, guiding scholars towards potential avenues to extend and refine the knowledge base in the realm of legal consciousness.

It is essential to clarify that undertaking this research was not an attempt to challenge the significance of existing legal consciousness constructs; they undoubtedly hold value. Instead,

the aim was to explore whether the established framework, including its considerations of hegemony, identity, and mobilisation as presented by scholars in the field, adequately encompasses the experiences of abortion seekers. My analysis, which I juxtaposed with the existing legal consciousness framework, aimed to initiate this dialogue.

While frameworks are not expected to offer exhaustive representations, concerns arise when crucial elements related to the role of law are absent. There must be room to include consideration of the intricacies and subtleties of actual lived experiences. Moreover, material differences in social spaces and lives matter not only because they demonstrate why the law retains its power⁵² but also and potentially more importantly because divergent realities within social contexts hold significance for the very people navigating legal frameworks. Without a deeper understanding of what genuinely matters to individuals and why those aspects are crucial in their interactions with the law, the opportunity to broaden and adjust the framework to better encompass the multifaceted realities of legal consciousness in practical situations remains unattainable.

Note on language

It is important to note that transgender and gender nonbinary people may also be abortion seekers. Nevertheless, as detailed in Chapter 2, only a small number of narratives featured insights from individuals with non-gender-conforming identities. Therefore, when I mention women, I aim to encompass women and other pregnant individuals while staying true to the data.

⁵² Silbey (n 31)

CHAPTER 1 - WHAT IS LEGAL CONSCIOUSNESS?

Designed as a deliberate and focused literature review, this Chapter aims to unveil insights into the intricacies of legal consciousness beyond abortion seekers. Specifically, the exploration of established constructs within legal consciousness, including hegemony, identity, and mobilisation, as well as how they are interconnected, illuminates the lived experiences of individuals. Additionally, the Chapter explores diverse factors, both social and structural, that contribute to shaping legal consciousness, including among abortion seekers. However, noteworthy distinctions emerge, elucidating the nuanced relationship between individuals and the law within the context of abortion. This information provides the groundwork for exploring how the existing legal consciousness framework aligns with the experiences of abortion seekers. Together, this information will provide a more comprehensive understanding of how abortion seekers understand, perceive, and live the law.

The development of legal consciousness research has enabled a deeper examination of law in society and its impacts, specifically focusing on 'official law in action'¹ and how people experience, understand, and act in relation to law.² Rather than investigate formal laws or institutions and whether policies achieved their purpose, legal consciousness researchers used qualitative approaches to query legal meaning and perception³ to consider "how legal concepts influence the goals, options, choices, and problems of ordinary individuals"⁴, and

¹ Marc Hertogh, 'A 'European' Conception of Legal Consciousness: Rediscovering Eugen Ehrlich' (2004) 31(4) *Journal of law and society* 457

² Ramunė Miežanskienė, 'Exploring Tendencies in Migrants' Legal Consciousness Research and Uncovering Factors for Socio-Legal Integration' [2020] *European Integration Studies* 26

³ Susan S Silbey, 'After Legal Consciousness' (2005) 1 *Annual Review of Law and Social Science* 323
<<https://www.annualreviews.org/doi/abs/10.1146/annurev.lawsocsci.1.041604.115938>>

⁴ Anna-Maria Marshall and Scott Barclay, 'In Their Own Words: How Ordinary People Construct the Legal World' (2003) 28(3) *Law & Social Inquiry* 617, 621

how these things are socially constructed. By focusing on how law manifested in the daily life of nonlegal actors, researchers attempted to decentralise the role of law. In this way, legal consciousness evolved as a theoretical construct to appreciate how the law interacts with everyday life (i.e., its place in people's lives).⁵

At this intersection between the law and the social practices of ordinary individuals, how individuals interpret events in terms of legal concepts or terminology becomes clearer.⁶

Individuals draw upon common currencies⁷ to develop legal meaning,⁸ further exemplifying a social construction of legality. Legality can be seen as both an interpretative framework and a set of resources that extend beyond formal institutional settings; it can also include other sources, such as religious beliefs, cultural practices, and meanings.⁹

To gain a better understanding of the interpretative framework and the resources individuals draw upon to shape legality, Ewick and Silbey took a critical approach and conducted several case studies to construct three interrelated narratives of legal consciousness.¹⁰ Individuals can be “before the law,” impressed and convinced of its legitimacy. Individuals approach the law from this perspective as rational and objective, built by hierarchical rules and procedures, and independent of individual influence.

Individuals turn to the law when faced with a serious issue, as they see it as an external force distinct and separate from everyday life. Despite the perception of law as impartial

⁵ Rosie Harding, *Regulating sexuality: Legal consciousness in lesbian and gay lives* (Social justice, Routledge 2011)

⁶ Patricia Ewick and Silbey Susan S. ‘The common place of law: stories from everyday life’ (Chicago; London: University of Chicago Press 1998)

⁷ Simon Halliday, Celia Kitzinger and Jenny Kitzinger, ‘Law in everyday life and death: a socio-legal study of chronic disorders of consciousness’ (2015) 35(1) *Leg Stud (Soc Leg Scholars)* 55

⁸ Abigail C Saguy and Forrest Stuart, ‘Culture and Law: Beyond a Paradigm of Cause and Effect’ (2008) 619(1) *The Annals of the American Academy of Political and Social Science* 149

⁹ Ewick and Silbey Susan S. (n 6)

¹⁰ *ibid*

and just, there is often recognition and frustration in the outcomes' lack of fairness, perpetuating a sense of powerlessness.¹¹ In Chapter 3, I will explore how abortion seekers share these insights. There, I will show that abortion seekers also place the law in a prominent and authoritative position and, in some cases, see the law as constant, timeless, and transcendent. They too, recognise that there are consequences to this hierarchical organisation, including perpetuating a sense of powerlessness, but this only further concretises the role of the law in their lives.

At the same time, individuals can also be “within the law,” using the law like a game to suit individual needs and purposes.¹² While these individuals also appreciate that the law comprises a set of rules by which the game must be played, they also see the opportunity to introduce new regulations whereby outcomes may be manipulated by skill and resource. In this way, the law is not something that exists as distinct from everyday life, but rather “involves a bracketing of everyday life – different rules apply... - but it is a bracketing that can be abandoned if need be.”¹³ Legal procedures are considered pertinent to achieve specific outcomes, but not all outcomes, and power is linked to a person’s ability to use the law.¹⁴ However, individuals can also find playing by the law’s rules difficult, leaving them resistant to or “against the law”.¹⁵ “Being caught within the law or being up against the law” requires individuals to accept or “make do” with their situations, employing whatever tactics seem appropriate at a particular time.¹⁶ However, those who find themselves “against the law” see the law as inaccessible, subjective, and without a “moral anchor.”¹⁷

¹¹ ibid

¹² ibid

¹³ ibid 48

¹⁴ ibid

¹⁵ ibid

¹⁶ ibid

¹⁷ ibid 196

Motivated by a sense of justice and distrust of law's implementation, some individuals may then use deceit to achieve their legal objectives or even altogether avoid the law. By resisting and challenging the law, individuals seek to challenge its power in whatever way possible.¹⁸ This thesis will further highlight the similarities between abortion seekers and those interviewed by Ewick and Silbey, exploring perspectives aligned with being "with" and "against the law". I will also show how abortion seekers strategically navigate the legal system to access care, legitimising and distinguishing their experiences from others seeking abortion. The analysis will also demonstrate how individuals circumvent, evade, or avoid the law, akin to those acting "against the law."

It is important to note that while distinct characteristics of each of these narratives emerged in the interviews conducted by Ewick and Silbey, often all three accounts of legality were expressed by the same individual, reinforcing the persistent power of and potential for influence over the law.¹⁹ Ewick and Silbey determined that an individual's legal actions and interpretations were determined by context, time, and situational factors, which sometimes appeared contradictory. Individuals drew from various schemas and resources, not all of which were legal but also social (e.g. education, financial) and cultural (e.g. religion).²⁰ Ewick and Silbey found that the way legality operates and is understood is complex and often contradictory and that by appreciating legal consciousness as a reciprocal non-static process, tensions between structure and agency and constraint and choice become visible.²¹

¹⁸ *ibid*

¹⁹ Susan S Silbey, 'Studying Legal Consciousness: Building Institutional Theory from Micro Data' (2018) N° 100(3) *Droit et société* 685

²⁰ Ewick and Silbey Susan S. (n 6)

²¹ *ibid*

Thus, they described “both a characteristic individual response to law and a cultural schema that made sense of law at a structural level.”²²

Appreciating the fact that individuals draw from various cultural resources in their social construction of reality, Fritsvold built on Ewick and Silbey’s framework.²³ Fritsvold found that mainstream and radical environmental group members “view[ed] the law as the protector and defender of a social order that is fundamentally illegitimate.”²⁴ Rather than the law merely being slow and ineffective, as viewed by those who are *against the law*, those operating from an “under the law” perspective find the law to be “efficient and effective in repressing dissent”, actively impeding change, as a “defender of the status quo and existing power hierarchies.”²⁵ From this perspective, the goal of law is not to remedy injustice. Instead, these individuals view the law and its structures as actively perpetuating injustice and demonstrate a distinct awareness and resistance against established norms and structures. Such perspectives have emerged in research conducted by Kubal,²⁶ where Ukrainian migrants saw themselves as distinct from the majority, with an ever-present “sign on [their] foreheads ‘I am illegal’”.²⁷ Although these migrants made attempts to engage in legitimising acts so that they might find their way out of the “shadows”, and be given a chance to “right the wrong” and “regularise [their] stay”, for many, this was not a practical

²² S. Halliday and B. Morgan, ‘I Fought the Law and the Law Won? Legal Consciousness and the Critical Imagination’ (2013) 66(1) *Current Legal Problems* 1, 5

²³ Erik D Fritsvold, ‘Under the Law: Legal Consciousness and Radical Environmental Activism’ (2009) 34(04) *Law & Social Inquiry* 799

²⁴ *ibid* 799

²⁵ *ibid* 818

²⁶ Agnieszka Kubal, ‘Struggles against subjection. Implications of criminalization of migration for migrants’ everyday lives in Europe’ (2014) 62(2) *Crime Law Soc Change* 91, 102

²⁷ *ibid* 101

reality.²⁸ Many remained systematically disadvantaged in the broader social system, fostering a fundamental view of the law as illegitimate.

Chapters 3 and 4 of this thesis explore parallels in these perspectives among abortion seekers. Like Ukrainian migrants, they navigate a complex landscape, attempting to legitimise their choices. However, key distinctions emerge. Abortion seekers do not resist the law as a consciousness of opportunity seeking to identify the cracks and vulnerabilities of organised power,²⁹ or to openly challenge the legitimacy of the legal system,³⁰ as they often have limited power. Instead, due to the stigma, shame, and judgment around abortion, as well as the circumstances around needing to access abortion care itself, it can be more challenging to exert personal power, even where abortion is legal.

More recent legal consciousness research has moved beyond the individual to appreciate the dynamic processes by which legal consciousness is created and adjusted based on individuals and processes within a larger ecosystem.³¹ Halliday and Morgan also described queries about the legitimacy of law and efforts to counter hegemony; however, they focused on collective voices.³² They conducted a secondary analysis of an interview dataset with radical environmentalists and applied a cultural theory framework to legal consciousness. This considered questions around social organisation, how decisions are made, and the role of power, demonstrating a mutually constitutive relationship between legal consciousness and identity.³³ Like Ewick and Silbey, they appreciated that “individuals move in and out of many different settings in the course of daily life, [but that] attention

²⁸ *ibid* 105

²⁹ Ewick and Silbey Susan S. (n 6)

³⁰ Fritsvold (n 23)

³¹ Miežanskienė (n 2)

³² Halliday and Morgan (n 22)

³³ *ibid*

must be paid to the particular context in which cultural biases are being expressed and invoked.”³⁴ Within the cultural theory framework, these researchers noted that four core cultural biases exist: deferential collectivism, dissenting collectivism, individualism, and fatalism/isolation, which consider “structured authority and differences of rank, position, and status”, as well as the “extent to which groups constrain individual action.”³⁵ When applied to legal consciousness, these biases reflect assumptions about law. Where the law is collectively viewed as illegitimate and oppressive and is resisted and subverted through a collective effort, “collective dissent” emerged as an additional narrative.³⁶ As will be shown in Chapters 3 – 5, abortion seekers engage in a dynamic, non-linear evolution of legal consciousness through the use of social media, often resisting stigma and shaping normative systems. The instantaneous nature of social media, in that it allows for the rapid dissemination of information (including legal), enables abortion seekers to be more agile in various contexts, both in terms of healthcare access and the restrictiveness of the law. In this environment, a collective consciousness emerges, fostering awareness around rights. Chua and Engle have further explored how individuals understand society and their place in it.³⁷ They have noted that worldview is demonstrated in how individuals interact with others and construct personal identities. This impacts how individuals understand and react to life experiences, including whether to mobilise the law.³⁸ As individuals go through different experiences, these researchers note that perception or interpretation of specific events in individuals’ lives may shift, including whether they view events as “normal,

³⁴ *ibid* 11

³⁵ *ibid* 7–8

³⁶ *ibid*

³⁷ Lynette J Chua and David M Engel, ‘Legal Consciousness Reconsidered’ (2019) 15(1) *Annu Rev Law Soc Sci* 335

³⁸ *ibid*

problematic, harmful, or wrong”.³⁹ In response to these changing perceptions, they note that individuals decide to engage or not with the law.⁴⁰

Halliday has gone further and suggested four comprehensive approaches to legal consciousness research: a critical approach, an interpretive approach, a comparative cultural approach, and a law-in-action approach.⁴¹ The critical approach focuses on understanding the law's hegemonic force, while the interpretive approach considers how individual's actions are shaped by their perceptions of the law.⁴² In both of these approaches, researchers are concerned with the legal consciousness of ordinary people and not legal officials. The comparative cultural approach examines legal culture by studying entire societies or cultures and their characteristic consciousness regarding the law, which is then compared with that of other societies or cultures.⁴³ Finally, researchers using a law-in-action approach are interested in the legal consciousness of critical actors in the implementation process to better “understand the social reality of law” and the difference between the law as written in books and implemented.⁴⁴

Other researchers have explored how social processes affect legal consciousness and, more specifically, the relational ways in which legal consciousness is impacted. Young found a “second-order” layer of legal consciousness, whereby individuals’ understanding of the law was influenced by state-made law, as well as house rules or actions considered more acceptable among cockfighters in Hawaii.⁴⁵ For participants in Young’s research,

³⁹ *ibid*

⁴⁰ *ibid*

⁴¹ Simon Halliday, ‘After Hegemony: The Varieties of Legal Consciousness Research’ (2019) 28(6) *Social & Legal Studies* 859

⁴² *ibid* 865

⁴³ *ibid*

⁴⁴ *ibid* 867

⁴⁵ Kathryn M Young, ‘Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight’ (2014) 48(3) *Law & society review* 499, 501

psychological distress was apparent when a disconnect existed in personal perceptions of oneself as a generally law-abiding citizen versus being branded as a criminal. This understanding of the law is distinct from how Ewick and Silbey use the law to mean the “aspects of legality as it is employed by or attributed to formal institutions and their actors.”⁴⁶ Silbey acknowledges that no issue in life cannot be made to have a legal aspect but contends that the purpose of these rules is to “legitimate the use of force or coercion”⁴⁷ by the State. In Chapter 4, I will draw parallels to Young’s findings, including how abortion seekers also exhibit a second-order level of legal consciousness. There, as well as in Chapter 5, I will further expand on the role of social media in enabling individuals to connect on the issue of abortion, facilitating the development of relational and collective legal consciousness.

Given the relational nature of legal consciousness, it is crucial to consider the findings in the literature regarding particular social and structural factors that shape consciousness. Existing literature on the effects of specific material conditions, including labour status, socioeconomic status, and geography, focusing on particular sub-conditions, provides insights into how social existence determines legal consciousness.⁴⁸ The effect of these factors challenges the assumption raised in the introduction that knowledge of the law is the critical component of legal consciousness. This research speaks to how people genuinely ‘liv[e the] law’ and what they experience as law⁴⁹ or legality, considering their personal circumstances. This perspective shifts the focus from the “level of social support for legal

⁴⁶ Ewick and Silbey Susan S. (n 6) 22–23

⁴⁷ Silbey, ‘Studying Legal Consciousness: Building Institutional Theory from Micro Data’ (n 19) 690

⁴⁸ Karl Marx, *A Contribution to the Critique of Political Economy* (Marx.org 1993 (Preface, 1993), Marxists.org 1999, Progress Publishers, Moscow 1859)

⁴⁹ Hertogh (n 1), p 475. The concept of ‘living law’ was originally posited by Eugen Ehrlich

propositions ... [to] the social definition” of the rule of law⁵⁰ and allows for greater inquiry into what individuals see as important aspects of the law.

The literature in this area speaks to several themes, the first relating to the law as a tool. Nguyen, for example, demonstrated that the legal consciousness of factory workers in Vietnam, and in particular, their ability to mobilise the law, was impacted by increased legal knowledge and interactions with core workers (other factory workers who had legal training and provided legal aid and advice to others).⁵¹ The core workers saw themselves as contributing positively to society, “help[ing] workers ‘face less coercion’ (đỡ bị chèn ép)” and arming workers with “the law as a potential weapon of the weak”.⁵² This led to a shift in legal consciousness for factory workers, including a change in attitudes about possible legal remedies available.⁵³ Similarly, Barua and Haukanes⁵⁴ demonstrated how participation in unions provided an opportunity to expand rights-based consciousness. In addition to increasing their knowledge and awareness about rights and entitlements, domestic workers learned how to engage with government institutions through union participation.⁵⁵

Research in this area also demonstrates that individuals facing specific socioeconomic conditions link improved knowledge and awareness of the law to increased rights consciousness, impacting how individuals view legality and their ability to mobilise the law. For example, in a study by Hernandez (reflecting the aforementioned interpretive approach), insights are gained into the evolution of the legal consciousness of financially

⁵⁰ *ibid*, p 476. The author uses the term Rechtsstaat.

⁵¹ Tu P Nguyen, ‘Legal Consciousness and Workers Resistance in Đồng Nai Province, Vietnam’ (2017) 12(2) *Asian J Comp Law* 311

⁵² *ibid* 324

⁵³ *ibid*

⁵⁴ Padmaja Barua and Haldis Haukanes, ‘Organizing for Empowerment: Exploring the Impact of Unionization on Domestic Workers in India’ (2020) 55(1) *Studies in comparative international development* 27

⁵⁵ *ibid*

poor women, whereby individuals go from being *against the law* to *with the law* when there is an opportunity to participate in the construction of legality.⁵⁶ Hernandez compared paediatric mothers recruited from two different sites, one of which included access to a legal service delivery program. With access to the program, paediatric mothers were able to learn legality. Specifically, Hernandez found that mothers exposed to the legal service delivery program became more adept about when and how the law might be used as a leveraging mechanism in housing, custody, and utility disputes, among others. These women invoked a practical legal consciousness by having the ability to “look at the power within themselves” and learn “how to advocate for themselves.”⁵⁷ In Chapter 3, I will demonstrate that despite learning about the law in various ways, unlike the paediatric mothers described here, abortion seekers tend to view and interact with the law as an obstacle rather than as a tool. They perceive the law as imposing specific moral and ethical positions and exercising power over them through unnecessarily punitive measures. However, like what is described in the literature above, this thesis will show that by receiving support from other individuals, abortion seekers can overcome some of these challenges, leading to improved awareness of their rights, even in restrictive contexts. The perception of whether the law can be used as a tool, however, is also linked to how individuals construct their legality; this can be influenced by religious and cultural factors. Hart and Kulk, for example, demonstrated that Dutch women living in Egypt in cross-cultural intimate relationships were marginalised as women and as non-Muslims.⁵⁸ These women’s

⁵⁶ Diana Hernández, “‘I’m gonna call my lawyer:’ shifting legal consciousness at the intersection of inequality’ (2010) 51(51) Special Issue Interdisciplinary Legal Studies: The Next Generation 95

⁵⁷ *ibid* 113

⁵⁸ Betty de Hart and Friso Kulk, ‘Mixed Couples and Islamic Family Law in Egypt: Legal Consciousness in Transnational Social Space’, *Onati socio-legal series* 2013, 3(6), 1057 1069’ (2013) 3 *Onati socio-legal series* 1057

individual experiences, as well as the “specific social context of negative and gendered narratives of mixed marriages”⁵⁹ influenced by religion and culture informed how they understood and lived the law. In some cases, they converted to Islam as a strategic maneuverer to improve their legal standing in their relationships. These women used stories about others that were told and retold as an important source of information about the law. By arming themselves with various legal tools and working *with the law*, the women in this study developed their legal consciousness by strategically navigating the law.

In another study conducted by Hart and Besselsen, also with Dutch women with migrant partners, gender norms reinforced by the law left these women feeling that they could not claim rights they were entitled to as citizens.⁶⁰ Women in this group were surprised at the level of intrusion into their lives by the state with their migrant partners, as they were Dutch citizens and immigration laws were supposed to regulate migrants. Despite initial perspectives that the law treated people fairly, the experience with their migrant partners left women feeling as if the police and “bureaucracy in th[e] country [were] working against [them]”.⁶¹ They found the law to be arbitrary and unpredictable in nature and, as a result, unjust, leaving them *against the law*. These women expressed a desire for the law to appreciate their individual circumstances, especially as they felt excluded due to this experience with the law.⁶²

The literature also demonstrates that despite expressed desires for the law to consider personal circumstances, there is also an appreciation that moral appeals to those applying

⁵⁹ *ibid* 1065

⁶⁰ Betty de Hart and Elles Besselsen, ‘Everything went according to the rules’. Female citizen sponsors’ legal consciousness, intimate citizenship and family migration law’ (2021) 28(1) *Identities* (Yverdon, Switzerland) 37

⁶¹ *ibid* 48

⁶² *ibid*

the law are sometimes necessary. For example, Sarat demonstrated that participants on welfare wanted greater flexibility in the rules and for them to be more equitable in its application, “as if the immediacy of their life situation would have a moral force that would compel attention and response.”⁶³ For these individuals on welfare, the law is “a web-like enclosure in which [individuals] are caught” that dictates how they will be able to meet their most basic needs, including those related to access to food and emergency services.⁶⁴ Although some could play the game if they knew someone working within the system and were willing to “dish out” money in this “world of deals”,⁶⁵ others had to wait and retell their stories each time only to be unheard. To further support their “rational appeals”,⁶⁶ some individuals distinguished themselves from others by highlighting their particular deservedness and higher moral standing.⁶⁷

Other studies have shown how individuals experiencing the same material condition feel differently about the law, often based on perceptions of power. Cowan found variability in the legal consciousness among homeless individuals in the United Kingdom in a study investigating why individuals challenge welfare decisions related to housing needs.⁶⁸ In that study, some participants reified the law, perceiving legal actors as neutrally applying fixed rules “and go[ing] by the book”.⁶⁹ From this *before the law* perspective, homeless individuals felt powerless, as there was no point in appealing housing decisions with those

⁶³ Austin Sarat, “‘...The Law Is All Over’: Power, Resistance, and the Legal Consciousness of the Welfare Poor” (1990) 2(2) *Yale journal of law & the humanities* 343

⁶⁴ *ibid* 345

⁶⁵ *ibid* 343

⁶⁶ *ibid*

⁶⁷ *ibid*

⁶⁸ Dave Cowan, ‘Legal Consciousness: Some Observations’ (2004) 67(6) *Modern law review* 928

⁶⁹ *ibid* 949

who were just doing their jobs. At the same time, many participants in that study also described the desire to be seen.

As will be demonstrated throughout the thesis, the desire for the law to recognise personal circumstances, often linked to the concept of justice and rights, exists as a recurring concept. Abortion seekers advocate for a legal framework that considers diverse perspectives, acknowledging broader social inequalities. In expressing their justifications for abortion decisions, they implicitly highlight the need for legal systems designed with a human-centred approach, prioritising fairness and justice in legal design. Individuals demonstrate an ongoing evolution of ideas about the role and operation of abortion law, including related to ideas around the need for regulation.

These perspectives are similar to how outdoor sex workers in Klambauer's study⁷⁰ desired more regulation as they did not benefit from the safety of working indoors and were exposed to higher rates of violence. Access to free condoms and designated places and even zones within the community would not only serve to protect them but would positively impact the community, keeping the work more private. Indoor sex workers also saw a role for the law in legitimising their work and allowing individuals to work together in the same way as other professionals are permitted to do so. Without additional regulations in place, both indoor and outdoor sex workers in that study perceived that the law did not consider the reality of their everyday lives, contributing to the sense of legal alienation.⁷¹ Similar sentiments were shared by sex workers in China,⁷² who also believed that without the

⁷⁰ Eva Klambauer, 'On the edges of the law: sex workers legal consciousness in England' (2019) 15(3) *International Journal of Law in Context* 327

⁷¹ *ibid*

⁷² Margaret L Boittin, 'New Perspectives from the Oldest Profession: Abuse and the Legal Consciousness of Sex Workers in China' (2013) 47(2) *Law & society review* 245

support of the law, the ability to trust and engage with law enforcement was impacted because they were not taken “seriously,” and abuse was perpetuated.⁷³

The studies above illustrate how individuals perceive and understand the role and implementation of law and highlight identity's significant role in shaping legal consciousness. In Chapter 4, I will also explore the role of identity in legal consciousness and draw comparisons to the existing literature. Collective identities or kinship networks, for example, have been shown to impact engagement with the law where migrant workers do not seek to resolve grievances through formal legal mechanisms. Yang explored how migrant workers in China responded to labour violations in settings where these migrants and their employers share the same place of origin.⁷⁴ In such cases, individuals often felt they “must uphold the moral obligations of his or her network ties”.⁷⁵ This meant that the migrant workers did not seek to resolve grievances through formal legal mechanisms but instead held the perception that informal processes were acceptable, including the lack of need for official contracts. Even before coming to the point of a grievance, Yang highlighted that migrant workers with shared cultural ties with their employers often failed to recognise if a violation occurred.⁷⁶

Hendley also explored how individuals in Russia resolved disputes with others living within a pod"ezd, a small community of individuals sharing a stairwell in a Russian apartment building.⁷⁷ The study revealed that the informal norms established by individuals who

⁷³ ibid 269

⁷⁴ Duanyi Yang, 'Why Don't They Complain? The Social Determinants of Chinese Migrant Workers' Grievance Behaviors' 73(2) ILR Review 366

⁷⁵ Fei X X Zhongguo, Gary G Hamilton and Wang Zheng, *From the Soil: The Foundations of Chinese Society* (1st edn, University of California Press 1992)

⁷⁶ Yang (n 74)

⁷⁷ Kathryn Hendley, 'Resolving Problems among Neighbors in Post-Soviet Russia: Uncovering the Norms of the Pod"ezd' (2011) 36(2) Law & Social Inquiry 388

identified with a shared identity played a significant role in shaping perceptions of right and wrong. This shaping was influenced by their strong commitment to principles of fairness.⁷⁸ More specifically, the legal system, or the use of the courts in particular, was viewed as a waste of time and money. Instead, there was an existing culture within the pod"ezd that informed the management of disputes in a "friendlier way" and meant that issues could be resolved and put behind them.⁷⁹ Legality in this setting was informed less by formal legal systems and more by internal moral code and the code of the pod"ezd.⁸⁰

These studies reveal the myriad of factors influencing what individuals consider to have law-like effects, highlighting the pluralistic nature of law. It is important to note that various perspectives on legal pluralism exist, leading to divergent interpretations that speak to, for example, "self-regulation", "differentiation and reinstitutionalization of norms into primary and secondary rules", or a set of "regularized procedures and normative standards, ... coupled with the threat of force".⁸¹ While an exploration of specific types of pluralists is deferred to Chapter 4, it is noteworthy to emphasise the inherent challenge in distinguishing between legal and social norms. Structural relations and group interactions exist within local settings, which "reveal ... the collective processes through which law and legality are constructed", especially when "embedded in social settings with strong normative orders."⁸² In theory, "[l]egal norms collectively recognized by the community match legal norms collectively recognized by legal officials".⁸³ This reflects the notion that the law does

⁷⁸ *ibid*

⁷⁹ *ibid* 414

⁸⁰ *ibid*

⁸¹ Brian Z Tamanaha, 'A Non-Essentialist Version of Legal Pluralism' (2000) 27(2) *Journal of law and society* 296, 297 <<http://www.jstor.org.bham-ezproxy.idm.oclc.org/stable/1410566>> Tamanaha refers to definitions by Griffiths, Galanter, and Santos.

⁸² Patricia Ewick and Susan Silbey, 'Sociology of legal consciousness and hegemony' in Jiří Přibáň (ed), *Research Handbook on the Sociology of Law* (Edward Elgar Publishing 2020) 168

⁸³ Brian Z Tamanaha, *A realistic theory of law* (Cambridge University Press 2017) 196

not develop in a vacuum and is impacted by “beliefs, morals, cognitive frames, deeply seated assumptions about how the world operates, or [reflects]... a repertoire of responses to social situations.”⁸⁴ However, these studies highlight that the law appears and functions differently for various individuals. They demonstrate that individual experiences “take[] place inside structures which define people’s lives.”⁸⁵ While “it is impossible to know exactly which cultural resources are being drawn on by individuals at any given time”,⁸⁶ as will be demonstrated throughout the analysis, social norms may be viewed as actions “regarded by a set of persons as proper or correct, or improper or incorrect”.⁸⁷ Social norms also reinforce the notion that “those holding a norm [can] claim a right to apply sanctions and recognize the right of others [] to do so.”⁸⁸ In this way, social norms are law-like but may not have their “source in government.”⁸⁹ Moreover, social norms thus play a crucial role in shaping individuals’ views of the law, contributing to the pluralistic nature of legal consciousness.

While Silbey has argued that approaching legal consciousness research from an intersectional pluralistic approach risks shifting “the object of analysis... from law and legality to [] other phenomena”⁹⁰, Harding has noted that a more pluralistic approach allows for structural aspects in society to be interrogated alongside, not in place of, the law.⁹¹

Aligned with Harding’s view, this thesis underscores the imperative of scrutinising abortion

⁸⁴ Saguy and Stuart (n 8), 150

⁸⁵ Merry Sally Engle, *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans* (1990) 5

⁸⁶ Harding (n 5) 27

⁸⁷ James S Coleman, *Foundations of social theory [electronic resource]/ James S. Coleman* (American Council of Learned Societies tr, Cambridge, Mass. Belknap Press of Harvard University Press 1994) 242–243

⁸⁸ *ibid*

⁸⁹ Tamanaha, ‘A Non-Essentialist Version of Legal Pluralism’ (n 81) 298

⁹⁰ Silbey, ‘After Legal Consciousness’ (n 3) 355

⁹¹ Harding (n 5)

regulation along with other frameworks, recognising their collective role in shaping a system of oppression that reinforces societal, political, and gender norms.⁹²

For example, issues related to immigration and residency laws may further hinder access to abortion services, all the while contributing to legal consciousness that is constantly in motion.⁹³ Dynamic factors such as time and space are particularly relevant here. To illustrate, the act of entering a country, securing a residence, or obtaining employment for a migrant may each signify a legal or illegal status, all at the same time or in different combinations. Ambiguity in language used to describe migrants also reflects the attempt to regulate other activities in various ways. Are migrants “illegals” or “undocumented” “extra-legal[s]” operating in a “clandestine” or “irregular” way?⁹⁴ Thus, (il)legality is not static but instead is based on changing status and specific actions, making it subject to the discretion of those charged with enforcement, such as law enforcement or immigration officers.⁹⁵ Legality is then about the relationship with the state, including semi-autonomous spaces such as family or social life.⁹⁶ However, it can also be about a political identity, which becomes visible and relevant in situational contexts or with experiences of exclusion such as the workplace, school or the courtroom.⁹⁷ Furthermore, for migrants who do not settle in one place, legal consciousness is not only impacted by their status as emigrants and immigrants but also by their everyday experiences of mobility.

⁹² Harding also highlights the beneficial impact of law, especially in terms of legal acknowledgment. This increased visibility leads to positive social validation. A similar kind of empowerment through the law is also observed in this thesis concerning individuals seeking abortion.

⁹³ Andrea Flores, Kevin Escudero and Edeline Burciaga, ‘Legal-Spatial Consciousness: A Legal Geography Framework for Examining Migrant Illegality’ 41(1) Law & policy 12, 13

⁹⁴ Agnieszka Kubal, ‘Conceptualizing Semi-Legality in Migration Research’ (2013) 47(3) Law & society review 555, 561

⁹⁵ *ibid*

⁹⁶ *ibid*

⁹⁷ *ibid*

Such findings were illustrated in Abrego's research on the generational experiences of migrants in the United States (U.S.).⁹⁸ Abrego investigated the divergent political participation of undocumented first-generation Latino immigrants (those who came to the US as adults) as compared to those who belonged to the 1.5 generation (those who came as children). Both groups described residing in the US illegally, but their differing social positions, as well as their experiences with labour and education laws, and migration and social institutions, impacted their legal consciousness and subsequent claims-making in various ways. First-generation immigrants described their choice to emigrate from their home country as their only option, with most seeking better employment opportunities. They viewed themselves as "illegal[s] [with no] rights", as a "nobody in th[e] country."⁹⁹ The constant fear of deportation was compounded by memories of their journey into the country, which often included harsh conditions and violence, and they worried that they would have to relive such experiences if they were deported. First-generation immigrants, in particular, described the negative imagery portrayed about them as dangerous criminals in the media. This social discourse contributed to their fears and made them feel particularly exposed at areas of work where raids commonly took place.¹⁰⁰ For some, these increased feelings of marginalisation further fuelled fear and mistrust of the law. The youth, however, distanced themselves from the illegal status of their parents. They legitimised their place in society because they "had not participated in the decision-making process" to

⁹⁸ Leisy J Abrego, 'Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First- and 1.5-Generation Immigrants: Legal Consciousness of Undocumented Latinos' (2011) 45(2) *Law & society review* 337

⁹⁹ *ibid* 355

¹⁰⁰ *ibid*

come to the country and, thus, should not be considered responsible for their unauthorised status.”¹⁰¹

Flores more specifically investigated *legal–spatial consciousness* – the way in which “individuals’ sense of how space and law are interconnected and experienced at the personal level” and how they “layer space and place onto the notion of legal consciousness”.¹⁰² She demonstrated that the experience of illegality, in particular, is heightened or lessened based on movement through various geographical places within 4 different states within the U.S. (California, Illinois, Tennessee, Georgia) with distinct immigration policymaking and enforcement regimes.¹⁰³ Flores highlighted how immigrants were made more illegal based on immigration enforcement and “crimmigration” of various states.¹⁰⁴ In that study, participants described being hyperaware of the presence of the law and their legal consciousness was “informed by multiple, layered notions of federal, state, and local contexts and laws.”¹⁰⁵ For these immigrants, illegality was the permanent status with only periods of legality (i.e. with movement to another locale), which meant that legal consciousness was always “in motion.”¹⁰⁶

Several other studies have examined the role of geography in the development and evolution of legal consciousness from the aforementioned comparative cultural approach. For example, Gallagher found that the legal consciousness of legal aid recipients in China was impacted by a reforming legal system occurring in China.¹⁰⁷ Kurkchiyan explored

¹⁰¹ *ibid* 349

¹⁰² Flores, Escudero and Burciaga (n 93), 13

¹⁰³ *ibid*

¹⁰⁴ *ibid*

¹⁰⁵ *ibid* 27

¹⁰⁶ *ibid*

¹⁰⁷ Mary E Gallagher, ‘Mobilizing the Law in China: “Informed Disenchantment” and the Development of Legal Consciousness’ (2006) 40(4) *Law & society review* 783

collective legal consciousness by comparing individuals living in England, Bulgaria, Poland, and Norway.¹⁰⁸ Individuals from all countries saw the law's purpose as maintaining order and controlling chaos. However, Kurkchiyan found that some individuals approached law as a negotiation, a more flexible legal consciousness. Participants also saw common sense as an important component of legality and, in some cases, saw a role for religious law, customs, and tradition to supplement State law. To Kurkchiyan, the similarities and differences that emerged were related to the political context in which these participants lived and, more specifically, linked to the existence of a secure democracy, impacting what people thought of the law and how they related to it.¹⁰⁹

This may, however, be tied to an individual's perception of rights at a specific time. For example, Paul and Neo demonstrated that migrant domestic workers (MDWs) viewed their pregnancy rights as contingent rather than absolute.¹¹⁰ They saw these rights available on a "[c]ase by case basis", particularly linked to marriage.¹¹¹ Individuals stressed their role as domestic workers and that pregnancy would make their job difficult, both for them and their employers - pregnancy is "not in the contract"; thus, it is "right" to be terminated.¹¹² Similar sentiments were expressed by pregnant migrant domestic workers (MDWs) investigated by Kubal.¹¹³ Moreover, despite labour protections within the law for MDWs, these individuals may also be forced to have an abortion by their employers.¹¹⁴ For those

¹⁰⁸ Marina Kurkchiyan, 'Perceptions of law and social order: a cross-national comparison of collective legal consciousness' (2011) 29(2) *Wisconsin international law journal* 366

¹⁰⁹ *ibid*

¹¹⁰ Anju M Paul and Pearlyn Neo, 'Am I allowed to be pregnant? Awareness of pregnancy protection laws among migrant domestic workers in Hong Kong' (2018) 44(7) *Journal of ethnic and migration studies* 1195

¹¹¹ *ibid* 1205

¹¹² *ibid*

¹¹³ Agnieszka Kubal, 'Legal consciousness as a form of social remittance? Studying return migrants' everyday practices of legality in Ukraine' (2015) 3(1) *Migration studies* 68, 69

¹¹⁴ Nicole Constable, *Born out of place: migrant mothers and the politics of international labor* (Berkeley, California: University of California Press, 2014 2014)

that try to continue their pregnancy, they may face shame from their families for having a child out of wedlock, putting their employment at risk.¹¹⁵ Thus, despite access to information by the government, including related to laws, social and cultural norms, can also influence notions of (il)legality.¹¹⁶

In several places throughout the thesis, I will draw parallels to the experience of abortion seekers. In Chapter 4, within the theme of *Identity*, I will illustrate how the regulation of abortion through the criminal code shapes criminal identities for seekers. This phenomenon is amplified by additional identities linked to religion. Existing literature related to abortion seekers already demonstrates that religion and its associated culture play a particularly important role in framing abortion as bad, immoral, or sinful. For example, in some studies, beliefs around abortion are associated with a specific religion, such as being Christian,¹¹⁷ Catholic¹¹⁸ or Mormon.¹¹⁹ Abortion as an act against God's will¹²⁰ or as a sin is expressed by abortion seekers in several settings¹²¹ and, in some cases, contributes to feelings of loneliness or isolation¹²² and the decision to seek alternative methods by unskilled providers.¹²³ Where women face barriers to access, some take this as a sign from God that

¹¹⁵ *ibid*

¹¹⁶ Paul and Neo (n 110), 1205

¹¹⁷ Katherine Ehrenreich and Cicely Marston, 'Spatial dimensions of telemedicine and abortion access: a qualitative study of women's experiences' (2019) 16(1) Reproductive health

¹¹⁸ Daniel Grossman and others, 'Self-induction of abortion among women in the United States' (2010) 18(36) Reprod Health Matters 136; Center for Reproductive Rights, 'Forsaken lives: the harmful impact of the Philippine criminal abortion ban' (2010)

<http://reproductiverights.org/sites/crr.civicactions.net/files/documents/phil_report_Spreads.pdf>

¹¹⁹ Ehrenreich and Marston (n 117)

¹²⁰ Amha A Gelaye, Kalemekot N Taye and Tesfa Mekonen, 'Magnitude and risk factors of abortion among regular female students in Wolaita Sodo University, Ethiopia' (2014) 14(1) BMC Women's Health 50

¹²¹ Carukshi Arambepola and Lalini C Rajapaksa, 'Decision making on unsafe abortions in Sri Lanka: a case-control study' (2014) 11(1) Reprod Health 91; Elisabeth Dahlbäck and others, 'Pregnancy loss: spontaneous and induced abortions among young women in Lusaka, Zambia' (2010) 12(3) Culture, health & sexuality 247; Jenna Jerman, 'Barriers to Abortion Care and Their Consequences for Patients Traveling for Services: Qualitative Findings from Two States' (2017) 49(2) Perspect Sex Reprod Health 95

¹²² Ehrenreich and Marston (n 117)

¹²³ Dahlbäck and others (n 121)

they are engaging in deviant behaviour.¹²⁴ Others, however, find solace in their religion, believing that “God is merciful”,¹²⁵ and they make decisions about their abortion care based on their existing circumstances, including consideration for the welfare of existing children.¹²⁶ The literature also demonstrates that loss of partner or community support is also a real consequence for many abortion seekers, with judgment and stigma linked to abortion-seeking status. In one study in Kenya, women being treated for complications specifically noted that abortion is viewed as the worst thing one can do and that those who terminate their pregnancies receive no respect, sympathy, or support from the community.¹²⁷ Experiencing complications may be viewed as the price for deviant behaviour.¹²⁸

Individuals’ legal ideas and ideals are then influenced by culture more broadly.¹²⁹ The negative perception of abortion and secrecy related to abortion directly affect how abortion seekers live the law. Even the act of going to another state for abortion services can make abortion seekers “feel like [they are] doing something bad... [making them] feel kind of guilty for no reason.”¹³⁰ The fact that the clinic is hidden or “tucked away because, almost like a shame of it, rather than in a big, bright medical institution, [...[where [one would] go for any other medical procedure” reinforces for abortion seekers that abortion is “frowned upon”.¹³¹ Kebede and colleagues demonstrate similar sentiments expressed by abortion

¹²⁴ Jerman (n 121)

¹²⁵ Center for Reproductive Rights (n 118)

¹²⁶ *ibid*

¹²⁷ Chimaraoke O Izugbara, Carolyne Egesa and Rispah Okelo, “High profile health facilities can add to your trouble’: Women, stigma and un/safe abortion in Kenya’ (2015) 141 *Social science & medicine* (1982) 9

¹²⁸ Jessica D Gipson, Alanna E Hirz and Josephine L Avila, ‘Perceptions and Practices of Illegal Abortion among Urban Young Adults in the Philippines: A Qualitative Study’ (2011) 42(4) *Stud Fam Plann* 261

¹²⁹ Marc Hertogh and Marina Kurkchiyan, “‘When politics comes into play, law is no longer law’: images of collective legal consciousness in the UK, Poland and Bulgaria’ (2016) 12(4) *International Journal of the Law in Context* 404

¹³⁰ Jerman (n 121)

¹³¹ Ehrenreich and Marston (n 117)

seekers who avoided attending a facility that offered maternal and child health services - “A mother’s service is for mothers but not for people who are trying to get rid of babies.”¹³²

Abortion seekers in that study also described the impact that abortion legislation itself can have on the way one feels about abortion. Specifically, abortion seekers spoke to the perceived intent of the law and additional regulations as mechanisms designed to make abortion seekers feel bad about their choices. This, too, was evident in the narratives. As will be demonstrated in Chapter 3, the illegality of abortion contributed to feelings of guilt (despite abortion being a medical practice) because it was regulated by criminal law.

Narrators believe that punitive laws are based on moral or ethical stances (often rooted in religious beliefs). At the same time, I will also show how abortion seekers’ perception of what is morally right or wrong is based on their own religious or cultural beliefs. Additional social or legal factors compound these experiences. Immigration status (and related identities) dictated by other laws, for example, compound fear and mistrust of the health system, and dictate health-seeking behaviour in that they drive women from seeking safe care. Despite these diverse cultural perspectives, abortion seekers within this thesis expressed the desire for the law to shield them from these ideologies and related external stigmas. Thus, this analysis contributes to existing literature by showcasing how external factors can influence the lived experiences of the law. The thesis highlights that identity is both influenced by and influences individuals’ legal consciousness, impacting their understanding and engagement with the law.

¹³² Meselu T Kebede, Anne-Lise Middelthon and Per K Hilden, ‘Negotiating the social and medical dangers of abortion in Addis Ababa: An exploration of young, unmarried women’s abortion-seeking journeys’ (2018) 39(2) Health Care Women Int 186

Furthermore, as described earlier in this Chapter, the evolution of abortion seekers' legal consciousness is not linear but is in constant flux due to the real-time inputs acquired through social media. Significantly, these ideas are influenced by geopolitics and transcend national boundaries, creating a learning dynamic across different legal contexts. In this way, law is a dynamic and not passive force,¹³³ reflecting that individuals' legal consciousness may be drawn from a variety of different legal or normative systems within social groups,¹³⁴ some of which relate to identity. In Chapter 5, I will further show how these experiences impact mobilisation by abortion seekers in various ways. I will also demonstrate how the notion of space, encompassing various physical locations such as the home or healthcare facilities, significantly affects how women perceive and engage with the law. The impact of these encounters is intensified by the stigma surrounding abortion. These experiences actively shape and transform the legal consciousness of individuals seeking abortion, which can sometimes be *outside the law*. However, I will move the field beyond just "identifying yet another narrative of legality".¹³⁵ Instead, I will elaborate on "the collective processes through which law and legality are constructed"¹³⁶ by appreciating the nuanced intersectionality of hegemony, identity, and mobilisation, among other factors, as it relates to abortion seekers.

I will also show in my research that some abortion seekers selectively invoke the law, and in some instances, the law may have no role in abortion care, depending on their specific needs. These tendencies align with findings from existing literature. Engel and Engel, for example, found in their research in Thailand that individuals who expressed support for

¹³³ Marshall and Barclay (n 4)

¹³⁴ Harding (n 5); Young (n 45)

¹³⁵ Ewick and Silbey (n 82) 168

¹³⁶ *ibid*

increased democracy, consumerism and free market ideals were less likely to conceptualise their issues, particularly those related to personal injuries, in legal terms.¹³⁷ Instead, participants expressed a disconnect between official law and customary law, rooted in identity and personal responsibility and saw the role of official law diminishing.¹³⁸ Additionally, the law was seen as something promoting short-term remedy, as opposed to focusing on Buddhist virtues of forgiveness, selflessness and compassion.¹³⁹ This highlights the significance of non-legal elements such as religion and culture in shaping legal consciousness beyond official law. In this case, legal consciousness was not demonstrated by how active official law was in people's lives, nor how individuals rejected the law, but instead by how official law was dormant or ignored in everyday life.¹⁴⁰

Similarly, Levine and Mellema specifically explored how law matters by evaluating the salience of law for women on the street maintaining a drug addiction in the U.S.¹⁴¹ The authors applied the narratives outlined by Ewick and Silbey to women engaging with the legal system; in most cases, women were either *with the law* or *against the law*. For 'street women' who were regular players in the legal game, they were acutely aware of the rules and what was needed to gain an advantage. However, their decisions were often strategic to ensure they "g[o]t food, rest, and medical attention while in custody",¹⁴² and they "consider[ed] extralegal (or quasi-legal) measures to ensure survival on the street".¹⁴³ The

¹³⁷ David M Engel and Jaruan S Engel, *Tort, custom, and karma: globalization and legal consciousness in Thailand* (Jaruan S. Engel and American Council of Learned Societies trs, Stanford, Calif.: Stanford Law Books, 2010 2010)

¹³⁸ *ibid*

¹³⁹ *ibid*

¹⁴⁰ *ibid*

¹⁴¹ Kay Levine and Virginia Mellema, 'Strategizing the Street: How Law Matters in the Lives of Women in the Street-Level Drug Economy' (2001) 26(1) *Law & Social Inquiry* 169

¹⁴² *ibid* 183

¹⁴³ *ibid* 180

police were seen “as just another gang” who also distributed drugs, often in exchange for sexual services, and from whom the women needed protection.¹⁴⁴ From these authors’ perspectives, it is important then to consider how legal consciousness research and its interpretations have artificially elevated law to a principal position in people’s lives. They further offer an example in their paper about a sex worker who fails to call the police after being raped.¹⁴⁵ Such actions might reflect the belief that the law is meant for more important matters (*before the law*) or an appreciation of what might be lost within the legal game if a complaint is raised (*with the law*). The perceived lack of action might also be an attempt by this individual to resist the law’s power and its control over her body (*against the law*). According to the authors, all these interpretations may be accurate, but they fail to fully consider the salience of law and what is driving these decisions.¹⁴⁶ These decisions may not merely reflect choice (i.e., a decision not to invoke the law); instead, they may reflect how sometimes the law is unavailable and absents itself.¹⁴⁷ This reflects the way in which official law often “recede[s] from center stage”.¹⁴⁸

Observations such as these demonstrate the way in which legal consciousness research has presumed salience of law by investigating the presence and workings of legality in everyday life, as opposed to problematising it. It is important to consider the types of personal events that have legal meaning, carry legal significance,¹⁴⁹ or enable individuals to see themselves as possessor of rights.¹⁵⁰ Thus, “an important part of asking ‘how does law matter’ is [to

¹⁴⁴ *ibid*

¹⁴⁵ *ibid*

¹⁴⁶ *ibid*

¹⁴⁷ *ibid*

¹⁴⁸ *ibid* 180

¹⁴⁹ Merry Sally Engle (n 85)

¹⁵⁰ Jerome E Carlin, Jan Howard and Sheldon L Messenger, ‘Civil Justice and the Poor: Issues for Sociological Research’ (1966) 1(1) *Law & society review* 9 <<http://www.jstor.org/bham-ezproxy.idm.oclc.org/stable/3053046>>

recognize] that sometimes, in some places, for some people, law doesn't matter all that much relative to other societal forces.”¹⁵¹ Such considerations will emerge within this thesis. The salience of abortion regulation will specifically be explored in Chapter 5. The interplay of rhythms of social relationships and temporality inscribed within the law is a factor that is particular to the abortion experience and speaks to the salience of law. I will show how, during the time of abortion seeking, there is a surge of information and support gained. This means that while legal consciousness related to abortion regulation is evolving, for pregnant individuals, the law is not necessarily “all over”.¹⁵² As will be demonstrated, the law may be a preeminent feature of an individual’s experience, or it may be absent in how individuals live their lives. In either case, the ways in which individuals understand the law and engage with the law are affected.

However, although driven *outside the law*, I will show that many abortion seekers express a simultaneous wish to actively benefit or engage with the law. In Chapter 3 specifically, I will show how, despite the negative power implications expressed by abortion seekers, they see the potential role of law in normalising abortion and positioning it as an essential and quality service. The lack of government investment in abortion and post-abortion care services is already noted in the literature¹⁵³ and is seen as further delegitimising abortion care as *dirty* work. Based on existing data within the abortion literature, we also know that healthcare professionals regularly assess the moral worth of patients.¹⁵⁴ Providers often distinguish between indicated versus elective abortions; this impacts whether services are

¹⁵¹ Levine and Mellema (n 141), 202

¹⁵² Sarat (n 63)

¹⁵³ Center for Reproductive Rights (n 118)

¹⁵⁴ Elizabeth Chiarello, ‘Law, Morality, and Health Care Professionals: A Multilevel Framework’ (2019) 15(1) *Annu Rev Law Soc Sci* 117

offered or not, as well as the empathy patients receive.¹⁵⁵ Women who can perform normative gendered stereotypes, such as claims of distress about the need for an abortion or guilt over contraceptive failure, are more likely to receive the care they seek and be treated better.¹⁵⁶ Interestingly, claims of distress are also sometimes written into the law.¹⁵⁷

In Chapters 4 and 5, I will further show that individuals repeatedly express that negative stereotypes commonly held by lawmakers about abortion seekers are inaccurate and that laws should focus on improving and increasing access to a needed health service. Abortion seekers within this thesis recognise the law's potential to shield them from stigma and judgment, especially from those tasked with applying it, such as healthcare providers. Narrators also observed the disproportionate impact that these laws can have among adolescents, those with limited financial resources, or those living in rural communities. Thus, I will demonstrate that although the law contributes to dangerous identities for abortion seekers (making it more difficult for individuals to identify with the law), they see the law's potential for fairness and non-discrimination when applied with an understanding of personal circumstances.

Therefore, a critical finding in the thesis, as previously mentioned, is that abortion seekers not only express their views on current laws but also articulate their thoughts on what they consider to be ideal regulation. The aspiration for a law that acknowledges personal circumstances and takes this more human-centred approach thereby underscores a fundamental belief in the law's potential as a constructive tool rather than a mere restrictive

¹⁵⁵ Katrina Kimport, Tracy A Weitz and Lori Freedman, 'The Stratified Legitimacy of Abortions' (2016) 57(4) J Health Soc Behav 503

¹⁵⁶ *ibid*

¹⁵⁷ Antonella F Lavelanet and others, 'Global Abortion Policies Database: a descriptive analysis of the legal categories of lawful abortion' (2018) 18(1) BMC Int Health Hum Rights 44

force. Specifically, in this thesis, I will demonstrate how abortion has a special place in law and popular culture, which impacts how abortion seekers move between various legal consciousness narratives. Like many researchers before me, I will examine the roles of identity, mobilisation and other contextual factors that influence the development or evolution of the legal consciousness of abortion seekers, but I will highlight the complexities that emerge where law and medicine are so intertwined. Moreover, the analysis will demonstrate that although hegemony holds significance for abortion seekers, the focus is less on why the law retains this power and more on the law's deficiencies in meeting the requirements and demands of those seeking abortion services. To appreciate what would be needed to achieve this, the analysis necessitates a comprehensive understanding of abortion seekers' personal circumstances and their broader perception of legality and law. I will now turn to Chapter 2, where I will delve into the methodology and overarching approach employed in this thesis. Additionally, I will outline the data sources used to attain a more comprehensive understanding of abortion seekers' legal consciousness.

CHAPTER 2 - METHODOLOGY

In this Chapter, I provide an overview of my methodological approach, which was guided by my desire to explore whether and how the existing constructs of legal consciousness align with the understanding and experience of abortion seekers. I chose to collect and analyse the personal narratives of abortion seekers to appreciate their lived experiences in their own words. As will be explained, I used a hybrid deductive-inductive approach to gain insights into how individuals personally or collectively construct meaning around legality, including how individuals draw from multiple sources to construct such meanings. I value these testimonies as personal truths, but understand that as the interpreter of these data, I have also participated in the construction of these meanings. Overall, the Chapter illustrates how I capture and analyse the legal consciousness of abortion seekers.

The Chapter proceeds as follows. In the first part, I provide an overview of my research design, where I explain my methodological approach, highlighting the applicability of a qualitative design and the justification for a narrative analysis. I describe the benefits of using social media as a data source and expand on the specific sites used for developing this thesis. I then lay out my analytical process. In the next section, I consider my own positionality and reflect on the potential impacts. I explore the issue of validity and reliability before turning to ethical considerations. I then describe a range of demographic variables I collected from the narratives where available. Finally, I close the Chapter by summarising my approach before turning to the analysis in Chapter 3.

Methodological approach

To better explore whether and how the existing constructs of legal consciousness align with the understanding and experience of abortion seekers, I used a qualitative approach to develop this thesis. Qualitative research can take many forms, but generally speaking, the intent is to analyse social phenomena¹ through an open, interpretive, and often naturalistic approach by moving beyond the objective nature of behaviour and exploring subjective meaning.² A greater understanding of individual beliefs, attitudes, behaviours and experiences can be gained through the various methodologies used to collect and analyse qualitative data, shedding light on the social, cultural and psychological realities of those being studied.³ Consequently, qualitative research serves as a foundational tool for my research questions, enabling a nuanced exploration of the social phenomena that influence how abortion seekers perceive, experience, and live abortion regulation.

In this thesis, I use a particular methodological approach, narrative analysis, that provides insights into how individuals make sense of their lives.⁴ Narrative analysis can occur in various ways, with narratives acting as “the object of inquiry, the method of inquiry, or the product of inquiry (the researchers' representation).”⁵ However, to qualify as a narrative or story, there must be a subjective account of events brought together with characters, actions, and context, demonstrating that these events are related to one another.⁶ The

¹ Uwe Flick (ed), *The SAGE Handbook of Qualitative Data Analysis* (SAGE Publications, Inc 2014)

² Patrik Aspers and Ugo Corte, ‘What is Qualitative in Qualitative Research’ (2019) 42(2) *Qualitative sociology* 139

³ Carolin Demuth and Günter Mey, ‘Qualitative Methodology in Developmental Psychology’ in James D Wright (ed), *International Encyclopedia of the Social & Behavioral Sciences (Second Edition)* (Elsevier 2015)

⁴ Lia Figgou and Vassilis Pavlopoulos, ‘Social Psychology: Research Methods’ in James D Wright (ed), *International Encyclopedia of the Social & Behavioral Sciences (Second Edition)* (Elsevier 2015)

⁵ Patricia Ewick and Susan S Silbey, ‘Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative’ (1995) 29(2) *Law & society review* 197, 201

⁶ Trisha Greenhalgh, *Cultural contexts of health: the use of narrative research in the health sector* (Health Evidence Network synthesis report vol 49, World Health Organization. Regional Office for Europe 2016); Ewick and Silbey (n 5)

narrative must also have a temporal feature, often depicting events in some chronological manner, which helps to explain “narrative closure” (how events occurred) and “narrative causality” (why events occurred).⁷ However, these stories are not randomly generated; they may, for example, be elicited with the specific aim of answering a research question, may be observed through ethnography, or may be gathered from a variety of multiple sources.⁸ Moreover, stories reflect the positionality of the narrators as individuals reflecting on personal experiences and as relational beings influenced by social norms and conventions within a broader social context.

As will be evidenced in Chapters 3 - 5, abortion seekers are invested in these stories as personal accounts but also consider how their personal stories sit among a set of narrative conversations. These narratives reflect individual experiences and contribute to the development of a collective consciousness shaped by interactions and shared meanings among abortion seekers. Through social media, individuals engage in a dynamic process of learning, offering, and receiving knowledge and support, fostering a communal understanding of the law and its implications. Utilising a constructionist approach to narrative analysis, my research then specifically considers the audience beyond just individual expression through storytelling;⁹ experiences are given more meaning through these interactions with others. These audiences may differ in location and social context at the time at which the story is first told, but also at later points in time; this is particularly relevant for narratives posted on social media sites (expanded on in section *Data sources* below). Appreciating the social organisation of narratives allows one to recognise that

⁷ Ewick and Silbey (n 5), 200

⁸ Greenhalgh (n 6)

⁹ Cigdem Esin, Mastoureh Fathi and Corinne Squire, ‘The SAGE Handbook of Qualitative Data Analysis’ (SAGE Publications, Inc 2014)

narratives can and will reflect dominant cultural meanings, ideologies, and manifestations of power.¹⁰ Narrative analysis allows for greater consideration of the historical, political, and economic discourses and the ways in which narratives produce or reproduce these meanings and power relations.¹¹

With respect to abortion, research demonstrates that women use the narrative process to describe their abortion experience.¹² Some may fear sharing personal stories due to concerns about being identified, including in criminalised contexts. Others may worry about being judged or labelled. Many, however, welcome the opportunity to share their story as a mechanism for narrative creation and expression.¹³ Narratives are also shared with the intent of maintaining public support for abortion access; these are considered narratives that are politically necessary to tell.¹⁴ These narratives often highlight difficulties in obtaining access, including for specific populations, as well as the risks of illegal abortions, and may be framed from a rights-based perspective. Some narratives may be considered more politically acceptable and highlight scenarios that the narrator believes may be easier to empathise with; examples might include stories of contraceptive failure or foetal anomaly cases.¹⁵ Others, however, use their stories to relay the things that cannot be said, i.e., things that are not considered socially acceptable or publicly spoken about. Examples here might include multiple abortions, grief after abortion or economic considerations in decision-making around abortion.¹⁶ Narratives can thus be framed in various ways to “both embrace

¹⁰ Ewick and Silbey (n 5), 211

¹¹ Esin, Fathi and Squire (n 9)

¹² Lauren K Hunt and others, ‘Examining Public Sentiment Surrounding Abortion: A Qualitative Analysis of #YouKnowMe’ [2022] Women's reproductive health 1

¹³ *ibid*

¹⁴ Jeannie Ludlow, ‘The Things We Cannot Say: Witnessing the Trauma-tization of Abortion in the United States’ (2008) 36(1-2) *WSQ: Women's Studies Quarterly* 28

¹⁵ *ibid*

¹⁶ *ibid*

and resist socially assigned attributes.”¹⁷ By looking at the concrete elements individuals use and draw from to build their stories, I used narrative analysis, appreciating the aspects from a constructionist approach, to identify and analyse themes across various social media websites.

Leveraging social media as a valuable web-based communication resource,¹⁸ I wanted to gain insights into how people engage with, interpret, and navigate legal concepts within diverse cultural, geographical, and legal contexts. However, there are various forms of social media, including, among others, blogs, microblogs (e.g., Twitter), wikis (e.g., Health Library Wiki of Canada) or networking sites, which can be social (Facebook), professional (e.g., LinkedIn), or thematic (e.g., 2 Plus Abortions Worldwide).¹⁹ The type of mediated communication will depend on the site, as well as the objective of the post. Most, however, can be used as a medium to share knowledge or provide education, foster peer-to-peer learning, facilitate branding or community outreach, advertisement, or recruitment, or to document sensitive health journeys.²⁰ Some platforms have been used to set up medical consultations, where sensitive information is exchanged, including pictures of skin and genital-related issues.²¹

Beyond being a space for patients, caretakers, and healthcare professionals to garner support and exchange information, social media sites have also been used to inform policy reform. For example, in Taiwan, information was collected about emergency room waiting

¹⁷ Sarah L Combellick, “‘My Baby Went Straight to Heaven’: Morality Work in Abortion Online Storytelling’ [2021] *Social problems* (Berkeley, Calif), 5

¹⁸ Francisco J Grajales and others, ‘Social media: a review and tutorial of applications in medicine and health care’ (2014) 16(2) *Journal of medical Internet research* e13

¹⁹ *ibid*

²⁰ *ibid*

²¹ *ibid*

times in a Facebook group.²² When one of the members posted a comment about whether the information even mattered, questioning the Minister's time to even read Facebook, the Minister of Health replied: "every message is read by me and my staff." Soon thereafter, the Minister visited several emergency rooms and promised to initiate a dialogue with the Taiwanese Bureau of National Health Insurance on such funding and organisational issues.²³ In other examples, social media has been used as an investigative source for law enforcement,²⁴ a tool to manage radicalism,²⁵ or public engagement with the criminal justice system.²⁶ A quick internet search demonstrates a whole host of topics whereby social media plays a role, including those related to graduate school education,²⁷ gender,²⁸ and social marketing,²⁹ among many others.

²² Shabbir Syed-Abdul and others, 'Facebook use leads to health-care reform in Taiwan' (2011) 377(9783) *The Lancet* 2083

²³ *ibid*

²⁴ Joshua Brunty and Katherine Helenek (eds), *Social media investigation for law enforcement* (Katherine Helenek and Larry Miller. Forensic studies for criminal justice, Routledge 2013); Desmond U Patton and others, 'Stop and Frisk Online: Theorizing Everyday Racism in Digital Policing in the Use of Social Media for Identification of Criminal Conduct and Associations' (2017) 3(3) *Social Media + Society* 205630511773334

²⁵ Wahyu Hadiningrat and Kurniawan T Wibowo, *Managing the Spread of Radicalism through Social Media in Indonesian Criminal Law* (Volume 5, 2022)

²⁶ Richard L Fox and Michelle Rose, *Public Engagement with the Criminal Justice System in the Age of Social Media* (2014)

²⁷ Madeline Sterling and others, 'The Use of Social Media in Graduate Medical Education: A Systematic Review' (2017) 92(7) *Academic medicine : journal of the Association of American Medical Colleges* 1043; Daniel R George and Cheryl Dellasega, 'Use of social media in graduate-level medical humanities education: two pilot studies from Penn State College of Medicine' (2011) 33(8) *Medical Teacher* e429-34; Annalise Baines, Muhammad Ittefaq and Mauryne Abwao, 'Social Media for Social Support' (2022) 12(2) *Journal of International Students* <<https://ojed.org/index.php/jis/article/view/3158>>

²⁸ Susan C Herring and Sanja Kapidzic, 'Teens, Gender, and Self-Presentation in Social Media', *International Encyclopedia of the Social & Behavioral Sciences* (Elsevier 2015); H. A Schwartz and others, 'Personality, gender, and age in the language of social media: the open-vocabulary approach' (2013) 8(9) *PLOS ONE* e73791 <<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0073791>>; Komathi Lokithasan and others, 'Male and Female Social Media Influencers: The Impact of Gender on Emerging Adults' (2019) 2(9) *IJMTSS* 21

²⁹ Sara Shawky and others, 'Using social media to create engagement: a social marketing review' (2019) 9(2) *JSOCM* 204 <<https://www.emerald.com/insight/content/doi/10.1108/jsocm-05-2018-0046/full/pdf>>; Katie J James and others, 'A Summative Evaluation of a Food Safety Social Marketing Campaign "4-Day Throw-Away" Using Traditional and Social Media' (2013) 12(3) *Journal of Food Science Education* 48; Jennifer Uhrig and others, 'Social Networking Websites as a Platform for Disseminating Social Marketing Interventions: An Exploratory Pilot Study' (2010) 16(1) *Social Marketing Quarterly* 2

In many cases, the extent to which individuals disclose personal information is part of social media-related research. Individuals may find it rewarding and socially beneficial to reveal personal information through social media.³⁰ While there may be risks associated with self-disclosure, including loss of privacy or increased vulnerability, benefits may include social validation, relational development, or gratification from benefiting others.³¹ Anonymity makes self-disclosure even more likely, but research demonstrates that this disclosure is impacted by the intimacy of content and the expected audience.³² For example, although individuals tend to feel more comfortable sharing personal information with friends, this tendency weakens with more intimate content. At the same time, anonymity allows individuals to feel more comfortable sharing information that may be perceived as a negative aspect of one's life or information that is more difficult to share.³³ Individuals may also use anonymity to share personal wants, needs and wishes.³⁴ The use of social media can facilitate opportunities for individuals to be disinhibited and be more aggressive when shielded by anonymity.³⁵ Interestingly, however, research into the legal consciousness of social media users as it relates to privacy laws demonstrates that social media users perceive privacy as a legal right and entitlement.³⁶ According to Sarikakis and Winter,³⁷ individuals do not always trust social media companies to protect their data or ensure

³⁰ Xiao Ma, Jeff Hancock and Mor Naaman, 'Anonymity, Intimacy and Self-Disclosure in Social Media' (CHI'16: CHI Conference on Human Factors in Computing Systems, San Jose California USA, 07 05 2016 12 05 2016)

³¹ *ibid*

³² *ibid*

³³ *ibid*

³⁴ Denzil Correa and others, 'The Many Shades of Anonymity: Characterizing Anonymous Social Media Content' (2015) 9(1) ICWSM 71

³⁵ *ibid*

³⁶ Katharine Sarikakis and Lisa Winter, 'Social Media Users' Legal Consciousness About Privacy' (2017) 3(1) Social Media + Society 205630511769532

³⁷ *ibid*

privacy. Thus, rather than informing themselves about privacy laws or policies, especially because terms and conditions frequently change, users self-censor and self-regulate.³⁸

Despite these concerns, like other controversial topics such as gun control, climate change and racial inequality, social media and networking sites have provided a space for the abortion discourse to flourish.³⁹ Sharma et al. demonstrate that social networking sites can provide the space for particular ideologies in the polarisation of abortion to be perpetuated.⁴⁰ Echo chambers, or environments where specific opinions or political leanings get reinforced, are created due to repeated interactions among peers or sources with like-minded tendencies and attitudes.⁴¹ These micro-environments have the potential to influence public debate, as well as policymaking. Social media also provides an opportunity to censor content, especially where pages or forums are moderated by everyday individuals.⁴² However, these behaviours are not unique to social media, as individuals tend to gravitate to areas or groups they consider similar to themselves.⁴³ However, as discussed below, the online sites used for this thesis are public but privately moderated.

It is also important to note that in the abortion space, these characteristics of social media have had positive effects. Abortion experiences shared on social media have contributed to mobilisation efforts, both for political support and increased access.⁴⁴ Research by Allen demonstrates how sympathetic narratives have been used to further arguments, including,

³⁸ *ibid*

³⁹ Eva Sharma and others, 'Analyzing Ideological Discourse on Social Media: A Case Study of the Abortion Debate' (ACM International Conference Proceeding Series)

⁴⁰ *ibid*

⁴¹ Matteo Cinelli and others, 'The echo chamber effect on social media' (2021) 118(9) *Proceedings of the National Academy of Sciences of the United States of America*, 1

⁴² Ashwini Ashokkumar and others, 'Censoring political opposition online: Who does it and why' (2020) 91 *Journal of experimental social psychology* 104031

⁴³ *ibid*

⁴⁴ Hunt and others (n 12)

for example, for abortion rights.⁴⁵ Research has shown the utility of online abortion discourse in demonstrating differences across various national and legal settings.⁴⁶ Social media has also served to normalise the abortion experience, correct false narratives and foster empathy.⁴⁷ In addition to providing a space for information exchange (including medical), individuals can share personal stories anonymously to gain advice or support. As these are online platforms, these exchanges have no geographic limitations.

Appreciating the expanding use of online platforms to engage in abortion related discourse, I first undertook a preliminary search (June 2021) of the internet to identify potential sources of personal narratives related to abortion. I sought to include first-person accounts of individuals seeking an abortion, whether or not they have actually had an abortion. I did not apply any geographic or language restrictions to this initial search. My initial search yielded 34 sources, including online media resources, non-profit organisations and service provision sites, legal advocacy organisations, networks and storytelling campaigns, and libraries or repositories of personal stories in various forms, including text, audio, visual, and video (Appendix 1). I intentionally avoided platforms associating stories with specific individuals, such as Facebook, Twitter, and Instagram, prioritising anonymity. However, these sites played a crucial role in pointing me to abortion-related stories (appearing both on personal profiles and collective pages). Thus, Table 1 lists the sites that were eventually included for analysis.

Although, in my initial plan, I aimed to evaluate all the sites pinpointed during the preliminary search, during the subsequent data analysis (elaborated below), I found that

⁴⁵ Mallary Allen, 'Narrative Diversity and Sympathetic Abortion: What Online Storytelling Reveals About the Prescribed Norms of the Mainstream Movements' (2015) 38(1) *Symb Interact* 42

⁴⁶ Hunt and others (n 12)

⁴⁷ *ibid*

stories were frequently duplicated, and certain sites aggregated narratives from other platforms. Consequently, two specific data sources stand out as overrepresented in Table 1, as they proved to be rich reservoirs of narratives by consolidating content from diverse social media platforms. Moreover, the more sites I explored, the more I realised that no new themes were identified. Of note, this research is not intended to be generalisable, it is instead intended to shed light on whether and how the existing constructs of legal consciousness align with the understanding and experience of abortion seekers. Thus, my focus was on the quality and not quantity of personal narratives. Hence, this thesis is based on 627 personal narratives from 9 sources (Table 1).

Table 1 – Sources

Source	Number of narratives
Teen Vogue	38
Shout Your Abortion	257
2 Plus Abortions Worldwide	54
Safe Abortion Action Fund (SAAF)	2
Abortion Dream Team	168
Break the Taboo	47
FOCOS	21
So I had an abortion	14
My Body My Life	26
Total	627

These sources provide no information about how they post stories or whether they apply any inclusion or exclusion criteria. During the collection process, I removed any repeat stories that were identified. The stories represented a variety of geographic contexts in settings where abortion is broadly permitted, legally restricted, or completely illegal. Additional details about the locations from where individuals report their abortion-seeking experience versus obtaining an abortion are described later in this Chapter.

These stories were collected between June 2021 – January 2022. I noted when stories were published on a site; however, I was cognizant that these dates may not have reflected the date of submission by the narrator. I also noted any references to when particular abortion-seeking events took place (including the time at which an abortion occurred in one's life), where this information was available in the narrative or could be discerned from the text. I considered relevant historical events, such as the date of the Constitutional Tribunal Judgment in Poland on 22 October 2020⁴⁸ and its potential impacts on narratives. It should be noted that while the collection of sources and analysis for this thesis were completed prior to *Dobbs v. Jackson Women's Health Organization*,⁴⁹ the case that overturned the constitutional right to abortion in the United States (U.S.), several narratives spoke to these efforts more generally. Moreover, while these narratives were collected during the Covid-19 pandemic, as will be described in the *Demographics* section below, very few narratives included a reference to Covid-19. Nevertheless, these temporal factors may have impacted the actual or desired audiences for these narratives.

⁴⁸ Wyrok [Judgment] of CT [Constitutional Tribunal] Oct. 20, 2020, K 1/20 (Dz. U. 2021.175) (Pol.)

⁴⁹ *Dobbs v. Jackson women's health org.*, No. 19-1392, 2022 WL 2276808 (U.S. June 24, 2022)

I included 38 stories from a media story published on ‘Teen Vogue,’ the first source I analysed. Teen Vogue was launched in February 2003 and is part of a larger global media company, Condé Nast.⁵⁰ This source included a collection of abortion stories from social media sites. The media story⁵¹ was published in response to an amicus brief filed by several Senators in the U.S. urging the Supreme Court to overturn *Roe v Wade*, a court case that established the constitutional right to abortion.⁵² Analysis of the stories on this site followed an inductive, data-driven approach, which further informed the narrowing of stories on subsequent sites (expanded on in the *Data analysis* section below).

I next reviewed the source ‘Shout your Abortion.’ Shout Your Abortion is an organisation that functions as a non-profit, whereby individuals are brought together in various communities to share their personal stories through art, media and other community events.⁵³ Shout Your Abortion was created in 2015 as a grassroots movement following attempts to defund Planned Parenthood, an advocacy organisation and provider of reproductive health care, sex education and information in the U.S.⁵⁴ Although primarily focused on the U.S., partner agencies exist globally. I included 257 stories from this site using the methodology expanded on in the *Data analysis* section below.

‘2 Plus Abortions Worldwide’ is a library of over 800 abortion related stories created as a site to address abortion related stigma.⁵⁵ I included 54 stories from this site, which seeks to provide support and information to individuals related to abortion, as well as resources

⁵⁰ Condé Nast, ‘Teen Vogue’ <<https://www.condenast.com/brands/teen-vogue/>> accessed 20 November 2022

⁵¹ Danielle Campoamor, ‘39 Abortion Stories Show Just How Important Abortion Access Is’ (9 January 2020) <<https://www.teenvogue.com/story/abortion-stories>> accessed 20 November 2022

⁵² *Roe v. Wade*, 410 U.S. 113 (1973)

⁵³ Shout Your Abortion, ‘About’ <<https://shoutyourabortion.com/about/>> accessed 20 November 2022

⁵⁴ Planned Parenthood, ‘About Us: Who We Are’ <<https://www.plannedparenthood.org/about-us/who-we-are>> accessed 20 November 2022

⁵⁵ 2 Plus Abortions Worldwide, ‘We are Here for You: Sharing Truth. Spreading Love. Stopping Stigma.’ <<https://www.2plusabortions.com/about-us>> accessed 20 November 2022

about reproductive justice and ways to fight stigma.⁵⁶ The site collates personal stories from other sites around the world, including some of the sites included in Table 1, where I have conducted a more in-depth analysis. Stories are primarily published in English; stories shared in a language other than English are translated by the site. The fact that the site provides a translated version of the story may have impacted my interpretation of these data, both in developing the codes and in generating themes. The same is true where I may have needed to use DeepL Translator⁵⁷ or Google Translate⁵⁸ (when a language was unavailable on DeepL or the DeepL site was not accessible). I describe the social media sites where I needed to use these tools below. In such cases, nuance may have also been lost or information incorrectly analysed. The potential impacts of this are further explored below, where I discuss issues related to validity and reliability.

I then reviewed stories published by 'The Safe Abortion Action Fund' (SAAF), which was established in 2006 and is hosted by the International Planned Parenthood Federation.⁵⁹ This is an international fund which provides grants to local and grassroots organisations to support access to abortion and includes stories on the site from partners in Palestine and Uganda. Some of these stories are from various actors, including providers; I included the 2 stories related explicitly to abortion seeking.⁶⁰

Next, I collected 168 stories from the 'Aborcynjny Dream Team' (English translation = Abortion Dream Team), an organisation in Poland focused on knowledge dissemination and

⁵⁶ *ibid*

⁵⁷ DeepL Translator <<https://www.deepl.com/translator>> accessed 20 November 2022

⁵⁸ Google, 'Google Translate' <<https://translate.google.com/>> accessed 20 November 2022

⁵⁹ International Planned Parenthood Federation, 'Safe Abortion Action Fund' <<https://www.ippf.org/our-approach/programmes/Safe-Abortion-Action-Fund>> accessed 20 November 2022

⁶⁰ International Planned Parenthood Federation, 'Safe Abortion Action Fund' <<https://www.ippf.org/stories>> accessed 20 November 2022

stigma reduction.⁶¹ In addition to information provision, this site also facilitates access to medical abortion by acting as a conduit between abortion seekers and providers, including online providers. The site also offers a space for individuals to share their personal abortion stories; almost all stories are posted in Polish. Many stories represent abortion seekers obtaining abortions in Poland, where access to abortion is legally restricted, while many describe the experience of those elsewhere, including where travel from Poland to another country was necessary. For this and other sites where translation was needed, I used the methods noted above.

I then turned my attention to ‘Break the Taboo,’ a site with a collection of stories describing the abortion experience from Malta,⁶² a context where abortion was illegal and criminalised at the time of data collection.⁶³ The site states that it hopes to break the taboo around abortion by sharing real lived experiences related to abortion.⁶⁴ The stories are published in both Maltese and English; for those published only in Maltese, I used the aforementioned translation methods. I included 47 stories from this site.

I then moved on to the 3 final sites. The first of these was ‘Focos,’ a digital platform that aims to make the practice of induced abortion visible in Mexico as a frequent reproductive event and mostly represents individuals living in areas where abortion is restricted.⁶⁵ The site provides a platform whereby individuals may use different formats, including images, audio, video, and letters, to name a few. Stories are published in Spanish.⁶⁶ Although I have

⁶¹ Aborcyjny Dream Team, ‘Abortion Dream Team’ <<https://aborcyjnydreamteam.pl/>> accessed 20 November 2022

⁶² Break the Taboo Malta, ‘Our Story’ <<https://www.breakthetaboo.mt/our-story>> accessed 20 November 2022

⁶³ Malta’s Criminal Code was amended in July 2023. See further, Criminal Code 1854 (Malta), available at: <https://legislation.mt/eli/cap/9/eng/pdf> [accessed 19 November 2023]

⁶⁴ Break the Taboo Malta (n 62)

⁶⁵ Focus <<https://www.focos.org.mx/focos/>> accessed 20 November 2022

⁶⁶ *ibid*

a relatively good reading comprehension of Spanish, I still used the above translation techniques to ensure consistency in translation. Twenty-one stories were included. Next, I turned to 'So I Had An Abortion,' a site created in Canada but which provides narratives from various contexts.⁶⁷ The site's stated mission includes the desire to shift attitudes around abortion, address stigma, and increase awareness of the abortion experience. This site also provides a collection of abortion stories in audio and written form, as well as visual representations of abortion stories.⁶⁸ I included 14 stories from this site. Finally, I collected 26 stories from 'My body My Life.'⁶⁹ The site began as a collection of stories that were part of Open University (OU) research into women's experiences of abortion. However, it has since developed into a broad public engagement project co-led by the OU and the University of Oxford, which includes a multi-media exhibition and personal abortion stories. It generally represents the experiences of individuals across the United Kingdom.⁷⁰

Data analysis

Guided by my research question to explore whether and how the existing constructs of legal consciousness align with the understanding and experience of abortion seekers, I took a hybrid approach to data analysis, which integrates a priori and emergent coding in the process.⁷¹ Based on the initial desk review (findings described in Chapter 1), as well as information gathered about how abortion seekers utilise storytelling to relay their experiences, I started with the assumption that evidence of legal consciousness would exist

⁶⁷ So I Had An Abortion, 'About' <<https://soihadanabortion.squarespace.com/about-sobre>> accessed 20 November 2022

⁶⁸ *ibid*

⁶⁹ My Body My Life, 'About' <<https://www.mybody-mylife.org/>> accessed 20 November 2022

⁷⁰ *ibid*

⁷¹ Jennifer Fereday and Eimear Muir-Cochrane, 'Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development' (2006) 5(1) *International journal of qualitative methods* 80

in these narratives. This means that the mere decision to conduct a secondary analysis of online narratives to create my initial data corpus was theoretically driven. Based on this information, I also made a list of search terms and their synonyms, which allowed me to filter through the sites and search for potentially relevant material. These a priori codes included the following terms 'law', 'il/legal', 'knowledge', 'relig', 'ethic', 'politic', and 'power' to start. The data corpus was built from here, resulting in the 627 included narratives. This approach allowed me to interrogate themes previously highlighted as relevant to legal consciousness and allow space for the development of new codes to be identified in the narratives.

I copied and saved all stories on Word documents and organised them into folders by internet site. I then immersed myself in the data, reading and re-reading all the data. During this process, I took notes where I observed patterns.⁷² I then uploaded all narratives into NVivo.⁷³ Each narrative is assigned a case number. Where I have included quotes that have been set off in the thesis, I have identified the associated case number. Additionally, I have provided case numbers for cited language or sentiments that lacked multiple attributions. I have included information about the location where possible and relevant to the context of the quote. Using NVivo allowed me to organise a large amount of data systematically and quickly identify any remaining repeat narratives. NVivo also provides tools to facilitate thematic analysis; however, I took an inductive approach to the data at this point.⁷⁴ I applied a "bottom up" approach to the analysis in that I did not try to fit the data into a pre-existing coding frame.⁷⁵ Instead, I developed the codes and subsequent themes from the

⁷² Virginia Braun and Victoria Clarke, 'Using thematic analysis in psychology' (2006) 3(2) *Qualitative research in psychology* 77

⁷³ QSR International Pty Ltd. *NVIVO* (2020)

⁷⁴ Braun and Clarke (n 72)

⁷⁵ *ibid* 83

data, recognising that the themes did not emerge independently from the data. Rather, the generation of themes is influenced by my role as the researcher, which is informed by my personal experiences and potential biases.⁷⁶

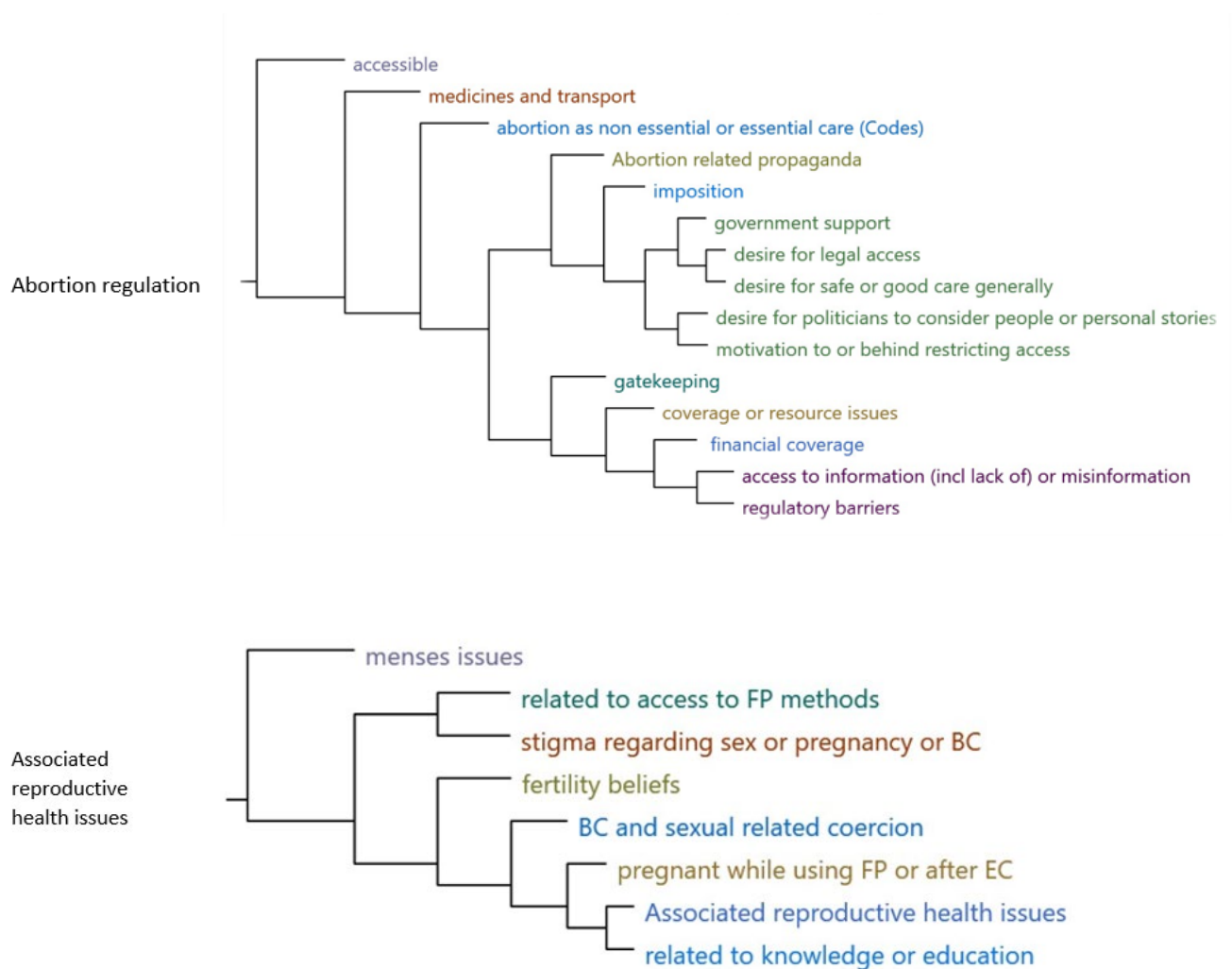
I personally coded the data line by line (without the use of automated features). It is important to note that by conducting a secondary thematic analysis, I could avoid direct questioning about the law and legality, but I was unsure at the start what linkages I might observe later. Thus, I approached this step from an open perspective in that I did not limit the number of codes or resultant themes identified; it was an iterative process. Where tensions or inconsistencies appeared in the narratives, I did not restrict the coding to specific themes. Instead, I appreciated the guidance by Braun and Clarke that extracts of data can fit into many themes.⁷⁷ For example, I created codes that spoke to the position of privilege, political interference/motives of politicians, rights, agency, autonomy, shame and stigma and then sorted and mapped these to several larger and overlapping themes, such as those related to power, mobilisation and identity (expanded on in Chapters 3 - 5).

See Figure 1 for two illustrative examples of the ways in which I clustered data.

⁷⁶ *ibid*

⁷⁷ *ibid*

Figure 1 – Examples of clustered data



At this point, I reviewed, defined, and named the themes. I used mind maps to consider the relationships between themes and the different levels of themes. This second-level coding process allowed me to narrow down my themes, which I identified at a latent level. I went beyond the explicit text or surface meaning of the data and instead attempted to examine underlying ideas.⁷⁸ I also took a layering approach, whereby I sought out similarities across narratives of individuals in different contexts and time.⁷⁹ Appendix 2 provides the details of

⁷⁸ *ibid*

⁷⁹ Samantha McAleese and Jennifer Kilty, 'Stories Matter: Reaffirming the Value of Qualitative Research' (2019) 24(4) Qualitative report 822

this thematic analysis process. This approach required interpretation on my part.

Throughout this process, I maintained personal memos, noting reflections and assumptions I was bringing to the data.

Thus, collecting and coding data and identifying themes was an iterative and reflective process. It was important for me to consider and reconsider my positionality in relation to this research.⁸⁰ As described in the Introduction, I came to this research question after engaging with medical and legal personnel related to abortion. I found it frustrating that policymakers in particular, regularly claimed that if individuals just knew the law, they would know how to access or avoid abortion services. While policymakers often noted the gap between text and implementation, they still placed the onus on abortion seekers to find ways to navigate complex medico-legal systems to access a health service. However, to have a shared understanding, the law must be accessible, equal in its application, and not discriminate based on things like socioeconomic or other factors. This is not always the case; individuals do not always have access to the same resources, whether cultural, social, or financial, to draw from. These kinds of statements by policymakers also elevate the role of law for abortion seekers and assume that the law is or should be a motivating factor in decision-making. However, as I noted in the introduction, decision-making around abortion seems to be related to so much more than 'mere' legality. For individuals, access to abortion fills a need. While awareness related to the legality of abortion may be a relevant factor, other factors are relevant.⁸¹

⁸⁰ Braun and Clarke (n 72)

⁸¹ Sonia Chemlal and Giuliano Russo, 'Why do they take the risk? A systematic review of the qualitative literature on informal sector abortions in settings where abortion is legal' (2019) 19(1) BMC Women's Health 55

Given my frustration, I began to look to the literature to explore other fields where queries about the ways in which individuals give meaning to law and legality have been investigated. As described in the introduction, my inquiry was further informed by my experience as a medical doctor and abortion provider, but also with my work with the Global Abortion Policies Database (GAPD). As a reminder, the GAPD is an interactive repository of all abortion related laws and policies for all United Nations member states.⁸² I have used this and other tools to support countries in the review of their laws and policies and health system strengthening, to address unsafe abortion and to provide quality abortion care, but also to conduct research to explore the needs of abortion seekers further.

It is against this backdrop that I came to this work. Thus, even as I worked to maintain neutrality in reading the data and interpreting the codes, I was nevertheless influenced by my beliefs that medicine and law are intricately related and that these elements may impact legal consciousness. I had already formed opinions about the ways in which individuals experience the law. I had personally witnessed how individuals independently or collectively construct meaning around legality, including how individuals draw from multiple sources to construct such meanings. I had seen and participated in research related to how individuals rely on one another as a source of information, including legal information. I observed the impacts of these processes on ideas around power and identity. Finally, I spent many years as a researcher in various other areas of sexual and reproductive health and rights and appreciated the impacts of interrelated health issues, stigma, and complex socio-economic factors.

⁸² World Health Organization, 'Global Abortion Policies Database' (2018) <<https://abortion-policies.srhr.org/>> accessed 21 November 2022

Yet, despite my previous experiences, I still had so many questions about how abortion seekers understand, perceive of, and engage with the law. Questions remained for me about what it really means to live the law. It is from this lens that I have also done something new within this thesis. I have undertaken a secondary analysis of existing stories and treated these stories as data. Consequently, my history was never known to the individuals whose stories I was investigating. This meant that there was no opportunity to build a trusting relationship, but also that the narrators could not be influenced by their understanding of who I am as a person, advocate, provider, and researcher. This provided me with a greater opportunity to distance myself from the data.

However, it would be impossible for me to distance myself from these stories completely. I recognise that I read each narrative through the lens of my personal life experiences. I acknowledge that emotions, such as sadness, frustration, and disgust, were triggered many times as I learned about the personal experiences of abortion seeking through these narratives, as I empathised with those who were speaking (and relived experiences I had had with my patients). I know that I always coded data with my personal research queries in mind. As a result, I took notes along the way and documented my feelings and my assumptions. I documented the ways in which my perceptions, feelings and ideas might be influencing how I coded and analysed the data, thereby embracing my role in creating these data through my interpretation and in the development of themes.

Related to the above discussion on reflexivity are the issues of validity and reliability. It is important to recognise that these data were not generated based on a relationship of trust

as mentioned or where there is a typical duty of care within research.⁸³ This does not mean that I do not have a duty to those posting their narratives (expanded on below). Instead, the narratives were reused or used for a different purpose than for what they were initially collected.⁸⁴ However, in these cases, the original narratives were not collected per se but were offered as personal testimonies of abortion seeking. This means it is impossible to fully appreciate the context in which these narratives were created and the reasons they were shared. In some cases, the narrators describe their intent, but in many, they do not. While some of this information could have potentially been elucidated through individual interviews, the desire for geographic diversity made conducting interviews impossible. Additionally, for the purposes of this thesis, the lack of clarity that emerges around personal motivations to post means that I must take each narrative for what it is – a personal story, a description of a lived experience, taking me one step closer to understanding legal consciousness.

Validity refers to the “believability of a statement or knowledge claim,” meaning that it is a characteristic assigned by someone other than the person making the claim.⁸⁵ For narratives, this relates to the plausibility and trustworthiness of the story. Questions are raised about whether recounting events truly reflects the narrator’s lived experience or whether events have been distorted.⁸⁶ However, this thesis is not meant to develop generalisable truths. Instead, like Ewick and Silbey,⁸⁷ my aim was to better appreciate the

⁸³ Sarah Irwin, ‘Qualitative secondary data analysis: Ethics, epistemology and context’ 13(4) *Progress in Development Studies* 295

⁸⁴ Libby Bishop, ‘Using archived qualitative data for teaching: practical and ethical considerations’ 15(4) *International Journal of Social Research Methodology* 341

⁸⁵ Donald E Polkinghorne, ‘Validity Issues in Narrative Research’ (2007) 13(4) *Qual Inq* 471, 474

⁸⁶ *ibid*

⁸⁷ Patricia Ewick and Silbey Susan S. ‘The common place of law: stories from everyday life’ (Chicago; London: University of Chicago Press 1998)

world as it is lived by and understood by individuals through their personal stories and how this relates to legal consciousness. Respecting and not questioning individual narrators' truths is part of my duty to them as a researcher. Moreover, stories are often "nested within wider meta-narratives."⁸⁸ Thus, it is possible that individuals may be motivated to tell their stories for various reasons, including to persuade the listener or reader to advance their own perspectives or to contribute to a larger discussion. It is also possible, as discussed above, that individuals may self-censor. Still, even in such cases, storytellers may not be biased per se, in that the stories are not systematically distorted. Instead, these cases can be viewed with a positive lens as they demonstrate the intent of the narrator – a reflection of a person's feelings and lifeworld.⁸⁹

Furthermore, as Harding describes, the term consciousness has taken on many forms in legal consciousness research, including consideration of individual perceptions, awareness and ideologies.⁹⁰ Ideally, investigations into legal consciousness should also consider the subconscious engagement with law as these "unformed, unexpressed and unintended thought processes [] feed into our conscious expressions of attitudes or ideas."⁹¹ Yet doing so is difficult, as Harding acknowledges, considering the complexities with which individuals' consciousness and subconsciousness are created. Thus, it may be more helpful to appreciate that there is no single truth, even for the storytellers themselves. "One person's story, told twice, is never the same."⁹² From this perspective, I found it easier to be open to what was being relayed in each narrative, in part and as a whole. I was able to quickly

⁸⁸ Greenhalgh (n 6) 8

⁸⁹ *ibid* 9

⁹⁰ Rosie Harding, *Regulating sexuality: Legal consciousness in lesbian and gay lives* (Social justice, Routledge 2011)

⁹¹ *ibid* 26

⁹² Greenhalgh (n 6) 3

release the desire to seek truth in each story and instead focus on what each individual's story might contribute to my understanding of legal consciousness.

Nevertheless, validity and reliability remain applicable to this research. I have outlined my methodology above, which includes a description of how common themes were identified across narratives. I also spoke of layering these narratives to demonstrate further how the same themes were repeated time and again. In the following Chapters of the thesis, I will show how the themes identified from the narratives speak to the existing legal consciousness literature and build on this work. As noted at the start of this Chapter, my translation of some narratives may have impacted the interpretation or generation of themes; however, I found the translations sufficient to recognise common themes. Finally, this thesis represents my interpretation of the data. Multiple interpretations of the same story are, however, possible. For some, this may be seen as a limitation, in that all data were coded and themes were identified by one person. Yet, as outlined above, the consistency in my approach speaks to the validity and reliability of my interpretation and analysis.

Ethical considerations

Although it was determined early that this thesis required no further ethical approval (ERN_21-0305), secondary data analysis, particularly of social media content, does raise some ethical concerns. The first concern is around the issue of consent. Often, when future use of data is unknown, researchers may utilise generic statements of consent, which leave open a wide variety of future uses.⁹³ However, this raises questions as to how 'informed' informed consent really is. Researchers may be able to circumvent this concern if details

⁹³ Irwin (n 83)

about the anticipated use of future research can be provided, who may have access to data, and how confidentiality is protected.⁹⁴

Regarding social media content, there are specific concerns related to consent. Individuals may post information to a website but may not know how such information might be used as data.⁹⁵ Confidentiality concerns exist where the analysis provides enough detail that individuals might be identified.⁹⁶ Research by Fiesler further demonstrates that some individuals believe that sharing social media content should not be permitted unless they are made aware or have consented to it in advance.⁹⁷ However, factors such as the size of the dataset, whether personal information is also being analysed, and whether information is collected from 'protected' accounts are context-specific factors impacting perceptions around data use.⁹⁸

Thus, an important question that must be asked is whether individuals intend to make their information public.⁹⁹ Posting information in a closed chat or private forum is not the same as posting in a public space, where there would be no reasonable expectation of privacy.¹⁰⁰ In this case and for the sites included in this analysis, the sites offer no information regarding how content is chosen to be published or even the inclusion criteria considered by site managers. Narrators have no way to guarantee that their story will be published and no information on how others may use such published narratives. However, the sites are

⁹⁴ Bishop (n 84)

⁹⁵ Jamie Mahoney and others, 'Ethical considerations in social media analytics in the context of migration: lessons learned from a Horizon 2020 project' (2022) 18(3) Research Ethics 226

⁹⁶ Donna M Mertens, 'Ethical Use of Qualitative Data and Findings' in Uwe Flick (ed), *The SAGE Handbook of Qualitative Data Analysis* (SAGE Publications, Inc 2014)

⁹⁷ Casey Fiesler and Nicholas Proferes, "'Participant' Perceptions of Twitter Research Ethics' (2018) 4(1) Social Media + Society 205630511876336

⁹⁸ *ibid*

⁹⁹ Mahoney and others (n 95)

¹⁰⁰ *ibid*

entirely open to the public. As mentioned earlier in this Chapter, I refrained from using websites that connected stories to particular individuals. Moreover, there are no access controls for the sites included; the inherent claim is just that the stories will be public. Consent is also not explicitly provided as the narrators are in complete control of whether they will offer the site a personal testimony. Anonymous posts are always permitted; most often, this is how narrators post their stories. In this way, consent to publish the story is implied, and confidentiality is protected. This may be why some publishers state that research that relies on large bodies of text posted by individuals on the internet is often not considered human subjects research.¹⁰¹

However, researchers who conduct secondary analysis of social media data must also recognise the potential effects of such data use. For example, profiling is a consequence of some social media research. This includes “automated means to categorise individuals according to their personal characteristics.”¹⁰² This is particularly concerning when research is being conducted on a stigmatised or criminalised topic. For example, research results demonstrating the types of people who have abortions could be misused by individuals seeking to restrict access. Data collected about illegal activities might be misappropriated by local governments or lead to increased surveillance. This raises questions as to the vulnerability of the population – do they lack the ability to make personal choices; can they self-determine?¹⁰³ It is possible that abortion seekers may be viewed as a vulnerable population, especially due to the stigma and criminality of abortion in most contexts. It is for this reason that anonymisation is critical in protecting confidentiality. Furthermore,

¹⁰¹ Editorial Director, ‘JMIR Publications Knowledge Base and Help Center: Do I need ethics approval for social media research?’ <<https://support.jmir.org/hc/en-us/articles/115001620728-Do-I-need-ethics-approval-for-social-media-research->> accessed 21 November 2022

¹⁰² Mahoney and others (n 95)

¹⁰³ *ibid*

additional protections are afforded by using a large anonymous data set, which has not been shared with anyone.

There are also other ethical considerations. For example, some qualitative researchers believe that research must address human rights and social justice issues. In doing so, researchers should reflect on culture and power differences.¹⁰⁴ Although understanding cultural beliefs and norms is not a specific objective of this research, as will become evident in Chapters 3 – 5, these elements are very relevant to the discussion of legal consciousness. Aspects of human rights and social justice are also present in the narratives, both of which have implications for this research. Finally, analysing secondary data also raises the concern that the researcher does not appreciate the context in which the data were generated. For legal consciousness research, an explicit criticism of the existing framework has been that by focusing on the individual, structural and social constraints are not considered adequately.¹⁰⁵ However, as this is an analysis of personal testimonies related to the abortion-seeking experience generally, as will be demonstrated in the analyses in the subsequent Chapters, it was possible to show to some extent how these factors influence legal consciousness.

Demographics

There are 627 narratives included in my analysis. I collected a range of demographic variables from the narratives where available, including age, relationship status, employment and socioeconomic status, race, religion, gender identity, and sexual orientation.

¹⁰⁴ Mertens (n 96)

¹⁰⁵ Harding (n 90)

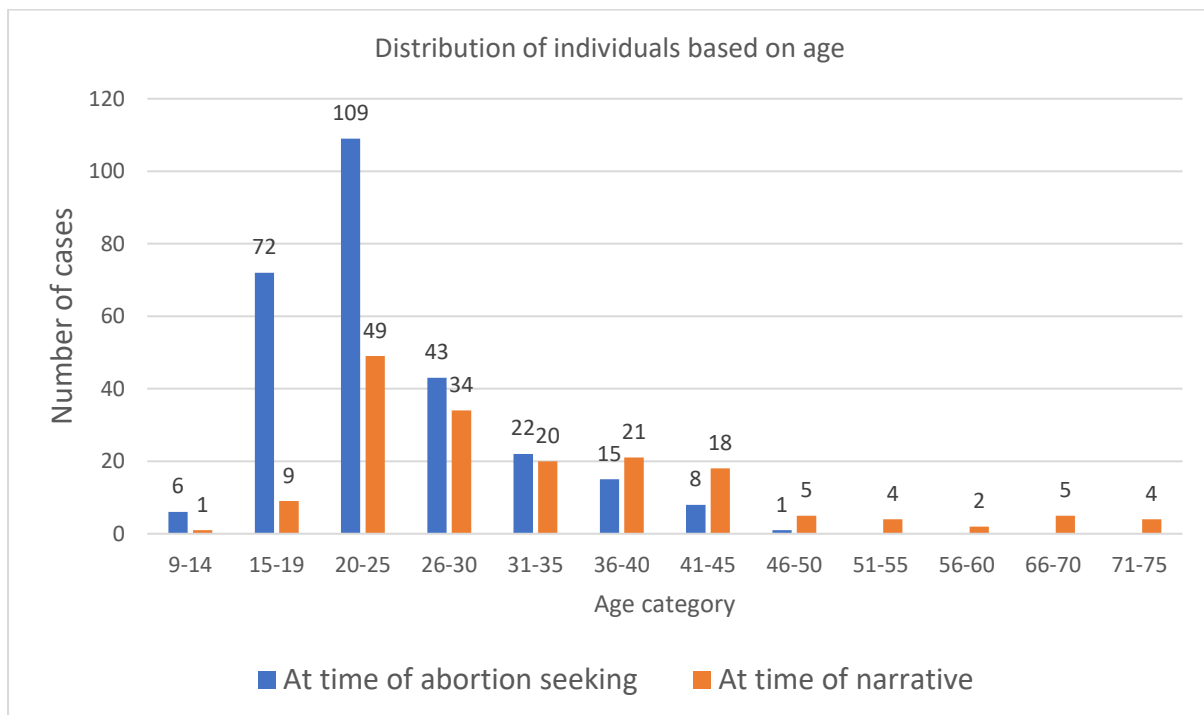
As described earlier in this Chapter, the source for my narratives came from a diverse range of social media sites. Some of these sites represent non-profit organisations and service provision sites, whereby individuals may be posting at the time of abortion seeking. Other sites, however, reflect political or legal advocacy efforts, and thus, individuals posting to these sites may be doing so at points in their lives that are quite distant from their actual abortion experience. Recognising this temporal variation, I collected information about age reflecting two different frames of reference.

Fifty-six per cent (n=351) of narratives provided no information regarding age at the time of abortion seeking. However, 276 narratives described age at the time of abortion seeking. These individuals' ages ranged from 13-50 years. One described themselves as young. Forty per cent (n=109) of those reporting an age fell between ages 20-25, with 28% (n=78) below age 20 and 32 % (n=90) above age 25.

I also collected information about age at the time of the narrative. It was possible to identify this age for 172 individuals, either because expressly stated or the age could be calculated based on other details within the narrative. For example, a narrative may have included details about the date of posting, as well as about the age at the time of abortion, permitting a calculation of the age at the time of the narrative. In this case, individuals' ages ranged from 14-75 years. It is not surprising to find more individuals in the greater than 50 age group here as compared to age at the time of abortion seeking (n=15 vs n=0), as reproductive capacity is generally defined as 15-49 years.¹⁰⁶ Figure 2 details the distribution of individuals based on age for these two frames of reference.

¹⁰⁶ World Health Organization, 'The Global Health Observatory: Explore a world of health data' <<https://www.who.int/data/gho/indicator-metadata-registry/imr-details/6>> accessed 13 February 2023

Figure 2 – Age distribution



Three hundred and ninety-four individuals described their relationship status at the time of abortion seeking, with 99% (n=391) of these being partnered or married. Three individuals described being ‘on and off’ or in a more casual relationship. An additional 35 individuals specifically reported being single. Forty-seven individuals also described various forms of violence to which they were exposed, including physical, mental, emotional, and sexual abuse.

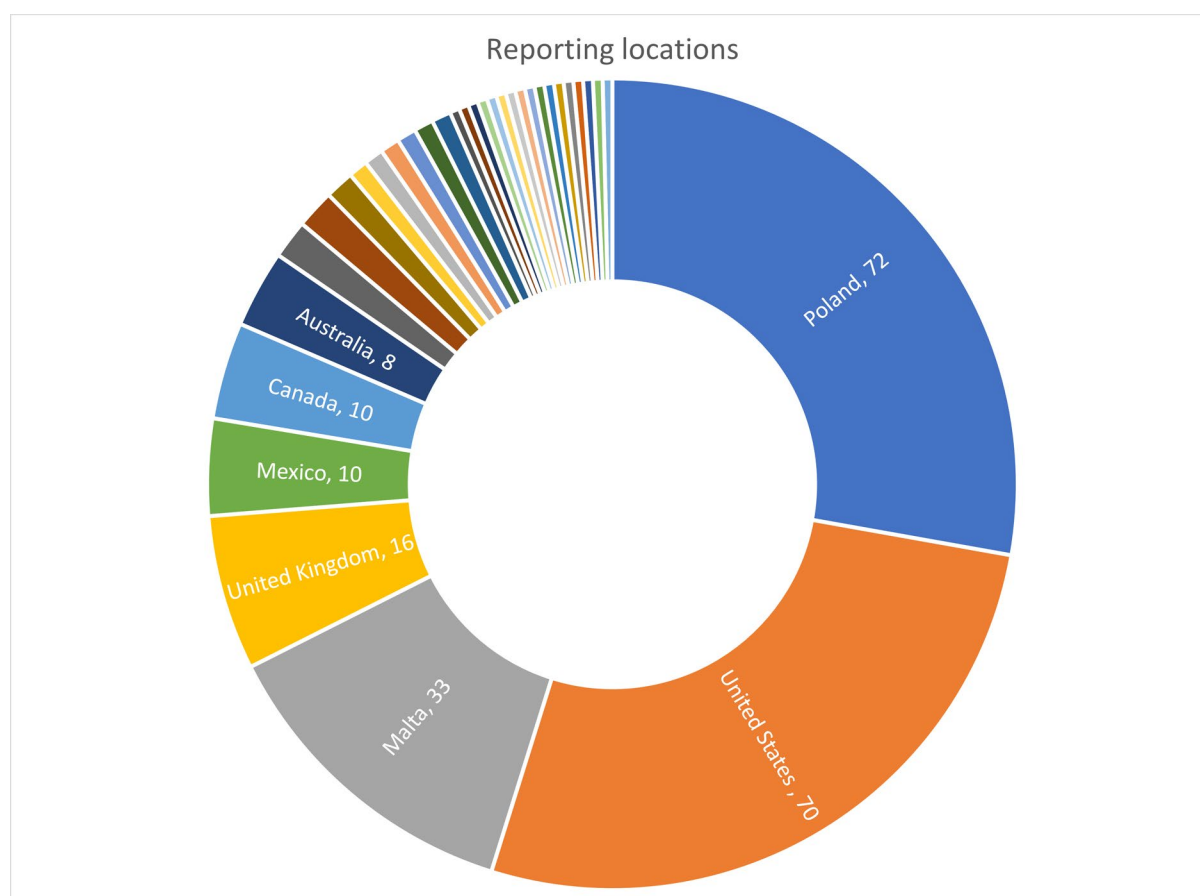
Very few narratives included information related to employment and socioeconomic status at the time of abortion seeking. Only 69 individuals reported being employed, 2 of whom reported being in the military. Seventy-seven individuals reported pursuing some form of education; 8 specifically mentioned being in high school, and 1 in middle school. Fifteen individuals reported being financially poor or generally not well off. Only 4 individuals referred to an identified race: three described being Black and one as Latina. While many

narratives spoke about the role of religion in their abortion experience (explored further in Chapter 4), most individuals did not specifically identify with a religion. Of those that did, seventeen individuals identified with some form of Christianity, 2 with Judaism, 1 with Islam, and 3 with others (Hinduism, Buddhism, and Polytheism). Four individuals explicitly included language related to gender identity in their narratives. Two identified as transmen, one as a transgender non-binary individual and one as a non-binary transmasculine individual. Six individuals described their sexual orientation: three as lesbian, 2 as gay with no additional descriptors, and one as queer.

Recognising the fact that abortion seekers may need to travel for their abortions and that narratives may be written at a time different than when individuals are abortion seeking, I collected information both on location while reporting and the location of abortion. Two hundred and fifty-nine individuals included information on their reporting location. Figure 3 shows the most prevalent locations by geographical regions, with a strong predominance in the Americas, portions of Europe and Australia. There were also some narratives in selected African countries.¹⁰⁷ The locations for 368 narratives were unassigned.

¹⁰⁷ Countries included (listed in descending order): Poland, United States, Malta, United Kingdom, Mexico, Canada, Australia, Ireland, Northern Ireland, Germany, New Zealand, Palestine, Uruguay, Peru, Colombia, South Africa, Uganda, Hungary, Paraguay, Kenya, Zimbabwe, Norway, Scotland, eSwatini, France, Nigeria, Prague, El Salvador, Argentina, Brazil, Chile, Romania. One individual specified the reporting location as Latin America.

Figure 3 – Hierarchical depiction of reporting locations



Three hundred and twenty individuals provided information in their narratives to enable the identification of the location of their abortion(s). These locations represent a vast spread in terms of legal status or access grounds for abortion. As described in the introduction, grounds-based approaches are inscribed in national laws. This approach permits abortion in selected circumstances and often reflects specific clinical conditions (i.e., health status or foetal impairment) or relates to the circumstances of conception (i.e., rape).¹⁰⁸ A grounds-based approach can be accompanied by gestational age limits, which restrict when lawful abortion may be accessed to a particular point in the gestation of a pregnancy. In some cases, countries may also permit abortion on request, and grounds only become relevant if

¹⁰⁸ World Health Organization, 'Abortion care guideline' (2022)

the abortion seeker has exceeded a particular gestational age.¹⁰⁹ The results reflect a variety of settings from those where abortion is completely restricted (i.e., no legal ground for abortion exists) to less restrictive settings (i.e., several legal grounds exist, including broad socio-economic grounds and on request) and those in between (i.e., selected legal grounds, often limited by gestational age limits).

Here, abortion locations identified were similar to the reporting locations except that fewer individuals were in Malta for their abortion, and more were reported to take place in the U.S., United Kingdom, and Mexico (See Figure 4). Poland is well represented in both samples. Considering the results represented related to geography, it is important to note that abortion access grounds and associated gestational limits vary by jurisdiction in the U.S., the United Kingdom, Mexico, Canada and Australia.¹¹⁰ In all of these countries, abortion on request is also legally available to varying gestational ages in particular jurisdictions.¹¹¹ Malta represented the most restrictive abortion context in that, as noted above, abortion was completely banned, with no single access ground available at the time of data collection.¹¹² In Poland, abortion is legally permissible in cases of rape, incest, or risk to the health or life of the pregnant woman. Moreover, criminal penalties apply to actions and actors differently in all these settings.¹¹³

Ninety-five narratives specifically referenced the need to travel. However, since narrators did not necessarily post their stories at the time of abortion seeking and given the fact that

¹⁰⁹ *ibid*

¹¹⁰ It is important to note that in these countries, there are no federal abortion laws. For more information about subnational abortion regulations see World Health Organization (n 82)

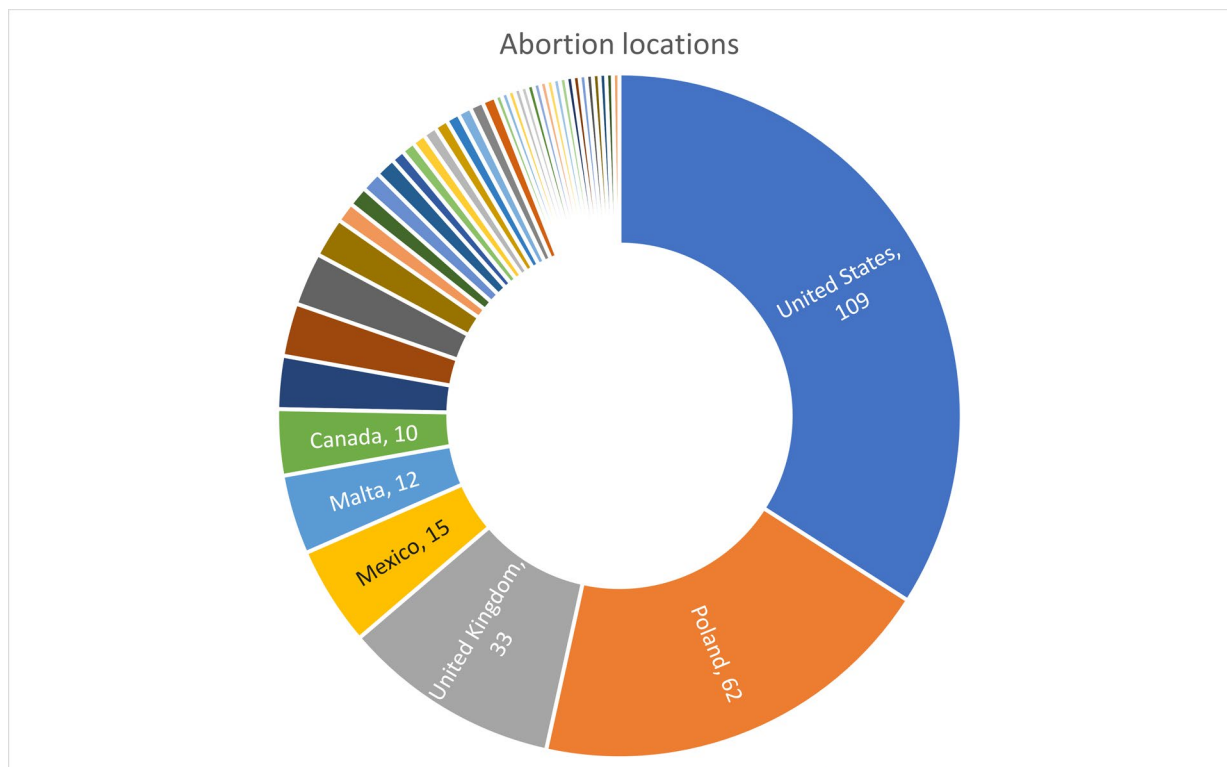
¹¹¹ *ibid*

¹¹² Criminal Code 1854 (Malta) available at: <https://legislation.mt/eli/cap/9/eng/pdf> [accessed 19 November 2023]

¹¹³ Dz. U. 1997.88.553 ze zm (Pol.)

not all individuals spoke of both their location of reporting and their place of abortion, it is difficult to determine the overlap among these two figures. Thus, it is possible that there are many more individuals that needed to travel.

Figure 4 – Hierarchical depiction of abortion Locations

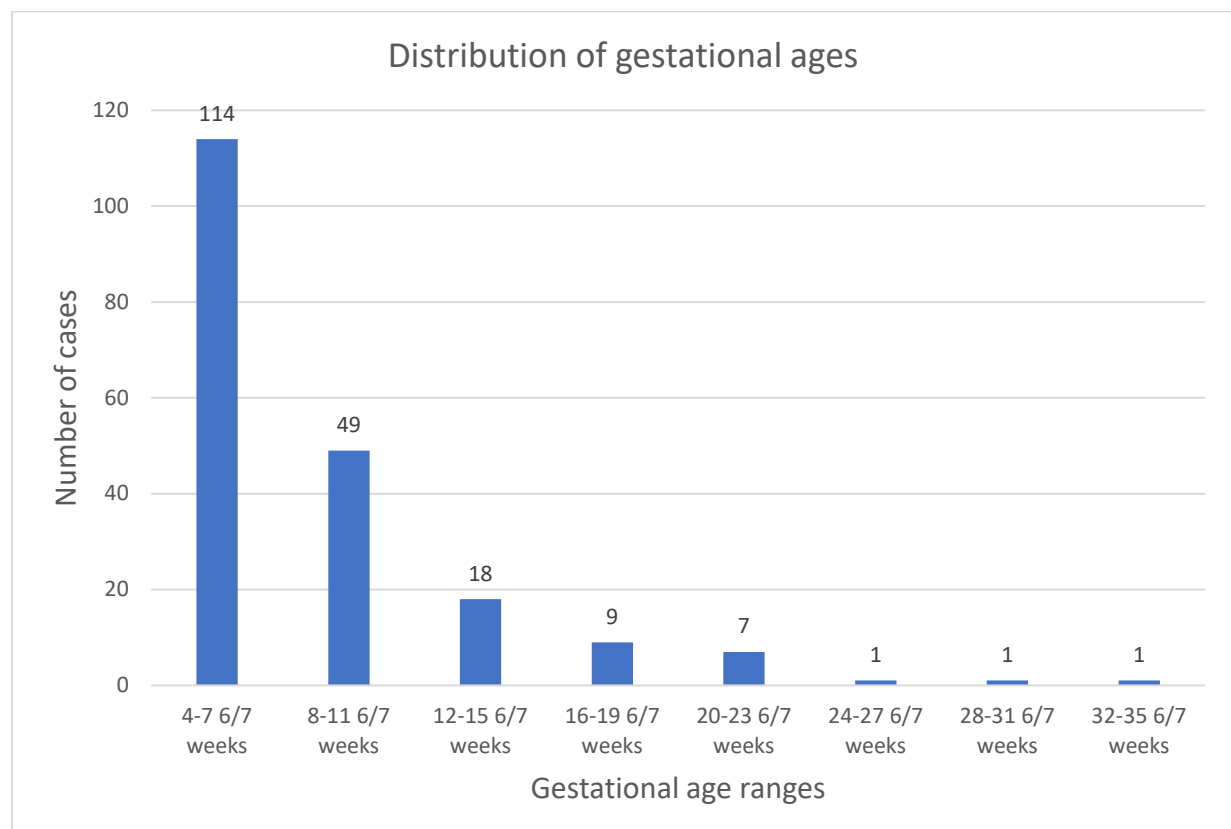


While the narratives represent a variety of locations, I was able to record the legal status of abortion as perceived or described by the narrator in 464 narratives. Thirty-nine per cent (n=181) of the narratives described 'illegal' contexts, while 61% (n=283) reported being within 'legal' contexts. In some cases, individuals explicitly spoke of having to travel to a 'legal' context for abortion; these cases were captured as 'illegal' contexts as these reflect the legal status of an individual's origin.

The number of individuals who specified a medical abortion related experience was similar to those who described a surgical abortion seeking experience: 219 versus 201. Ninety-one

individuals specifically mentioned purchasing medicines online. Two hundred individuals included information related to the gestational age of the pregnancy, 82% (n=163) of which were less than 12 weeks (See Figure 5).

Figure 5 – Distribution of gestational ages



Two hundred and twelve narratives described previous pregnancies. Of these, 142 individuals specifically mentioned whether they have or have ever had children. Figure 6 demonstrates the number of individuals that reported between 1 and 5 children; one reported more than five. Twenty-three individuals also reported previous miscarriages, almost half of which (n=12) reported one (See Figure 7). One hundred and three individuals reported having had a previous abortion, with 2 being the most reported number. Two of these individuals did not specify a number and are not included in Figure 6.

Figure 6 – Hierarchical depiction of children (current or past)

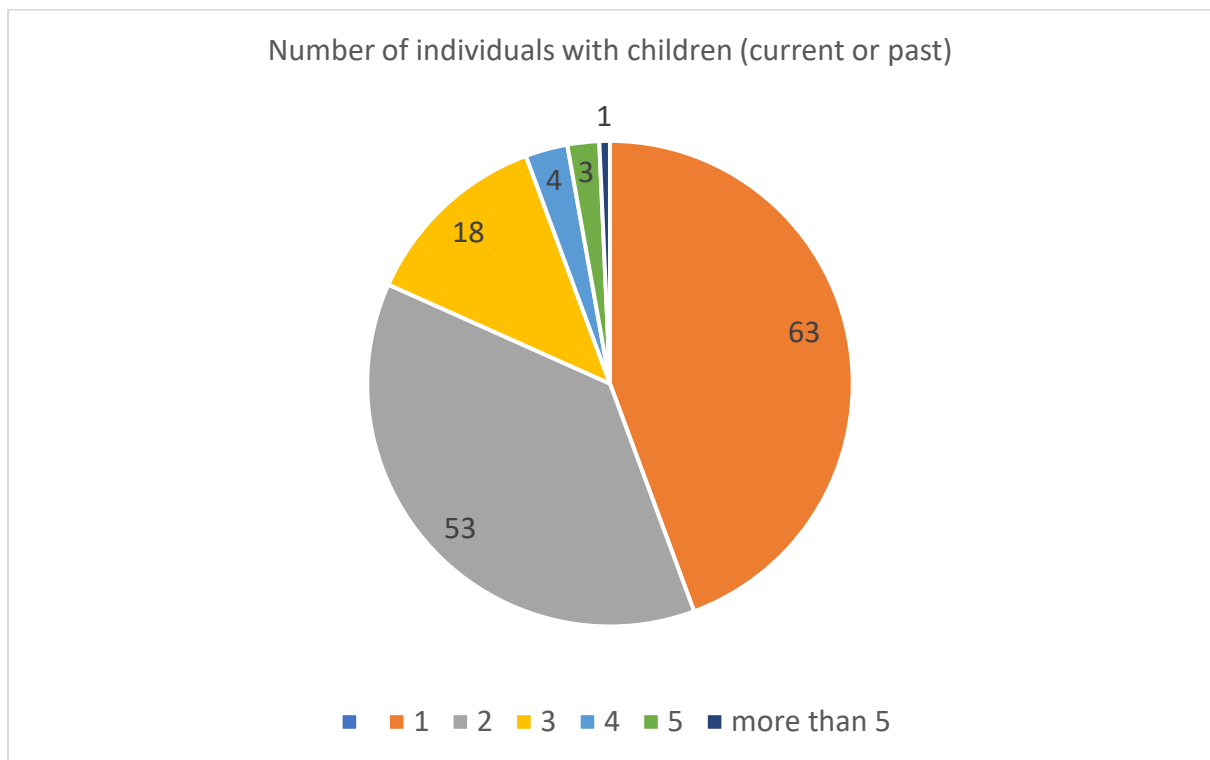
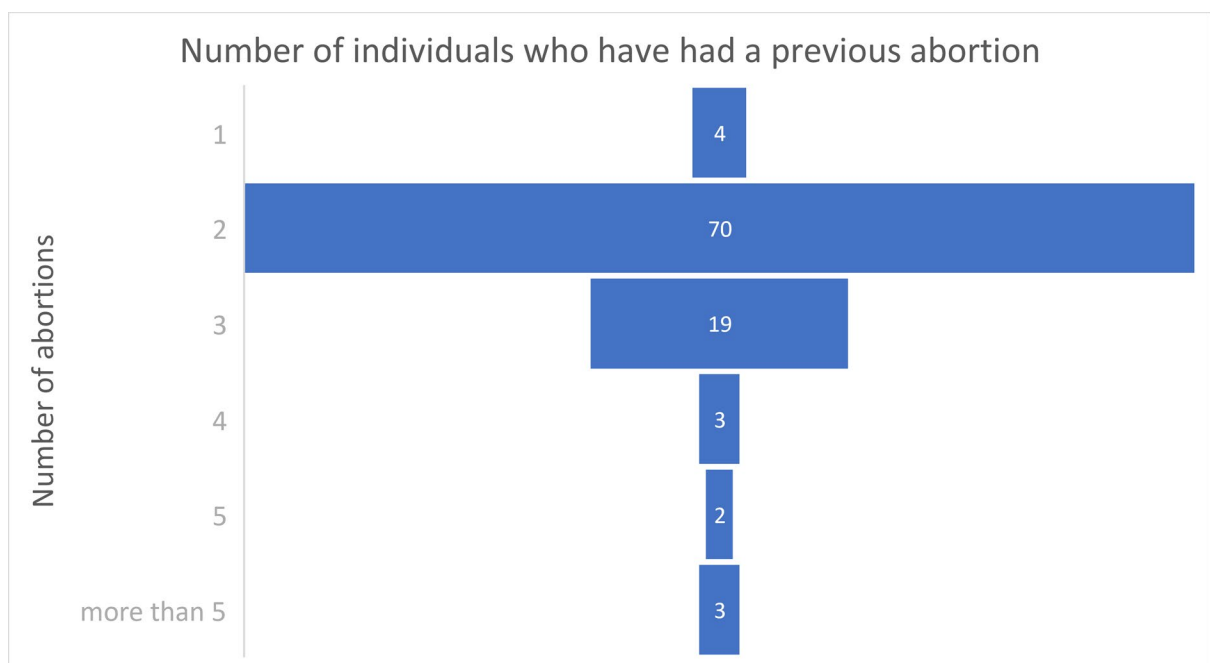


Figure 7 - Hierarchical depiction of previous abortions



Of those individuals who reported having had two previous abortions, 9 also reported one child; 9 reported 2 children; 4 reported 3 children; 1 reported 4 children; and 1 reported 5

children. One person who had 3 previous abortions reported 3 children, and two people with 5 or more abortions also reported 2 children.

It is important to note that data collection and analysis for this thesis occurred during the Covid-19 pandemic.¹¹⁴ Nineteen individuals specifically mentioned Covid-19 in their narratives.

Conclusion

In this Chapter, I provided an overview of my methodological approach. Although some may criticise the use of personal narratives as the basis by which to explore the legal consciousness of abortion seekers, as described, I believe that such stories lead to a more comprehensive understanding of how individuals experience and live the law. I have also described the benefits of social media as a source for such narratives. I have asserted that using a hybrid deductive-inductive approach allowed me to: triangulate my findings, demonstrate how the themes identified from the narratives speak to the existing legal consciousness literature, and build on this work. I have also described my own positionality and ethical considerations.

I will now turn to the following three Chapters, where I will describe the results and provide an analysis that more specifically answers whether and how the existing constructs of legal consciousness align with the understanding and experience of abortion seekers. It is important to note that, as highlighted at the start of this Chapter, where tensions or inconsistencies appeared in the narratives, I did not restrict the coding to one specific theme. Instead, I appreciated that extracts of data can fit into many themes¹¹⁵ and are

¹¹⁴ World Health Organization, 'Emergencies: Coronavirus disease (COVID-19) pandemic' <<https://www.who.int/europe/emergencies/situations/covid-19>> accessed 13 February 2023

¹¹⁵ Braun and Clarke (n 72)

interrelated. While this means that some overlap exists in the analysis, this approach better reflects what is known about legal consciousness already. Specifically, it shows that individuals can demonstrate various but often intersecting perspectives of legal consciousness by drawing from a set of common resources within their lives. This approach also allows for a better reflection of the lived experiences of abortion seekers, as there are many contributing factors to the development and evolution of legal consciousness, which should not be artificially separated merely for the purposes of research analysis. Thus, the results are organised across the three themes noted in Chapter 1 that have been well-documented in the existing literature as integral constructs within legal consciousness: hegemony, identity, and mobilisation. Additional social and structural factors that contribute to shaping legal consciousness are then explored within each theme. These themes are examined both in isolation and in their intricate interconnections to discern whether the prevailing legal consciousness framework adequately resonates with the experiences of abortion seekers.

Under the first theme of hegemony within Chapter 3, I specifically investigate the alignment of abortion seekers' experiences with Ewick and Silbey's existing approaches to legal consciousness - *before, with and against the law*.¹¹⁶ Within that Chapter, I also explore power and control more generally and the imposition of the law. In Chapter 4, I consider the construct of identity, including what informs individual and collective identity and the impact of identity on perceptions of the law. There, the role of legal pluralism is also investigated. Mobilisation is examined in Chapter 5, providing insights into perceptions around justice and rights and how abortion seekers organise and mobilise. In each of these

¹¹⁶ Ewick and Silbey Susan S. (n 87)

Chapters, I will show alignment with the existing legal consciousness framework but also identify nuances that emerge as particular to the experience of abortion seekers. Contextual factors, such as the geopolitical landscape, including the transnational nature of abortion care, intersecting laws, and pervasive stigma, emerge as intersectional themes and will be critically examined for their simultaneous influence on the legal consciousness of abortion seekers.

Furthermore, I will highlight the dynamic nature of legal consciousness, particularly through social media. The real-time responsiveness of legal consciousness facilitated by the rapid exchange of information, including legal information, will be emphasised. This not only shapes the individual legal consciousness of abortion seekers but significantly impacts the relational and collective legal consciousness within this community. Beyond exploration, I aim to illustrate how these constructs inform ideas about ideal law and lead to calls for a more human-centric approach to abortion regulation grounded in an appreciation of personal circumstances, and justice and rights. The gained insights not only bring clarity to the lived experiences of abortion seekers, reflecting their legal consciousness but also contribute valuable input for refining the existing legal consciousness framework. Instead of exclusively concentrating on the reasons behind the law's enduring hegemonic influence or delving into individual aspects of identity or mobilisation, my approach will illuminate the interconnected nature of these factors. I will now turn to Chapter 3 to begin this analysis.

Chapter 3 – HEGEMONY

In Chapter 1, I described the existing legal consciousness framework and outlined how it has evolved. I provided an overview of the different areas of research where legal consciousness has been explored and introduced some contextual factors that are relevant to the way in which the law is experienced. Furthermore, I illustrated how this body of research synergises with existing studies on abortion, albeit not explicitly focused on legal consciousness. In this initial Chapter of a three-part series, the focus is on contextualising abortion seekers within the framework of legal consciousness. I more specifically explore how and whether the experience of abortion seekers aligns with what is already known about legal consciousness as it relates to hegemony.

Thus, I use the framework posited by Ewick and Silbey¹ as a starting point, as a set of concepts and principles that provide a foundation for understanding and analysing legal consciousness. As will be shown, my analysis of abortion seekers' narratives establishes that abortion seekers demonstrate some perspectives that are in alignment with the forms of legal consciousness identified by Ewick and Silbey. In particular, the data suggest that some abortion seekers do express sentiments that validate the majestic position of law, like those who are *before the law*. Some also view the law in a game-like way and attempt to act *with the law* in that they find ways to manipulate the system to meet personal objectives. In some cases, individuals see themselves as *against the law*, as they circumvent, bypass, or avoid the law in the pursuit of justice. In many cases, just as Ewick and Silbey found, an individual may exhibit elements of more than one form of legal consciousness.

¹ Patricia Ewick and Susan S. Silbey. 'The common place of law: stories from everyday life' (Chicago; London: University of Chicago Press 1998)

At the same time, however, I found that while the existing legal consciousness framework is not meant to provide an exhaustive representation of all individuals, core components related to the role of law are missing related to the abortion experience. Specifically, the existing framework is limited in its ability to encompass the complexities and nuances of real-life abortion-related experiences, where legal consciousness may be impacted by a combination of other factors simultaneously. In the existing framework, the hegemony of law is maintained as individuals consciously and intentionally defer to the law's power or exploit its crevices. Abortion seekers, however, do not necessarily reflect such positions of privilege. Many do recognise an injustice in the way in which abortion is regulated. This is often linked to the fact that the regulation of abortion law is about a common medical procedure. However, such injustices are not always a motivating factor to confront the law. Rather, the law exerts power and control by imposing ideals in an effort to reinforce gender and social norms. Moreover, instead of being a tool, by which abortion seekers can seek recourse, the law acts as a mechanism for discrimination, as something that must be endured out of necessity. The disproportionate effects experienced by women, as described in the narratives, demonstrate that the hegemony of law is maintained by forcing individuals to act *outside the law*. This impacts the way in which individuals see the law, how they perceive the role of the State in abortion regulation and what they view as ideal.

It is important to recall, however, that, as described in the introduction, abortion is a medical procedure or process that is heavily regulated by criminal law. This regulation impacts all stages of the abortion process, including whether individuals can access legal care, how and in what form, by whom and where. The law is also implicated in the decision-making authority of various actors beyond the abortion seeker. This aspect of abortion and its regulation is particularly important in the analysis of the narratives because where

information about abortion as a medical procedure or process is included, this, too, provides insights into how legality is experienced, imagined, and treated.

In Chapter 1, I indicated that the field of legal consciousness has developed based on the objective to better understand how legality is experienced and understood by ordinary people. However, the work conducted by Ewick and Silbey demonstrates that legal consciousness is not just about lay or popular understandings of law.² As a reminder, Ewick and Silbey queried formal legal knowledge, exploring various legal experiences and views related to the effectiveness and legitimacy of legal procedures.³ To do so they asked individuals about seemingly mundane experiences and investigated the ways in which these experiences influenced how legality is imagined and treated. This allowed them to interrogate how and why law sustains institutional power despite evident inequalities.⁴ This focus on hegemony, and in particular on the operation of power in society through legal means,⁵ gave rise to the description of three forms of legal consciousness: conformity *before the law*, engagement *with the law*, and resistance *against the law*.⁶

Before the law

Ewick and Silbey found that those who are *before the law* view the law as majestic, as something that is rational and distinct from everyday life.⁷ From this perspective, the law operates within a separate sphere unaffected by individual action. Individuals often view the law as an autonomous agent with a fixed structure composed of hierarchical rules and

² *ibid*

³ *ibid*

⁴ Susan S Silbey, 'After Legal Consciousness' (2005) 1 Annual Review of Law and Social Science 323 <<https://www.annualreviews.org/doi/abs/10.1146/annurev.lawsocsci.1.041604.115938>>

⁵ Rosie Harding, *Regulating sexuality: Legal consciousness in lesbian and gay lives* (Social justice, Routledge 2011)

⁶ Ewick and Silbey Susan S. (n 1)

⁷ *ibid* 47

procedures.⁸ Moreover, the law is described as objective rather than subjective, impartial and appropriate in its application, “something that transcends by its history and processes the persons and conflicts of the moment.”⁹

Although abortion related laws were generally not spoken of in high esteem in the analysed narratives, similar sentiments that reflect the perspective that the law occupies a stately position were made by narrators when speaking about abortion related laws. Specifically, individuals underscored the authoritative position of the law and relied on its predictability. For those in less restrictive settings like parts of the United States (U.S.), they saw the law as something that just is – as “the law of the land”¹⁰. Twenty-two per cent (n=137) spoke of the law positively, identifying for example, that in their country “abortion is safe, free and legal”;¹¹ these sentiments were often expressed, however, despite abortion being criminalised (e.g., England¹²). Like those interviewed by Ewick and Silbey, they saw the law as timeless and permanent and expressed loyalty towards the law. Individuals were grateful that they could rely on this knowledge, including those who were living away from their home countries, as they could “fly home... and have the termination there.”¹³

These narratives reflect the appreciation that there are specific actions, attitudes and conventions that come to be reified as ‘the law.’¹⁴ Abortion seekers described the “need [to obtain] the approval of two doctors before [being] able to take control of the situation”¹⁵ or the need to “prove there is a medical, physical, psychological, social or financial reason for

⁸ *ibid*

⁹ *ibid* 10

¹⁰ Case 65 and 252

¹¹ Case 210

¹² Offences against the Person Act 1861. Of note, grounds for which abortion can be performed were established in a separate act. See further: Abortion Act 1967

¹³ Case 488

¹⁴ Ewick and Silbey Susan S. (n 1) 81

¹⁵ Case 27

[the] abortion.”¹⁶ Without satisfying these and other requirements, such as mandatory counselling or waiting periods, abortion seekers understood that they would not be permitted to receive an abortion.

Narrators also saw these technical procedures and rules as not only delimiting access but as instructing and constraining specific individuals who apply the law (i.e., healthcare providers). Abortion seekers in very restrictive settings specifically spoke of the fact that if they satisfied the rules and completed the legal requirements, they should be able to access abortion, and many did. For example, one narrator in Malta spoke of the need to “go before a panel” for her ectopic pregnancy, due to “an absolute ban on abortion.”¹⁷ Another in Palestine spoke of the fact that although “pills are highly regulated and restricted ... and not all pharmacists stock them,”¹⁸ she was able to access them with a prescription due to a life risk. Thus, abortion seekers recognised that the same hierarchical organisation that constrains their legal action and requires them to defer to the law’s claim to autonomy can also instigate action¹⁹ where they qualify. These scenarios reflect the ways in which individuals perceive the law to be objective, in prescribing how those acting on behalf of the law should act based on what is contained within the law itself.²⁰ Thus, despite the recognition of shortcomings in the law, the mere awareness of such prescribed behaviours concretised the role of the law. This is akin to the concept of *critical consent* in legal consciousness, which involves adhering to legal ideals while acknowledging the law’s

¹⁶ Case 571

¹⁷ Case 466 As mentioned in Chapter 2, I have included information about location where possible and relevant to the context of the quote.

¹⁸ Case 414

¹⁹ Ewick and Silbey Susan S. (n 1) 91

²⁰ *ibid*

practical limitations.²¹ In this way, *critical consent* shares similarities with what Ewick and Silbey call *before the law* as both concepts reflect an appreciation of the law's principles and its practical constraints while upholding its dignified status.

The perception that the law is objective is also supported when abortion seekers associate the law or their rights with inscription and textualisation or other forms of communication that distance the law from social interactions. For example, one narrator spoke of “a woman’s rights [being] legally acknowledged and enshrined in [the] state constitution.”²² Another stated that:

“It's understood in our constitution that women are independent adults entitled with life, liberty and the pursuit of happiness, whatever that means to them. That means that if I feel that carrying a foetus to term impinges on my life and liberty, then I have a right to terminate my pregnancy.”²³

The use of the words ‘enshrined’ and ‘understood’ suggests that these narrators are locating legal authority in this written text, a constitution, over what might exist in daily rhetoric. Additionally, this reflects an expectation of the law, as well as demonstrating the way in which the legal text can shape understandings of legality. Like those described by Ewick and Silbey, these narrators also highlight the justness provided through such formal legal inscriptions by asserting that women’s rights or the rights of ‘life, liberty and the pursuit of happiness’ are attached to the text. In the second example, the use of the words ‘whatever that means to them’ may be an attempt to locate that text in modern legal-rational

²¹ Tu P Nguyen, ‘Legal Consciousness and Workers Resistance in Đồng Nai Province, Vietnam’ (2017) 12(2) *Asian J Comp Law* 311

²² Case 265

²³ Case 507

society.²⁴ In this case, this narrator may be linking these rights directly to the current debate around carrying a foetus.

This link to a sense of what is just is also made when narrators draw connections to more seemingly uncontested legal issues. For example, if abortion laws were repealed it would mean “that the government no longer sees [women] as an equal citizen to men under the law.”²⁵ Others challenged the social discourse around abortion, elevating the law above individual beliefs or desires, affirming its distinct and reified status.

“It’s absurd that we continue to legitimize the controversy of abortion, since its legality was determined before I was even born. Should we also debate the legal voting rights of women and black people? Should we debate the legality of freedom from enslavement?”²⁶

“It has been just over thirty years where laws have changed where we do not need our husband’s permission to get divorced, escape abuse, choose birth control, or not be fired for being pregnant. My ancestors have fought for over a hundred years to uphold these very essential human rights.”²⁷

These depictions of legality reinforce the notion of the law as a constant, as timeless, and as transcendent, while demonstrating an acknowledgement of the law’s shortcomings. The query of whether there should also be a debate about what is being depicted as a more established right (i.e., legal voting rights), as well as the reference to the fighting done by ‘ancestors’, also speaks to the notion of a more morally or ethically elevated position.

²⁴ Ewick and Silbey Susan S. (n 1) 100

²⁵ Case 507

²⁶ Case 218

²⁷ Case 74

The sense that the law exists in a separate sphere may be magnified by the physical requirement to travel to a specific destination to obtain legal care,²⁸ something women have long needed to do to access abortion care.²⁹ Historically this has meant that women have physically travelled to other countries to access transnational reproductive healthcare.³⁰ Although this has often meant that abortion seekers travel to less restrictive contexts, even individuals living in less restrictive countries may still need to travel due to numerous barriers such as gestational age limits, waiting periods or lack of trained providers.³¹ This need to travel creates a physical distance between individuals dealing with their unique personal circumstances, and the application of the law in their particular case. As just another individual travelling for care, this not only depersonalises the experience but also reinforces the notion that engaging with the law requires significant effort.

As demonstrated in the demographic data in Chapter 2, at least 95 abortion seekers referenced the need to travel for their abortions. Individuals spoke of the need to travel to various states in the U.S., for example, while others spoke of the need to go to other countries; these places were dispersed over broad geographic distances. Lack of access to facilities or trained providers was one reason individuals needed to travel. Where travel was required, abortion seekers, like those described by Ewick and Silbey, spoke of needing to take time away from work or family.³² Time was described in various ways, including the

²⁸ Ewick and Silbey Susan S. (n 1) 96

²⁹ Jill Barr-Walker and others, 'Experiences of women who travel for abortion: A mixed methods systematic review' (2019) 14(4) PLoS one e0209991; Caitlin Gerdtz and others, 'Experiences of women who travel to England for abortions: an exploratory pilot study' (2016) 21(5) The European journal of contraception & reproductive health care 401

³⁰ Atina Krajewska, 'Reimagining Reproductive Rights: Studying Invisible Subjects, Principles, and Structures of Transnational Reproductive Health Law' (2019) 7(2) Journal of medical law and ethics 201

³¹ Camille Garnsey and others, 'Cross-country abortion travel to England and Wales: results from a cross-sectional survey exploring people's experiences crossing borders to obtain care' (2021) 18(1) Reproductive health 1

³² Ewick and Silbey Susan S. (n 1) 96

need to wait for weeks for an appointment, or needing to “drive for hours to get an appointment at the nearest clinic”,³³ waiting “hours in the clinic to be seen”,³⁴ or needing to come back for a second or third appointment where mandatory waiting periods exist. This often-required individuals to have to call out sick or miss many days from work.

Abortion seekers described how these requirements maintained their positions of powerlessness. By being ‘forced’ to take the time to literally travel to enter the space of the law, they saw the rules as fixed, and their only option was to comply. One narrator, for example, stated:

“I’m really fucking embarrassed and ENRAGED at our society and this goddamn conservative fucking patriarchal state. What the hell is wrong with this world that I am forced, as a respectable, law-abiding citizen who contributes justly to this economy and society, to go to the ONLY clinic that will perform this procedure in the state... Why in the hell can women not go to their regular women’s clinic and have this procedure done?! It was unreal that it took so much waiting time and processing time throughout the day for a 5 minute procedure.”³⁵

Here, the narrator, like others who are *before the law*, directly acknowledged the hegemony reflected by an organized structure, or the ‘patriarchal state.’ Although she was describing what is required for her medical procedure, her self-description as a ‘law-abiding citizen’ means that she was directly connecting this experience to the law while making a “rational appeal.”³⁶

³³ Case 604

³⁴ Case 51

³⁵ Case 325

³⁶ Austin Sarat, “...The Law Is All Over’: Power, Resistance, and the Legal Consciousness of the Welfare Poor’ (1990) 2(2) Yale journal of law & the humanities 343

In this way, this abortion seeker is reminiscent of the individuals who participated in the studies by Sarat³⁷ and Cowan³⁸ highlighted in Chapter 1. Like the individuals in both of those studies, this and other abortion seekers within the thesis wanted specific actors developing the law (in this case, policymakers) to appreciate their individual circumstances. Yet, the law seems to operate in such a distant place that it is difficult for its actors to see individuals as actual people.

Abortion seekers also noted that in addition to needing to locate physical spaces of law (i.e., places where legal access grounds exist) and find the time to obtain care, abortion access was also dependent on concurrent legal requirements for narrators. For example, individuals faced laws that dictated that only certain methods of abortion provision were permitted in specific locations or facilities or by a particular cadre of providers. The law also required additional authorisations, the need to comply with mandatory waiting periods, or for processes to be completed by a specified gestational age limit.

Despite recognising that there are consequences to this hierarchical organisation, it was not always clear to abortion seekers how the law maintains this reified state. Instead, individuals described just coming across the law. One narrator, for example, described finding:

“[t]hat dreaded article that made [her] skin crawl. ‘The punishment and imprisonment for a term from eighteen months to three years shall be awarded against any woman who shall procure her own miscarriage, or who shall have consented to the use of the means by which the miscarriage is procured.’”³⁹

³⁷ *ibid*

³⁸ Dave Cowan, ‘Legal Consciousness: Some Observations’ (2004) 67(6) *Modern law review* 928

³⁹ Case 501

Another “remember[ed] sitting in front of the TV and crying after the judgment of the Constitutional Tribunal [in Poland] was announced ... over [her] fate and the fate of other women”.⁴⁰ One abortion seeker described “a string of ... omnibus abortion bills around the country.”⁴¹ Such reflections demonstrate that these women perceive the law as something that continues to act in a distant place, with decisions being made by those in power.

Analysing abortion seekers' experiences thus far demonstrates that while abortion-related laws are generally not revered in the narratives studied, narrators express a belief in the law's authoritative status. This appreciation stems from the recognition that certain actions, attitudes, and conventions become solidified as 'the law.' Abortion seekers often perceive the law as objective, reinforcing this view by associating it with inscription or other forms of communication that create a separation from social interactions. However, it's crucial to note that this acknowledgement of the law's autonomy can coexist with other perspectives on legality.

With the law

Those that are *with the law* regard legality as a game. Individuals are constrained by a set of rules, but in playing this game, they can invent new rules to serve a wider range of interests.⁴² Unlike those who are *before the law*, who perceive legality and the associated organised systems as operating outside of daily life, those who are *with the law* describe legality as co-existing, or operating simultaneously, with everyday life. Individuals may

⁴⁰ Case 358 See further, Wyrok [Judgment] of CT [Constitutional Tribunal] Oct. 20, 2020, K 1/20 (Dz. U. 2021.175) (Pol.)

⁴¹ Case 582

⁴² Ewick and Silbey Susan S. (n 1) 48

engage in tactical manoeuvring, whereby they “marshal a variety of social resources” to achieve their objectives.⁴³

Abortion seekers acted strategically in relation to identifiable actors. For example, individuals described telling providers that the pregnancy would put their “mental health at risk, a factor [known to be] listed in the Abortion Act”⁴⁴ or working to “persuade [their] GP to give [them] the precious green consent form”⁴⁵ that is required legally. One stated that she:

“practiced telling the doctor all the ‘good’ reasons [she] couldn’t have a baby – ... no money, was at university and planning on a career in academia, no financial support or place of [her] own outside of uni, and [her] parents would probably kill [her].”⁴⁶

These actions reflect abortion seekers’ understanding that to play the game you must be skilful and resourceful.⁴⁷ The mere act of practising what is believed to be needed to influence the outcome suggests that this abortion seeker does not see the law as something that operates independently of her interaction. This narrative demonstrates that this abortion seeker sees herself as participating in legality directly by using whatever available tools, resources, or vocabularies exist to achieve what is desired. In Chapter 5, I will further elaborate on the ways in which individuals gain or increase their legal knowledge, such that they are better able to engage with the law, but also to better facilitate tactical manoeuvring. In this way, the linkage between hegemony and mobilisation becomes evident. Specifically, abortion seekers demonstrate an understanding that access to legal

⁴³ *ibid* 28

⁴⁴ Case 27

⁴⁵ Case 1

⁴⁶ Case 135

⁴⁷ Ewick and Silbey Susan S. (n 1) 48

abortion is one of “competitive struggles” and that there is a need to “successfully deploy and engage with the law”.⁴⁸ Thus, social media platforms become a tool that empowers narrators with insights into how the law can address their needs, fostering a dynamic exchange of information, support, and perspectives. New experiences are learned from individuals, without geographical constraints, just by visiting a site, with an immediate effect on legal consciousness.

Interestingly, individuals also stated that they never reflected on the legality of abortion until faced with the decision themselves, and the need to fit into a legally stated exception. The law then, according to narrators, perpetuated the notion of hierarchical reasoning as it relates to abortion access, with legal grounds reflecting the justifiable reasons for obtaining an abortion. Moreover, abortion seekers appreciate that there are rules governing what is possible or not; this means that not all women can access the law in the same way. Rather than viewing the law as a separate sphere, like those who are *with the law*, abortion seekers also recognise that different rules apply to different people.

Abortion seekers also described the need for misrepresentation and manipulation to achieve their desired outcome. In countries like Poland, for example, where individuals are provided a pregnancy card during their first prenatal visit, these legal encounters require that women use their skills to deceive others. For example, those who self-managed their abortion, could “not admit to the knowledge of the continuation of the pregnancy,” but rather needed to participate in “[u]nnecessary trickery” and claim to be “surprised by heavy, long bleeding and subsequent malaise.”⁴⁹ Furthermore, many had to “fudg[e] the truth...

⁴⁸ *ibid*

⁴⁹ Case 238

like on those medical forms”⁵⁰ whereby individuals noted a history of “cervical cleaning” or “miscarriage” rather than abortion. Abortion seekers highlighted the specific practice of utilising vaginal medicines with the hopes of remaining more discreet about their induced abortion. Should they need to seek care and be examined, the belief was that the abortion pills would dissolve quickly. These actions did not always go as planned; a few narratives spoke about discovered pills during an exam.

Within this section, I have shown how abortion seekers strategically engaged with identifiable actors, demonstrating a need for skill and resourcefulness in navigating the complex landscape surrounding abortion decisions. However, the intentional forethought demonstrated by abortion seekers also reflects an *against the law* perspective, akin to Ewick and Silbey's interviewees, showcasing diverse forms of legal consciousness among abortion seekers. Specifically, these practices, owing to the law's power, are executed in such a way as to be denied if called to task⁵¹ to escape the effects of the law.⁵² Similarly, in the aforementioned section *Before the law*, I described abortion seekers who recognised that only by satisfying specific requirements would they be able to benefit from the law. The mere acknowledgement of this need places the law in a position of authority. By modifying their behaviour, like those who are *with the law*, these abortion seekers were trying to conform to the rules of the game. Yet, in many of these cases, abortion seekers appropriated the terms and practices needed to play the game in an attempt to circumvent the law. This perspective is much more in line with those who are *against the law*.

⁵⁰ Case 583

⁵¹ Ewick and Silbey Susan S. (n 1) 184

⁵² *ibid* 187

Against the law

Those who are *against the law* also recognise the law's power, and while at times they exhibit perspectives that align with being *before* or *with the law*, often they do not see the law as something that is objective and rational. Instead, they regard it as something that is subjective and arbitrary, such that they find themselves up *against the law*.⁵³ As a result, individuals must often resort to deceit and trickery, not to play the game, but instead to "mak[e] do."⁵⁴ At the same time, small efforts are made to take back any part of the law's power,⁵⁵ which reflects the perspective that the law does not occupy this distant space, but instead is more intricately related to everyday life.

Acts of defiance made by those who are *against the law* represent attempts to resist the law. Ewick and Silbey describe three features of resistance that distinguish it from more frivolous acts of contempt.⁵⁶ First, they note, that resistance requires that individuals view themselves in a position of less power. Next, considering this dynamic, resistance requires that individuals believe that there is an opportunity to intervene to advance their interests. More specifically, this means that individuals must recognise a sense of power within themselves to subvert the law. Finally, resistance is not just about advancing one's personal interests, as was expressed by those within the law. Rather, individuals resist in the name of justice because they see themselves trapped within a net, from which they seek to be free.⁵⁷ They seek to subvert the law because they believe that the law yields unfair results.

⁵³ *ibid* 28

⁵⁴ *ibid* 48

⁵⁵ *ibid* 28

⁵⁶ *ibid* 183

⁵⁷ *ibid*

This motivation to act *against the law* emerges irrespective of the specific actions they take, reflecting their determination to challenge perceived injustices within the legal system.

As a result, resistance may come in many forms. Some individuals who are against the law may be defiant or disruptive, and others may resist the law through acts of silence, absence, or refusal to engage with the law.⁵⁸ This variation was evident in the narratives of abortion seekers as well, as individuals described the various ways they attempted to circumvent, bypass, evade or avoid the law. As described earlier, some spoke of travelling to other countries where abortion access was legal. Others spoke of obtaining abortion medicines (again often facilitated by an intermediary working in the abortion space) in countries where abortion is illegal. These intermediaries could be unknown individuals, often found through the internet, or they could be “supportive friends,” some of whom had experienced an abortion themselves. In some cases, abortion access was facilitated by external groups (i.e., national or international activist non-profit organisations) providing support or telemedicine abortion services.⁵⁹ Several narrators from Poland described this scenario, whereby they described receiving contact information for service providers in the Czech Republic, Germany, Netherlands, and Norway.⁶⁰

Interestingly, although the legal context in Poland is restrictive in that there are limited access grounds, abortion seekers themselves are not criminalised, while intermediaries and others who assist can be criminalised.⁶¹ On its face, abortion seekers using intermediaries or finding other means to access abortion may appear to be attempting to exploit the fact that

⁵⁸ *ibid* 188

⁵⁹ Examples of such organizations include Women Help Women (<https://womenhelp.org>), the Abortion Dream Team (translated from Polish - <https://aborcyjnydreamteam.pl>) and Women on Web (<https://www.womenonweb.org/>).

⁶⁰ Cases 112, 512, 69, 41

⁶¹ Dz. U. 1997.88.553 ze zm (Pol.)

they themselves are protected in existing law, i.e., an identified opportunity to take advantage of a technicality. However, no single abortion seeker in Poland mentioned this nuance around criminalisation as a motivation to exploit or act *against the law* in their narrative.

Still, abortion seekers turned to intermediaries or other agents because they had become aware of potential opportunities to bypass the law. In fact, these intermediaries often acted as a source of medical and legal knowledge, demonstrating “the power of sisterhood.”⁶² Thirty-one per cent (n=196) of the narratives refer to abortion related care in its various forms facilitated in some way by interactions with various intermediaries. While many of these narratives emerged from those in restrictive contexts (i.e., Poland and Malta), individuals from less restrictive contexts were also represented. More than half of these (n=109) specifically spoke to the role of an advocacy group and/or non-governmental organisation. Abortion seekers described searching the internet to find groups such as Abortion Without Borders, Women on Web, Women Help Women, and Abortion Dream Team to name a few.⁶³

In this context, social media again played a crucial role in providing swift access to information. Women shared experiences of obtaining diverse support, such as contact details for organisations in different countries offering surgical care, access to medications, and financial aid to ease travel expenses or cover procedure costs. Notably, transnational abortion care is a distinctive aspect of the abortion-seeking experience that is particularly

⁶² Case 59

⁶³ Abortion Without Borders <<https://abortion.eu/>> accessed 22 May 2023; Women on Web <<https://www.womenonweb.org/>> accessed 22 May 2023; Women Help Women <<https://womenhelp.org/>> accessed 22 May 2023; Aborcyjny Dream Team, ‘Abortion Dream Team’ <<https://aborcyjnydreamteam.pl/>> accessed 20 November 2022

relevant here. The availability of transnational care not only facilitated but created the opportunity and the ability to resist the law for many. One abortion seeker from Poland who received care in Germany spoke of how quickly the entire procedure was organised, including “an overnight stay with one of the volunteers.”⁶⁴ Another narrator from Poland described being “really surprised how strangers from a foreign country help ... Polish women who have no right to decide anything”;⁶⁵ they saw this as an “opportunity for what is normal in other countries.”⁶⁶ In these examples, abortion seekers not only sought out services in less restrictive contexts, but they actively recognised the infringement on their ‘right to decide’ to have a ‘normal’ procedure. Thus, they found ways to challenge perceived injustices within the legal system.

One abortion seeker further described how she and her husband had travelled abroad for her first abortion, but in doing so “left all [their] savings in this procedure.” For the second abortion, they decided to have a home abortion. She then explained:

“As we live in a country where abortion is illegal it added to the stress/frustration of the situation... We thought of contacting the doctor from our first abortion based overseas, my husband would make a round trip and bring the pills home; we thought of asking my best friend arriving next week from France to bring the abortion pills along; and then we found a fantastic website which provides pills for women who can’t access them for various reasons — based in a country where it’s illegal is one of them.”⁶⁷

⁶⁴ Case 512

⁶⁵ Case 43

⁶⁶ Case 512

⁶⁷ Case 19

In this example, the abortion seeker avoided the local legal context by travelling for her first abortion. However, due to the economic injustice of needing to travel for that abortion, she then found another way to circumvent the process for her second abortion.

Narratives, in fact, outlined various other ways in which they resisted the law. Women described finding doctors who they believed understood their situations and their “reasoning”, and supported them through their personal circumstances. Abortion seekers referred to partners, parents or friends who assisted in various ways including by helping to “arrang[e] the abortion ... – the hotel, the flight, the appointment with the clinic.”⁶⁸ These intermediaries often travelled with the abortion seeker, and at times “sorted out a doctor’s appointment [for example] ... for a sedated surgical procedure”, including acting as a translator with foreign doctors.⁶⁹ Abortion seekers also relied on acquaintances or colleagues with whom they had previously spoken about abortion to facilitate access to abortion. For example, these intermediaries were described as “kn[owing] someone who had already done an abortion abroad ... [and] remembered from [] memory the gynaecologist” who had provided care.⁷⁰

The presence of transnational abortion care not only served the practical need for medical assistance but also played a crucial role in fostering a shared awareness of rights. More specifically, individuals engaging on social media with transnational services began to believe in their entitlement to better healthcare, contributing to the cultivation of a collective consciousness around rights awareness, and directly impacting legal consciousness. Narrators spoke of being angry or disappointed about abortion related

⁶⁸ Case 480

⁶⁹ Case 504

⁷⁰ Case 489

regulations and with the government in general in their local contexts. They wanted to be treated with respect in the legislative process. Some even felt betrayed that they were “made to leave [their] country, [their] family, and all [they] knew to get a rightful treatment.”⁷¹ One woman from Malta described how she felt like her “government ha[d] betrayed” her by “remain[ing] passive” and forcing her to be an “outsider to [her] society.”⁷² However, this same abortion seeker found a way to prevail in that she identified the organisation Doctors for Choice,⁷³ which enabled her to access information and support for her abortion.

This collective legal consciousness often supported notions of resistance, resulting in a sense of empowerment. As one abortion seeker stated, she “learned that [she] could deal with this situation by [herself]”.⁷⁴ Abortion seekers found that they could go through the process on their own and that they were stronger than they believed. For some, this meant challenging social norms or confronting the lies imposed by the State. They did not feel guilty, depressed, or experience “post-abortion syndrome”.⁷⁵ Rather, in finding solutions not otherwise available, they could as one narrator noted, “stop being a prisoner of [their] own body.”⁷⁶ Thus, in learning from others different ways to resist the law and in developing their legal consciousness, they seized opportunities to reclaim power. The abortion experience was a “redemption of bodily autonomy,”⁷⁷ such that individuals gained control over their bodies.

⁷¹ Case 497

⁷² Case 461

⁷³ Doctors for Choice Malta <<https://www.doctorsforchoice.mt/>> accessed 22 May 2023

⁷⁴ Case 565

⁷⁵ Cases 131, 235, 415 and 522

⁷⁶ Case 235

⁷⁷ Case 560

Justice claims were also linked to the right to health and access to quality medical care, factors that emerged as a motivator for resisting or avoiding the law. Quality care is care that is evidence-based and responsive to needs (effective), organised and delivered in such a way as to maximise resource use (efficient), delivered in a timely, affordable way that is geographically reachable (accessible), considers the values and preferences of individuals (acceptable/person-centred), delivered without discrimination (equitable), and minimises risk and harm (safe).⁷⁸ Abortion seekers specifically linked their decisions to a right to dignity, to have the procedure performed “humanely, not underground in Spartan conditions”⁷⁹ – conditions that the government created. They believed that being denied a “simple” medical procedure and being forced to have an abortion in secret or to have to “flee[] abroad or order[] tablets of unknown origin”⁸⁰ was unfair. They recognised “the immense damage of governments and their authorities in the various countries that prohibit abortion”⁸¹ by forcing women to seek out care in ways that resist the law. However, like those who are *against the law*, these opportunities to subvert the law also provided small moments of revenge⁸² for abortion seekers. As one abortion seeker expressly noted, the abortion experience was:

“a kind of triumph over all those soulless catechists who propagate anti-human nonsense in religion "lessons", politicians, and all other stupid or evil people, according to which I should do what I can to transform the multi-cellular nested in me into a fetus

⁷⁸ World Health Organization, ‘Abortion care guideline’ (2022)

⁷⁹ Case 77

⁸⁰ Case 443

⁸¹ Case 586

⁸² Ewick and Silbey Susan S. (n 1) 49

that I am to push out of myself, which, even without a brain, skin and body at all, has a greater right to humanity and self-determination than I do.”⁸³

The use of the word ‘triumph’ demonstrates the perception that an element of power has been seized. Several actors are referenced here, but politicians, who are often policymakers, are on the list. Moreover, this narrative reveals that part of the motivation is linked to a pursuit of justice, as evidenced by the reference to the foetus and its perceived ‘greater right to humanity.’ This and other abortion seekers saw the law as a way for politicians to test human rights, to, as one abortion seeker noted, “see just how far they can cross the limits to control”⁸⁴ individuals. Resisting this oppression means “threat[ening] ... [the politicians] creation and image of how society should be.”⁸⁵

In fact, abortion seekers described their experience in circumventing the law as an opportunity to live according to their own rules. Individuals spoke about having their own minds without the need for permission or the need to be protected by others. Despite being “forbidden from everything,”⁸⁶ abortion seekers recognised that it was up to them to decide and to have the right to choose. As one narrator noted, she wanted to avoid “rais[ing a] child in a country where increasingly fascist political parties are coming to power...where the government...deprives women of their basic rights.”⁸⁷ Many also tied this right to choose to the notion that they should not be forced to give birth, asserting for example, that a “child

⁸³ Case 34

⁸⁴ Case 217

⁸⁵ Case 217

⁸⁶ Case 71

⁸⁷ Case 167

should be a conscious choice.”⁸⁸ By taking the law into their hands, they exploited the ineffectiveness of the law to meet their needs and challenged its power.⁸⁹

In some cases, narrators made the explicit link to the discriminatory effects of abortion laws, a concept that will be further examined later in this Chapter. One for example noted the “right to choose, without pressure, without macho cultures” and more specifically, that she is a woman “and nothing can change that condition.”⁹⁰ By speaking of the ‘macho culture,’ this abortion seeker acknowledges the influence of gender norms in the abortion discourse (to be further explored in Chapter 5). However, her belief that nothing can change one’s status as a woman suggests that she is speaking of a burden that exists through no fault of one’s own, but nevertheless is disproportionately experienced by women. Several other narrators also acknowledged their “womb [as] a liability”⁹¹ or as a disadvantage, with no ability to control this gendered disadvantage.

Although born women, abortion seekers spoke of the fact that they were not baby-makers. They believed they should not be pawns “in a political debate”⁹² “or [need] to put [their] career/ambitions on hold.”⁹³ They identified inconsistencies in the regulation of reproduction, in that “ejaculation [was not] heavily regulated”, or semen “considered the equivalent of a human.”⁹⁴ One narrator even noted that:

⁸⁸ Case 70

⁸⁹ Ewick and Silbey Susan S. (n 1) 201

⁹⁰ Case 146

⁹¹ Case 560

⁹² Cases 337, 355, and 578

⁹³ Case 578

⁹⁴ Case 560

“Choice. It’s the most powerful concept known to man. Women need to exercise regularly from a very young age. We have a lot of catching up to do.”⁹⁵

The double standard highlighted by this abortion seeker, in that men have and regularly execute choice, but women must catch up, suggests the recognition that women are behind and disadvantaged as a result. Controlling legal access to abortion is “how men are keeping [women] from positions of power in society and keeping [them] from making changes that lift all women.”⁹⁶

The view that the law acts as a system of oppression is not unique to abortion seekers. As raised in the *Before the law* section, Sarat’s study⁹⁷ demonstrated that for individuals on welfare, “the law is all over” and “it is a web-like enclosure in which [individuals] are caught” that dictates how they will be able to meet their most basic needs.⁹⁸ Similarly, in a study conducted by Hart and Besselsen mentioned in Chapter 1, Dutch women in cross-cultural intimate relationships living in Egypt were surprised at the level of intrusion into their lives by the state and recognised a discriminatory gendered enforcement of immigration law.⁹⁹ The analysis of abortion seekers reinforces these findings in that the law reaching into the most intimate realms such as bodily autonomy, perpetuates a harmful cycle of discrimination.

Recognising that these gendered positions are informed by social and cultural norms, like those who are *against the law*, abortion seekers also demonstrated an understanding that

⁹⁵ Case 116

⁹⁶ Case 544

⁹⁷ Sarat (n 36)

⁹⁸ *ibid* 345

⁹⁹ Betty de Hart and Elles Besselsen, ‘Everything went according to the rules’. Female citizen sponsors’ legal consciousness, intimate citizenship and family migration law’ (2021) 28(1) *Identities* (Yverdon, Switzerland) 37

social action in the name of the law is often role based.¹⁰⁰ Unlike those who are *with the law*, who may distort the realities of their stories or engage in strategic deceit merely to achieve a desired outcome, here, abortion seekers invoked a role to which they laid a legitimate claim.¹⁰¹ Fifty-nine per cent (n=369) of the narratives included mention of some form of justification for their abortion seeking, recognising that some reasons are better accepted than others. Abortion seekers appealed to roles that they believed were more socially or morally acceptable and tied these to reasons for having an abortion that they believed were perceived to be more legitimate than others. They included descriptions of individuals who deserve sympathy due to a foetal anomaly or because they were raped. Narrators also spoke of married women “who had a bunch of kids already and just couldn’t afford any more”,¹⁰² or how “[c]arrying a child causes changes in a woman’s overall health, physical and even mental conditions.”¹⁰³ Some included statements of personal acceptance for legal abortion, but only to certain gestational limits, such as a “maximum of 12 weeks, unless there are serious reasons for an abortion at a later date.”¹⁰⁴ Similar sentiments have been demonstrated in the existing abortion literature, with commonly cited as legitimate reasons for abortions being rape and foetal anomalies,¹⁰⁵ life, or health threat to the

¹⁰⁰ Ewick and Silbey Susan S. (n 1) 205

¹⁰¹ *ibid*

¹⁰² Case 551

¹⁰³ Case 217

¹⁰⁴ Case 616

¹⁰⁵ Nader Aghakhani and others, ‘Women’s attitudes to safe-induced abortion in Iran: Findings from a pilot survey’ (2018) 74(1) J Adv Nurs 61; N. L Abeyasinghe and others, ‘Awareness and views of the law on termination of pregnancy and reasons for resorting to an abortion among a group of women attending a clinic in Colombo, Sri Lanka’ (2009) 16(3) Journal of forensic and legal medicine 134; Shireen J Jejeebhoy and others, ‘Increasing access to safe abortion in rural Maharashtra: Outcomes of a comprehensive abortion care model’ (New Delhi 2011)

<https://knowledgecommons.popcouncil.org/cgi/viewcontent.cgi?article=1061&context=departments_sbsr-rh>; Amnesty International Publications, ‘United Kingdom: Northern Ireland: Barriers to accessing abortion services’ (2015) <<https://www.amnesty.org/en/documents/eur45/1057/2015/en/>>; Ann M Gray, Goretti Horgan and Devine Paula, ‘Do social attitudes to abortion suggest political parties in Northern Ireland are out of step with their supporters?’ [2018] Ark Feature #7

woman.¹⁰⁶ Interference with educational goals, failed contraception, and access for key populations such as immigrants are less commonly viewed as a valid reason.¹⁰⁷

Existing studies suggest that abortion seekers distinguish their experiences from those of other abortion seekers,¹⁰⁸ including those whom they see as irresponsible.¹⁰⁹ Concerns about making abortion too much of a normal thing¹¹⁰ result in abortion seekers seeing the need for regulatory or legal barriers to ensure that women are not “getting pregnant every day” and recklessly using abortion services.¹¹¹ Similarly, fourteen per cent (n=85) of the narratives included some reference to the *type* of person who gets an abortion. For example, narratives “scornfully” referred to some women as those who “use abortion as a form of birth control”¹¹² or were just “careless”.¹¹³

However, narrators described having changed their perspective when they themselves realised that “abortion [wa]s the only option”,¹¹⁴ that they had no other choice. Narrators emphasised other circumstances that were beyond their control and described events of sexual assault, rape, or incest. These assertions were at times also tied to claims of being victimised by a partner’s actions. They described acts of reproductive coercion, where partners interfered with contraception use and/or tried to influence pregnancy

¹⁰⁶ Abeyasinghe and others (n 105); Jejeebhoy and others (n 105); Gray, Horgan and Devine Paula (n 105)

¹⁰⁷ Abeyasinghe and others (n 105); Aghakhani and others (n 105); Larissa I Remennick and others, ‘Family planning practices and attitudes among former Soviet new immigrant women in Israel’ (1995) 41(4) Social Science & Medicine 569

¹⁰⁸ Katherine Ehrenreich and Cicely Marston, ‘Spatial dimensions of telemedicine and abortion access: a qualitative study of women’s experiences’ (2019) 16(1) Reproductive health

¹⁰⁹ Shelly Makleff and others, ‘Experience obtaining legal abortion in Uruguay: knowledge, attitudes, and stigma among abortion clients’ (2019) 19(1) BMC Women’s Health 155

¹¹⁰ Ehrenreich and Marston (n 108), 7

¹¹¹ *ibid* 8

¹¹² Case 540

¹¹³ Case 482

¹¹⁴ Cases 13, 357, 480, and 490

outcomes.¹¹⁵ Birth control sabotage was described by individuals, whereby partners did not withdraw prior to ejaculation, when this was the agreed upon action; or where partners “broke” or “pierc[ed] condoms,” or “chang[ed out] pills” without the abortion seeker’s knowledge. Narratives also included reference to being deceived by their partner’s fertility status, in that abortion seekers were told by their partners that they were infertile or sterilised.

Individuals also spoke of sexual coercion where partners pressured or coerced them to have sex.¹¹⁶ Narrators spoke of large age gaps between them and their partners, highlighting positions of vulnerability. They spoke of being young and naïve, and highlighted lack of access to sexual education or information. They spoke of how schools and families failed them and did not teach them to protect themselves properly. Some were so uneducated, they claimed, that even with the “pregnancy signs” and “period[s] being late for more than two weeks,”¹¹⁷ they thought all was fine. They emphasized that “[a]dolescents should not face life-long consequences for their actions”¹¹⁸ and that accidents happen.

To further justify abortion seeking, individuals identified a lack of comprehensive sexuality education (CSE) as a contributing factor. Without formal education about “when” or “how” one gets pregnant, or how it is possible if a partner never “finish[es] inside”, individuals spoke of being baffled to learn they were pregnant. They saw inadequate access to education as a complete failure on the part of the system, specifically by the “school” and the “family.” They wished they had been better prepared about their bodies in general and

¹¹⁵ American College of Obstetricians and Gynecologists, ‘Reproductive and sexual coercion.: Committee Opinion’ (February 2013) <<https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2013/02/reproductive-and-sexual-coercion>> accessed 22 May 2023

¹¹⁶ *ibid*

¹¹⁷ Case 588

¹¹⁸ Case 283

to face such challenges with potential partners. Unfortunately, despite evidence that suggests that school-based CSE can have positive impacts on children's lives, in particular when started early and reinforced with age,¹¹⁹ in many settings there is opposition to the provision of CSE due to underlying stigmas associated with sexuality, as well as social norms tied to views about gendered roles.¹²⁰ Narrators spoke about being discouraged and "made to feel shameful" when it came to discussions around sexuality because "[s]ex is not something you do on the street corner like dogs."¹²¹ Women described being raised in religious households or attending parochial schools and experiencing "religious guilt ... with any form of sexual discussion or interaction."¹²² A poignant example is a narrator's experience in a religious school, where she was:

"shown a horrific pro-life propaganda movie about abortions. The young female teacher cried and apologised and said she'd lose her job if she didn't show us it. One girl threw up."¹²³

This narrative underscores the absence of access to scientifically accurate, evidence-based, age-appropriate, and comprehensive sexuality education, as required by international human rights law.¹²⁴ She described this exposure as the beginning of her lived experience with abortion in a context where abortion is illegal. Individuals also spoke of being misinformed about their own fertility – about doctors telling them they could not get

¹¹⁹ Eva S Goldfarb and Lisa D Lieberman, 'Three Decades of Research: The Case for Comprehensive Sex Education' (2021) 68(1) *Journal of Adolescent Health* 13

¹²⁰ United Nations Educational, Scientific and Cultural Organization, 'The journey towards comprehensive sexuality education: global status report' (2021) Summary page <<https://www.who.int/publications/m/item/9789231004810>> accessed 7 June 2023

¹²¹ Case 67

¹²² Case 615

¹²³ Case 452

¹²⁴ See further UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 22: The Right to Sexual and Reproductive Health (Art. 12 of the Covenant on Economic, Social and Cultural Rights)' (01 May 2016) UN Doc E/C/12/GC/22

pregnant “due to some inborn characteristics of [the] body.”¹²⁵ As a result, despite the fact that States must ensure that individuals have access to up-to-date and accurate information,¹²⁶ for these women, this lack of education created a profound impact on legal consciousness.

In the preceding sections, I have described the ways in which abortion seekers are similar to those described by Ewick and Silbey, including the ways in which individuals may demonstrate concurrent perceptions of various forms of legality. As a reminder, some individuals acting *before the law* saw the law as a distinct entity, as something separate from everyday life, which often required travel to enter the physical space of law. Although abortion seekers did not glorify the law, they still recognised its grandeur. They highlighted elements of impartiality, in that all are subject to the same rules, maintaining the law’s authoritative position. At the same time, abortion seekers shared the perspectives of those who are *with the law*, in that some described the ways in which they could bend the rules of the game of law to meet their objectives. They spoke of how they engaged in transactions with various actors to circumvent the law, highlighting the ways in which the law operates simultaneously with everyday life. Finally, many were aligned with an *against the law* perspective, whereby they recognised the authority of the law to define and violate aspects of their lives. They saw the law as subjective and arbitrary, such that resistance is needed.

¹²⁵ Case 34

¹²⁶ See further UN Committee on the Elimination of Discrimination Against Women (CEDAW), ‘General recommendation on article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (Economic consequences of marriage, family relations and their dissolution)’ (30 October 2013) UN Doc CEDAW/C/GC/29; UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series, vol. 1249, p. 13, 18 December 1979 <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=_en> accessed 22 November 2023

Although in a position of less power, they identified opportunities to subvert the law in the name of justice.

There are, however, some contextual factors that have been highlighted above that are specific to abortion seekers that enable alignment with an *against the law* perspective. Like those who are *against the law*, abortion seekers recognise the pervasive authority of law¹²⁷ in their lives. However, the geopolitical nature of abortion care is a significant enabling factor towards the ability to resist that authority. The globalisation¹²⁸ of sexual and reproductive health and rights, and of abortion in particular, has been underway for some time.¹²⁹ Various kinds of non-profit organisations working in the space of reproductive health, including those that focus on legal and/or medical advocacy, often function at national, regional, and global levels.¹³⁰ Professional medical organisations such as the International Federation of Gynecology and Obstetrics¹³¹ and Global Doctors for Choice¹³² also often support activities at multiple levels. The existence of these intermediaries and the ways in which information, knowledge and tactics are shared across social networks (concepts that will be further expanded on in Chapters 4 and 5), creates opportunities for abortion seekers to resist the law by facilitating access to transnational healthcare. More

¹²⁷ Ewick and Silbey Susan S. (n 1) 183

¹²⁸ Brian Z Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (2008) 30(3) Sydney Law Review 375 <<https://heinonline.org/HOL/P?h=hein.journals/sydney30&i=373>> Tamanaha defines globalisation to include characteristics that reflect an increasingly interconnected world.

¹²⁹ For an in-depth analysis See for example, Rebecca J Cook, Joanna N Erdman and Bernard M Dickens, *Abortion law in transnational perspective : cases and controversies/ edited by Rebecca J. Cook, Joanna N. Erdman, and Bernard M. Dickens* (Philadelphia, Pennsylvania : University of Pennsylvania Press, 2014 2014)

¹³⁰ Home Page - Ipas <<https://www.ipas.org>> accessed 22 May 2023; Making choice possible | MSI Reproductive Choices <<https://www.msichoice.org>> accessed 22 May 2023; Home - DKT International <<https://www.dktinternational.org>> accessed 22 May 2023; The Alliance Defending Freedom International <<https://adflegal.org/international>> accessed 22 May 2023; Population Research Institute <<https://www.pop.org/>> accessed 22 May 2023; Human Life International <<https://www.hli.org/>> accessed 22 May 2023 This list is not exhaustive.

¹³¹ Homepage | Figo <<https://www.figo.org>> accessed 22 May 2023

¹³² Global Doctors for Choice <<https://globaldoctorsforchoice.org>> accessed 22 May 2023

specifically, it is by learning through others, including related to the law, that individuals are better able to recognise a sense of power within themselves to subvert the law or to challenge perceived injustices within the legal system. Thus, while history suggests that women have always found ways to have an abortion,¹³³ the evolving legal consciousness of abortion seekers related to transnational abortion care has further supported these opportunities to resist the law. These opportunities, however, may be constrained due to societal norms, interactions with others or obstacles in accessing reproductive health care more generally.

In addition to conveying personal experiences, the narratives thus far demonstrate the broader societal influences shaping individuals' perspectives on reproductive health and the law. These examples also disrupt the assumption that mere legal knowledge is sufficient to assert one's rights. Specific nuances relevant to abortion seekers, such as the gendered dynamics often reinforced by other policy frameworks and shaped by societal norms, alongside interactions with partners or challenges in accessing reproductive health, emerge as critical considerations. More specifically, the narratives reveal shortcomings in the current legal consciousness framework, inadequately encompassing the experiences of abortion seekers.

Uncovering the limitations of describing abortion seekers as being before, with and against the law

While abortion seekers, whose narratives were analysed in this thesis, were keenly aware that the law was not always impartial in its application and recognised injustices associated with abortion regulation, they also noted the inequitable access rooted in other biases.

¹³³ G. Hovey, 'Abortion: a history' (1985) 5(2) Planned parenthood review 18

This led to scenarios whereby abortion seekers found the rules of the legal game to have lost their significance, and the law itself was seen as being inoperable or, as one narrator demonstrated, suspended.

“It is okay for Senator’s wives, daughters, and mistresses to have abortions. It is okay for rich white women to abort whenever they see fit and not have society look down on them, statistically, the highest late term abortion participant and demographic. But not for those like myself because of a situation many claim I should’ve predicted, or those of similar financial situations, or those of different colors or religions as you.”¹³⁴

Here, the use of the term ‘it is okay’ reflects a legal perspective, meaning a position about who can or does legally access abortion. It further reflects the conditions, or social positions, by which one might be entitled to such access. Abortion seekers within this thesis thus, saw economics as an opportunity for the law to further discriminate between those who can and cannot access a legal abortion. Many understood that abortion had a class dimension, as it is always available to “[w]ealthy women and upper-middle class women”.¹³⁵ Individuals spoke about what they needed to do just to “scrape” money together. One abortion seeker, for example, described having to “sleep with [the man involved with the pregnancy] as many times as he wanted until the abortion appointment came”¹³⁶ to pay for the procedure. In such instances, these actions stemmed from necessity rather than a deliberate, premeditated endeavour to assert individual rights.

¹³⁴ Case 74

¹³⁵ Case 551

¹³⁶ Case 273

These experiences reinforce a sense of powerlessness within personal relationships, a dynamic that can at times be perpetuated by the law. Those seeking abortion mentioned situations where they were influenced by a parent or a partner, which made them feel devoid of authority in the choices tied to abortion. For example, adolescents spoke of parents forcing them to abort, either by physically taking them to a clinic or by threatening to remove financial support. Others spoke about parents refusing to consent to their accessing abortion and the need to travel to other jurisdictions secretly or engage in attempts of self-abortion. In both cases, adolescents were at the mercy of their parents. Women reported experiences whereby partners threatened to leave them, dump them, or kick them out of the house if they did not do what the partner wanted (either to abort or not).

Existing literature, as highlighted in Chapter 1, also demonstrates these power dynamics, as well as a link to identity. For example in one study in Nepal, abortion seekers stated that the decision as to whether to terminate was not just influenced but was made by their husbands.¹³⁷ In such settings, partners also often played a significant role in identifying service providers, paying the costs associated with care, and providing post-abortion care.

¹³⁸ Similar sentiments were expressed by abortion seekers in India.¹³⁹ Abortion seekers who terminated their pregnancies without their partners' consent faced consequences including

¹³⁷ Mahesh Puri and others, "I need to terminate this pregnancy even if it will take my life": a qualitative study of the effect of being denied legal abortion on women's lives in Nepal' (2015) 15(1) BMC Womens Health 85

¹³⁸ Mahesh Puri, Roger Ingham and Zoe Matthews, 'Factors Affecting Abortion Decisions among Young Couples in Nepal' (2007) 40(6) Journal of Adolescent Health 535

¹³⁹ Sushanta K Banerjee and others, 'Woman-centered research on access to safe abortion services and implications for behavioral change communication interventions: a cross-sectional study of women in Bihar and Jharkhand, India' (2012) 12 BMC Public Health 175

loss of physical and emotional support,¹⁴⁰ sometimes linked to visa status.¹⁴¹ Other studies suggest the prevalence of abuse during abortion care seeking,¹⁴² echoing the experiences shared by many narrators.

In the narratives, many individuals specifically linked these situations to the law in that they saw the law as perpetuating such power imbalances. Adolescent abortion seekers understood that the law stipulated additional authorisation requirements, mainly the need for parental consent. They spoke about being forced to “prove” that they are “mature” enough or that they are negatively impacted by the pregnancy. Interestingly, these adolescents further noted that that such processes were exceptionally applied to abortion and paradoxically are not mandated to continue a pregnancy for example. Third party authorisations exist “without regard to whether the person who seeks to end a pregnancy has capacity to consent to medical treatment.”¹⁴³ This is despite the fact that the risks associated with childbirth are 14 times higher than that of abortion.¹⁴⁴ In such cases, adolescents resented the government for parental consent laws for “creating a society which conditioned [them] into fearing [their] own parents” and “instilling a fear within [them].”¹⁴⁵ Abortion seekers in abusive relationships further described being made to feel like it was their fault for not protecting themselves better or exposing themselves to

¹⁴⁰ Jessica D Gipson, Alanna E Hirz and Josephine L Avila, ‘Perceptions and Practices of Illegal Abortion among Urban Young Adults in the Philippines: A Qualitative Study’ (2011) 42(4) *Stud Fam Plann* 261

¹⁴¹ Elyse O Singer, ‘Abortion exile: navigating Mexico’s fractured abortion landscape’ (2020) 22(8) *Culture, health & sexuality* 855

¹⁴² Abigail R A Aiken and others, ‘Barriers to accessing abortion services and perspectives on using mifepristone and misoprostol at home in Great Britain’ (2018) 97(2) *Contraception* 177

¹⁴³ World Health Organization (n 78) 42

¹⁴⁴ Elizabeth G Raymond and David A Grimes, ‘The Comparative Safety of Legal Induced Abortion and Childbirth in the United States’ (2012) 119(2 Part 1) *Obstetrics & Gynecology* <https://journals.lww.com/greenjournal/Fulltext/2012/02000/The_Comparative_Safety_of_Legal_Induced_Abortion.3.aspx>

¹⁴⁵ Case 505

potentially vulnerable situations. As a result, they felt as if they could not rely on legal protection, felt powerless, and felt as if their only recourse was to act *outside the law*.

Political and other actors who apply the law were specifically noted in the narratives to be “adding insult to injury by making it even more difficult for ALL citizens to access safe health care.”¹⁴⁶ Abortion seekers understood that there are disproportionate impacts, in particular for certain groups (e.g. adolescents, Latina or Black women); one even highlighted that Black women are “more likely to die in childbirth, yet ... lack access to abortion services.”¹⁴⁷ They wanted a “health care system that valued black women’s bodies”¹⁴⁸, but also one that ensured that the experience of trans and gender nonconforming folks was not erased as “men have abortions too”¹⁴⁹.

Narrators questioned why governments refused to recognise that abortion is in fact healthcare and lift bans. Abortion seekers spoke of the fact that they had to fall into debt “for one of the safest medical procedures in existence” because as highlighted by one narrator “the Republicans in [her] state said so.”¹⁵⁰ They found it “immoral, to not pay women fair wages and then shame them when they have an abortion because of knowing they can barely support” themselves or “the child(ren) they already have.”¹⁵¹ Existing literature also suggests that abortion seekers oppose restrictions, especially those linked to funding, as they feel lawmakers do not appreciate how individuals “g[e]t into [their current] situation, or how it’s affecting [them].”¹⁵² Data suggest that “people don’t always have

¹⁴⁶ Case 424

¹⁴⁷ Case 281

¹⁴⁸ Case 162

¹⁴⁹ Case 115

¹⁵⁰ Case 141

¹⁵¹ Case 549

¹⁵² Kelly Blanchard and others, ‘Mixed-methods investigation of women’s experiences with second-trimester abortion care in the Midwest and Northeast United States’ (2017) 96(6) *Contraception* 401

those kinds of funds available for something that they need done.”¹⁵³ The sentiment is that “[t]here’s not really much help from the government. But at the same time, they won’t help you get an abortion, as well, so they’re pretty much forcing you into a low-income situation.”¹⁵⁴ With limited state funding towards supporting low-income families, existing laws seem to be perpetuating low-income status.

Narrators further recognised the compounding effects of competing injustices, such that “[w]omen of color, women living in poverty or homelessness, women without health insurance, women who are underemployed, women dealing with intimate partner violence” all may not “have the privilege to make choices about their bodies in the first place.”¹⁵⁵ They also expressed irony in the ways in which women, in particular women among specific socioeconomic classes, were viewed as incapable of taking “authorship over their own bodies”¹⁵⁶ related to abortion but capable of serving those in power in other ways. For example, one narrator noted:

“Black women are visible in society as caretakers for white children, yet ... vilified as unfit mothers....This facade is ingrained in our society, and it negatively influences how women of color see themselves, their worth, and their abilities.”¹⁵⁷

¹⁵³ *ibid*

¹⁵⁴ Amanda Dennis, Bridgit Burns and Ella F Douglas-Durham, ‘Experiences with health care and public assistance in states with highly restrictive abortion policies.: State brief: Arizona’ (2014) <<https://ibisreproductivehealth.org/publications/experiences-health-care-and-public-assistance-states-highly-restrictive-abortion-1>>

¹⁵⁵ Case 424

¹⁵⁶ Case 281

¹⁵⁷ Case 281

The recognition that many are in a disadvantaged position from the outset signifies an appreciation that the law does not apply evenly to all and that there are greater systemic biases at play.

Although these sentiments seem to reflect an *against the law* perspective, in that the law is viewed as arbitrary or capricious, the difference here is that these narrators did not always describe these sentiments as a motivator to resist. Instead, several narrators spoke of breaking the law merely because they felt had no other choice. For several individuals, having an abortion was a necessary decision because there was no other option. Faced with no “tangibly” ... safe, legal, and commonly functioning solution to the problem at [their] fingertips,”¹⁵⁸ many sought out illegal and sometimes unsafe options, including through self-management with medicines at home. In these cases, abortion seekers saw abortion not as a legal or illegal remedy, but merely as something they needed to do to save their lives and keep them from being “just another suicide statistic.”¹⁵⁹ The fact that abortion was illegal was irrelevant to many in terms of their decision to abort. The illegality did for many impact their sense of identity, a concept that will be further explored in Chapter 4. However, in these cases, abortion seekers were like “soldier[s] in war... in a fight for [their] own li[v]e[s].”¹⁶⁰

Thus, abortion seekers did not see their actions as a response to an identified crevice in the law’s power, whereby some of that power can be reclaimed. Instead, they were forced to “live in the darkness,” ¹⁶¹ *outside of the law*. Here again, transnational abortion care becomes relevant as a contextual factor impacting the way in which women experience and

¹⁵⁸ Case 168

¹⁵⁹ Case 492

¹⁶⁰ Case 543

¹⁶¹ Case 151

live the law (i.e., abortion regulation). Specifically, fourteen per cent (n=85) of the narratives included reference to ordering medicines online. Many included some reference to the local legal context. For example, one narrator spoke of having a “choice either to order pills online or to go to Iceland where abortion is legal.”¹⁶² Another spoke of having “no way of doing an abortion “legally”; thus, she ordered tablets on the internet and “after two days [she] got a discreetly packed package.”¹⁶³ These were decisions taken out of necessity.

Several narratives more specifically referenced the movement of abortion pills across national borders and the associated challenges. They spoke about receiving “a package from Czech Republic”¹⁶⁴ within two weeks of ordering online, or about getting pills from a “Polish doctor from Germany.”¹⁶⁵ Some raised difficulties they experienced with customs regulations as they described pills being “blocked at the border” and the need to “change the address to pass a different border crossing.”¹⁶⁶ Individuals also described being “cheated for a lot of money”.¹⁶⁷

Thus, the need to turn to the internet to order medicines online meant that women were forced to engage with another national framework that exists in most countries related to customs and cross-border regulatory authorities. For example, where the movement of medicines across national borders is involved, pharmaceutical regulation may more specifically be implicated, and prohibitions or restrictions on such imports may be imposed.¹⁶⁸ Beyond registration or licensing issues, drug regulators also impose their

¹⁶² Case 132

¹⁶³ Case 338

¹⁶⁴ Case 436

¹⁶⁵ Case 369

¹⁶⁶ Case 68

¹⁶⁷ Case 214

¹⁶⁸ European Commission and Directorate-General for Taxation and Customs Union, *Integrated EU prohibitions & restrictions list: indicative calendar and list as of 1.1.2022 legal notice* (Publications Office of the European Union 2022)

policies, through such things as prescription and distribution controls.¹⁶⁹ This is particularly the case where national authorities invoke claims related to the protection of health, public security and public morality among others.¹⁷⁰ The literature suggests that such claims are applied to abortion medicines. For example, in Northern Ireland, abortion seekers using telemedicine services expressed concerns linked to customs laws, with packages being seized as they entered the country. In some cases, customs agents justified such seizures based on pharmaceutical regulations claiming that misoprostol, an abortifacient, is a Class A drug – “It’s in the same class as heroin”.¹⁷¹

Abortion seekers in this thesis described the feeling of constant “stress and uncertainty” related to the fear of interception of these abortion medicines - fears which were not unfounded. For example, one narrator described being “summoned to be heard as a witness” by local authorities several years after the purchase of online medications.¹⁷²

Another described how the “customs office liked to hold the parcels” and report individuals to the police.¹⁷³ These fears were exacerbated for those abortion seekers who were impacted by Covid-19 in that shipments took longer than normal due to the epidemiological situation. Individuals spoke about borders being closed. Individuals often had to wait weeks for the arrival of the medication. In some cases, this meant that women exceeded the gestational limit for the prescribed medicines, as well as current recommendations for self-management up until 12 weeks,¹⁷⁴ increasing their risk of incomplete abortion or

¹⁶⁹ Mariana P Assis and Joanna N Erdman, ‘Abortion rights beyond the medico-legal paradigm’ (2022) 17(10) *Global public health* 2235

¹⁷⁰ European Commission and Directorate-General for Taxation and Customs Union (n 168)

¹⁷¹ Aiken ARA, Padron E, Broussard K, Johnson D. ‘The impact of Northern Ireland’s abortion laws on women’s abortion decision-making and experiences.’ (2018) 0(1) *BMJ Sex Reprod Heal* 1

¹⁷² Case 598

¹⁷³ Case 214

¹⁷⁴ World Health Organization (n 78)

haemorrhage. Women noted the need to use various addresses to “pass a different border crossing” or to “redirect [the medicines to] the other side of the country”.¹⁷⁵ In some cases, abortion seekers had to reorder the medicines multiple times as they seemed to have been confiscated. Such scenarios highlight the uncertainties related to transnational reproductive healthcare due to the existence of overlapping legal rules, while at the same time keeping abortion seekers invisible¹⁷⁶ as they are forced *outside the law*.

Despite heavy regulation by customs authorities in many contexts, several narrators noted few protections against fraudster sites. Individuals highlighted the need for additional measures to ensure that women had access to quality medicines for medical abortion. “[O]rdering from [a] dubious website”¹⁷⁷ or “shady internet pharmacy”¹⁷⁸ often meant that women received counterfeit medications, or sometimes nothing at all. Many received pills as an “unregistered shipment (cannot be tracked) ... for security reasons)” or “not in blisters”,¹⁷⁹ which can impact the stability of the medicines.¹⁸⁰ In addition to receiving loose pills, abortion seekers also received “different dosages than those described in the instructions mail” at times.¹⁸¹

Since abortion seekers are forced to “find a way to do what [they have] to do—whether or not it’s healthy or safe”,¹⁸² it also means that various third parties are able to exploit that space to facilitate or control aspects of care. Transnational commercial transactions may be

¹⁷⁵ Case 301

¹⁷⁶ Krajewska (n 30), 217

¹⁷⁷ Case 302

¹⁷⁸ Case 610

¹⁷⁹ Case 443

¹⁸⁰ Jason Bower and others, ‘Quality testing of mifepristone and misoprostol in 11 countries’ [2023] International journal of gynaecology and obstetrics: the official organ of the International Federation of Gynaecology and Obstetrics

¹⁸¹ Case 238

¹⁸² Case 551

governed more by contract and commercial law principles than by health law paradigms.¹⁸³

This creates a situation where private actors can take advantage of prevailing social and gender norms that discourage individuals from seeking quality care. Abortion seekers described how those applying the law (i.e., healthcare providers) misused their positions as gatekeepers to actively keep them *outside the law*, including when engaging in transnational transactions. As a result, individuals in vulnerable situations were exploited, further restricting their access to safe and comprehensive abortion services. More specifically, abortion seekers were subjected to humiliation and pain as they tried to access abortion in any way possible. Some reported receiving their abortions in underground or makeshift clinics or being taken to unknown disclosures blindfolded, describing their experience “like something out of a horror movie.”¹⁸⁴ They were forced to undergo procedures in abandoned buildings by individuals they were unsure were healthcare providers. Socks were stuffed in their mouths so as not to cry out in pain. They were given medicines that made them try to “scratch [their] face off”¹⁸⁵ or left them with no memory of the procedure but lasted so long that they woke up hours later drenched in blood in a foreign place. Abortion seekers described these interactions as obstacle courses or like “covert criminal mission[s]—from the first meeting ... in a rundown strip-mall to get the name of a “doctor,” to driving to an underpass [] to borrow \$300”¹⁸⁶ to get care from someone in the end who may not even be a doctor.

In this way, abortion seekers are like the ‘street women,’ in the study conducted by Levine and Mellema raised in Chapter 1. The narratives within this thesis reinforce the findings

¹⁸³ Krajewska (n 30)

¹⁸⁴ Case 551

¹⁸⁵ Case 568

¹⁸⁶ Case 552

from that study, as they too demonstrate the “extralegal (or quasi-legal) measures” that are often needed to ensure survival.”¹⁸⁷ Moreover, exploitation by those who do not necessarily operate from an elevated position within the legal system, fuels a “subculture of violence, fraud, and competition.”¹⁸⁸ For these abortion seekers, the “worst crime ... [was] the illegality of abortion.”¹⁸⁹ In these cases, the law was seen as remote but was also inaccessible to them. Thus, where intermediaries and other gatekeepers can operate in regulatory voids, there are real impacts on access to quality care and human rights.

Moreover, where such care is offered across national borders, these invisible abortion seekers have no recourse.¹⁹⁰ Some countries have even historically tried to restrict travel for abortion, despite no domestic access.¹⁹¹ In the absence of transnational reproductive health law protections, individuals seeking reproductive care are not only compelled to operate *outside the law*, but they also find themselves caught between the realms of legality and illegality, directly impacting their legal consciousness. Existing literature further demonstrates that where abortion seekers are unable to pay, they are turned away.¹⁹² Some of these women turn to the informal sector (abortion services provided outside the formal health system) where fees can be quite varied.¹⁹³ Providers and/or facilities often create informal rules tied to revenue generation. This can come in the form of under-the-

¹⁸⁷ Kay Levine and Virginia Mellema, ‘Strategizing the Street: How Law Matters in the Lives of Women in the Street-Level Drug Economy’ (2001) 26(1) *Law & Social Inquiry* 169, 180

¹⁸⁸ *ibid* 196

¹⁸⁹ Case 585

¹⁹⁰ Krajewska (n 30)

¹⁹¹ Ruth Fletcher, ‘Peripheral Governance: Administering Transnational Health-care Flows’ (2013) 9 *International Journal of Law in Context* 161

¹⁹² Chimaraoke O Izugbara, Carolyne Egesa and Rispah Okelo, ‘“High profile health facilities can add to your trouble”: Women, stigma and un/safe abortion in Kenya’ (2015) 141 *Social science & medicine* (1982) 9

¹⁹³ Ernestina Coast and Susan F Murray, ‘“These things are dangerous”: Understanding induced abortion trajectories in urban Zambia’ (2016) 153 *Social science & medicine* (1982) 201; Jane Harries and others, ‘An exploratory study of what happens to women who are denied abortions in Cape Town, South Africa’ (2015) 12(1) *Reprod Health* 21; Izugbara, Egesa and Okelo (n 192); Puri, Ingham and Matthews (n 138)

counter payments separate from hospital registration fees.¹⁹⁴ These fees are often negotiable, with amounts fluctuating based on the economic need on the part of the provider (i.e. based on revenue generated for that day) and whether an individual appears to be financially well off.¹⁹⁵ Providers exploit knowledge about marital status with threats of reporting the abortion to spouses when faced with a married woman¹⁹⁶ or even to the police¹⁹⁷ if individuals do not pay higher fees. Data suggest that such fees are charged by individuals claiming to be providers, however, the type of health professional is often unknown to the abortion seeker.¹⁹⁸ Moreover, there are differing costs for abortion pills depending on whether the pills are delivered, or whether an individual attends a specified location for a service.¹⁹⁹ In any case, abortion seekers are subjected to corruption and abuse at the hands of healthcare providers.

The narratives in this analysis also included descriptions of being turned away by several providers, while being “manipulat[ed] ... patronised and infantilised.”²⁰⁰ Abortion seekers described experiences where doctors treated them as if they were incapable of making decisions for themselves or tried to counsel them away from abortion. They spoke of the influence of personal beliefs on doctors’ decisions to provide abortion services, including for the provision of information, despite the legality of abortion. Some were literally kicked out of clinics, while others were chastised for not using contraception. For abortion seekers, this did not make sense because many saw abortion as healthcare and they did not have these

¹⁹⁴ Coast and Murray (n 193)

¹⁹⁵ Heather M Marlow and others, ‘Women’s perceptions about abortion in their communities: perspectives from western Kenya’ (2014) 22(43) *Reproductive Health Matters* 149

¹⁹⁶ *ibid*

¹⁹⁷ Izugbara, Egesa and Okelo (n 192)

¹⁹⁸ Coast and Murray (n 193)

¹⁹⁹ Harries and others (n 193)

²⁰⁰ Case 135

kinds of interactions for other healthcare services. They noted that abortion has been “sensationalized by religion and politics”²⁰¹ (a concept that will be further discussed later in this Chapter), but they expressed desires that “laws ... be made to make it legal... to be a health care option... not be something for political debate.”²⁰² Then, they believed, society would be less judgmental. In this way, they saw the potential for the law to act as a tool to have a positive impact, but these were descriptions of ideal scenarios, not of how they actually saw the law operating.

Instead, the law was viewed as a mechanism of control by narrators. From their perspective, the law allowed the government to retain power in decision-making over decisions that should be between a woman and her doctor. Laws reinforced the lack of trust in women in that they stripped people of their bodily autonomy and were “steeped in a history of misogyny and patriarchy reliant on the systemic control of the female form.”²⁰³ For example, as one narrator put it in describing women who accessed illegal abortions:

“The word rape back then for married women [was not used because] back then, their husbands owned their bodies. So, even if these women didn’t want sex or didn’t want to have unprotected sex, it didn’t matter.”²⁰⁴

Although this narrator uses the term ‘back then’ to suggest a point in history when cultural or social norms may have been different, the literature suggests that such norms persist. For example, data from 2018 suggests that one in seven women experienced violence, including

²⁰¹ Case 560

²⁰² Case 337

²⁰³ Case 560

²⁰⁴ Case 551

sexual, from an intimate partner or husband within the past year.²⁰⁵ Moreover, in several countries, marital rape is not criminalised,²⁰⁶ as it is often seen as an exception to sexual assault. This is due to several factors including related to the concept of consent, whereby in some cultures for example, consent is provided by the family members arranging the marriage.²⁰⁷ Virginity is often seen to be “gained or surrendered during the marriage”, which further perpetuates the idea that a woman’s sexuality is owned by her spouse.²⁰⁸ In some contexts as well, procreation is seen as the purpose of marriage, reinforcing expectations around sexual intercourse.²⁰⁹ Thus, unlike those who are *against the law*, who act on the understanding that social action in the name of the law is often role-based, these presuppositions, as well as the related power imbalances, are viewed as directly linked to and supported by the law as an imposition of power.

Cultural and social norms also remain relevant particularly for specific individuals who experience heightened feelings of powerlessness because of these norms. Women spoke of being “urged [by family members and health care providers] to get pregnant because only then will [they] be happy and build a complete relationship.”²¹⁰ They spoke about being prepped to become a “baby-maker” from an early age, whereby a “woman’s value is determined by her ability to procreate.”²¹¹ They saw “culture, traditions, [and] lack of tolerance” related to personal circumstances [to mean] that it was their “goddamn duty to

²⁰⁵ UN Women, ‘Facts and figures: Ending violence against women’ (February 2022) <<https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>> accessed 26 June 2023

²⁰⁶ Debanjan Banerjee and T. S S Rao, ‘The Dark Shadow of Marital Rape: Need to Change the Narrative’ (2022) 4(1) Journal of Psychosexual Health 11

²⁰⁷ *ibid* 11

²⁰⁸ *ibid*

²⁰⁹ *ibid*

²¹⁰ Case 203

²¹¹ Case 584

stay with [their] partner”.²¹² Where their abortion status was known, women recognized that having an “abortion is kind of like wearing a scarlet letter”.²¹³ They also noted the associated stereotype with abortion and of being a “whore”²¹⁴, such that partners “can’t love [them] after” what they have done.²¹⁵

These gender norms were also apparent in personal interactions with providers as well. Women spoke of being congratulated automatically on learning about their pregnancy status or being told that their age was a “good age for a woman to give birth.”²¹⁶ Narrators described how providers insisted that they continue the pregnancy as providers believed they would change their minds once they became mothers. Abortion seekers further saw the law as specifically reinforcing these gender norms linked to the notion that the sole purpose in life for women is to reproduce – to be an “incubator to society.”²¹⁷ They emphasized the requirement stipulated by the law to “express fear and emotional distress in a stereotypically ‘feminine’ way – weeping and hysteria”²¹⁸. As one abortion seeker noted, despite:

“listing off ... reasons, trying to seem as mature, rational and ... as grown-up and calm, as possible, ... and see that [abortion] was a practical necessity, [all the provider] needed legally – was for [her] to break down emotionally. Not ... to present a good reasoned argument, about the practical details of [her] situation, but for [her] to cry.”²¹⁹

²¹² Case 154

²¹³ Case 560

²¹⁴ Case 581

²¹⁵ Case 198

²¹⁶ Case 168

²¹⁷ Case 498

²¹⁸ Case 135

²¹⁹ Case 135

In such cases abortion seekers are reminded that legality is a product of arbitrary power, which must be yielded to with such displays of powerlessness. While these actions could be tied to an *against the law* perspective, the analysis within this thesis demonstrates that for many, such requirements did not fuel attempts to resist. Abortion seekers did not seek to subvert or avoid the law based on justice claims when faced with others attempting to assess their moral worth.²²⁰ Instead they looked for any possible means to meet their immediate needs at that time.

Abortion seekers specifically linked these cultural and social expectations and gender norms to stigma around abortion, which they identified as “the main cause of illegality.”²²¹ Laws, from their perspective, were “devised to shame and traumatize women seeking abortions”.²²² Moreover, legal grounds reflect the justifiable reasons for obtaining an abortion²²³ and perpetuate cultural stereotypes of women who obtain abortions. These stereotypes are influenced by notions regarding which types of pregnancy loss are deemed more acceptable. As one woman noted:

“miscarriage is the more palatable kind of pregnancy loss that might generate sympathy and condolences. However, termination for medical reasons (TFMR) usually carries stigma and shame that run so deep, you have to either whisper it or justify your choice.”²²⁴

²²⁰ Elizabeth Chiarello, ‘Law, Morality, and Health Care Professionals: A Multilevel Framework’ (2019) 15(1) *Annu Rev Law Soc Sci* 117

²²¹ Case 584

²²² Case 229

²²³ Antonella F Lavelanet and others, ‘Global Abortion Policies Database: a descriptive analysis of the legal categories of lawful abortion’ (2018) 18(1) *BMC Int Health Hum Rights* 44

²²⁴ Case 540

In this case, the use of the term ‘palatable’ reflects the perception that some experiences are considered differently socially. Unlike ‘TMFR’ which is associated with undesirable characteristics and requires you to ‘whisper’, miscarriage invokes feelings of sympathy as this type of loss is through no fault of the woman.

The stigmatizing effects of the law, as informed by social or cultural norms, were compounded for those reporting on multiple abortions. As noted in the demographics in Chapter 2, 34% (n=212) of abortion seekers reported a previous pregnancy, with 49% (n=103) of these having had a previous abortion. Individuals spoke about feeling socially ashamed, having to deal with judgement or moral policing, trapped within a “prison from the invisible bricks of other people’s opinions.”²²⁵ They saw having had more than one abortion as an announcement “to the world that [they] were a total f*ckup.”²²⁶ Unlike those who are against the law, whose decision-making is accompanied by a desire to reclaim power based on beliefs tied to fairness and other justice claims; here, narrators were crippled and silenced, “as if there is a number of abortions at which a woman crosses a line into reckless reliance on the procedure.”²²⁷ In fact, such perceptions, can be seen to be reflected in some countries’ legal text.²²⁸

Power and control then were fuelled by cultural and societal beliefs, with little appreciation for an individual’s situation. However, abortion seekers wanted policymakers to appreciate that life circumstances impact the way in which they experience abortion law. Abortion

²²⁵ Case 480

²²⁶ Case 419

²²⁷ Case 583

²²⁸ In the Czech Republic or Slovakia, for example, a woman may not have an abortion if she has had one in the last six months. In Slovakia, an exception can be made for certain socioeconomic conditions, or when the pregnancy is the result of rape. See further: Act No. 66/1986 Coll. on the Induced Termination of Pregnancy, Nov. 3, 1986, effective Jan. 1, 1987 (Czech Republic); Act No. 73/1986 Coll. on Artificial Interruption of Pregnancy, as amended by Act No. 419/1991 Coll. (Slovakia)

seekers wanted legislators to remember that at the heart of the abortion discourse are real people, and that decisions were driven not by some attempt to reclaim power from lawmakers, but by their needs and desires. Overwhelmingly, abortion seekers spoke about feeling relieved - relieved to have their life back, relieved to be able to continue pursuing their education or career, relieved at the notion that there would not be another (or one more) person relying on them. While 33% (n=207) of the narratives included some reference to the complexity of their abortion decision, in that some needed to grieve, or felt shame, guilt, or sadness, at the same time many felt at peace with their decisions. Similar sentiments have been reflected in existing literature as well, where abortion seekers noted that “they need help, and they need someone to show them compassion.”²²⁹ The law should be able to “see women’s situation on a ‘case-to-case’ basis” and what continuing a pregnancy might mean for a woman’s life.²³⁰ The law should be “more grounded in the realities of women’s everyday lives, instead of in people’s opinions about the morality of abortion.”²³¹

Instead, however, abortion seekers believed that at their core, abortion laws were an “affront to all women”²³² and about controlling women. They believed abortion laws not to be about saving lives, but a mechanism by which to perpetuate “feelings of shame and guilt for making choices over [one’s] own bod[y].”²³³ In such cases, the transnational nature of abortion care further underscores how power is perceived as a tool to exert control over individuals. For example, as one narrator from Poland noted:

²²⁹ Ehrenreich and Marston (n 108)

²³⁰ Center for Reproductive Rights, ‘Forsaken lives: the harmful impact of the Philippine criminal abortion ban’ (2010) <http://reproductiverights.org/sites/crr.civicactions.net/files/documents/phil_report_Spreads.pdf>

²³¹ Dennis, Burns and Douglas-Durham (n 154) 10

²³² Case 373

²³³ Case 540

“Up to 12 weeks of abortion is common in most European countries... [and yet] the governments of different countries around the world impose restrictions on the movement and access to various institutions”.²³⁴

Her general reference to ‘restrictions on the movement’ of individuals as imposed by governments reflects a perspective of physical restraint on an individual’s movement. This same abortion seeker goes on to describe how “unfair” it is that women in her country have to have an abortion in secret, “fleeing abroad or ordering tablets of unknown origin.” The use of the word ‘fleeing’ specifically speaks to the way in which she is barred from accessing care and forced to disengage with the law in her home country. In this way, this abortion seeker describes her lived experience of the law, which resonates with “cultural narratives of hidden diasporas” like “ships in the night” “escaping abortion restrictions.”²³⁵

Further magnifying this experience is the fact that some countries participate in peripheral governance, a form of governance that is “marginal and incidental to, but actively participating in, transnational health-care networks.”²³⁶ One example of this as described in the literature occurred in the Republic of Ireland. Prior to legal reform, the Irish Department of Health and the Crisis Pregnancy Agency provided services such as information provision and counselling about transnational care.²³⁷ This harm reduction approach focused on the exit and return of abortion seekers, including through the promotion of post-abortion care as an effort to reduce negative outcomes from travel. However, because this approach was facilitated by the State, as noted by scholars in reproductive health,²³⁸ it demonstrated a

²³⁴ Case 443

²³⁵ Fletcher (n 191), 163

²³⁶ *ibid* 164

²³⁷ *ibid*

²³⁸ *ibid*; Giulia Zanini and others, ‘Abortion information governance and women's travels across European borders’ (2021) 87 *Women's studies international forum* 102496

lack of commitment to developing abortion care within national borders. As a result, individuals became dependent on transnational services, and the State was not culpable for the lack of quality care provision domestically.²³⁹

Thus, as described earlier in the Chapter, accessing transnational reproductive health care can be particularly problematic for abortion seekers as they are forced to do so with few legal protections. The legal rules around “liability, compensation or decision-making power” are scarce or unintelligible.²⁴⁰ Moreover, despite some abortion seekers’ beliefs that access to abortion is an absolute right (as described earlier in this Chapter), at the international level there has been an evolving understanding of reproductive rights. According to several regional and international treaties, States are obliged to uphold access to sexual and reproductive healthcare as an essential right.²⁴¹ This is linked to various other rights that States must respect, protect, and fulfil, including for example, the right to life, health, privacy, education, and non-discrimination and equality, among others.²⁴² With regards to abortion though, human rights committees have historically focused on the prevention of unsafe abortion.²⁴³ Furthermore, even though some committees have called on States to

²³⁹ Zanini and others (n 238); Sydney Calkin, ‘Transnational abortion pill flows and the political geography of abortion in Ireland’ (2021) 9(2) *Territory, Politics, Governance* 163

²⁴⁰ Krajewska (n 30), 206

²⁴¹ United Nations Human Rights Office of the High Commissioner, ‘Sexual and reproductive health and rights: OHCHR and women’s human rights and gender equality’ <<https://www.ohchr.org/en/women/sexual-and-reproductive-health-and-rights>> accessed 31 July 2023. See further UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series, vol. 1249, p. 13, 18 December 1979; UN Committee on the Elimination of Discrimination against Women, ‘General Recommendation 24 on article 12 of the Convention (Women and Health)’ art. 31(c) (1999) UN Doc A/54/38/Rev.1

²⁴² Human Rights Watch, ‘Q&A: Access to Abortion is a Human Right’ (24 June 2022) <<https://www.hrw.org/news/2022/06/24/qa-access-abortion-human-right>> accessed 31 July 2023

²⁴³ See for example, UN Human Rights Committee ‘General Comment No. 36: Article 6 of the International Covenant on Civil and Political Rights, on the right to life’ (3 September 2019) UN Doc CCPR/C/GC/35; UN Committee on the Rights of the Child (CRC) ‘General Comment No. 4: Adolescent health and development’ (01 July 2003) UN Doc CRC/GC/2003/4; UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No. 22: The Right to Sexual and Reproductive Health (Art. 12 of the Covenant on Economic, Social and Cultural Rights)’ (01 May 2016) UN Doc E/C/12/GC/22

repeal restrictive laws, including those related to criminalisation,²⁴⁴ decriminalisation is not equivalent to legalisation in terms of a State's responsibility to ensure access to quality services. Given this contextual factor, individuals seeking abortion face additional limitations imposed by their circumstances. In this case, abortion seekers' actions, including trying to seek care in other countries, are a response to a lack of agency rather than a deliberate act of resistance against injustice.

The perception that the law serves as a mechanism for power and control over individuals is further emphasized by the element of time. Pregnancies are of course time bound, but the entire experience is also dominated by the concept of time. For example, pregnancies are often dated based on when the last menstrual period occurred (i.e., the amount of time that has passed since the first day of the last menses) following conception.²⁴⁵ Care during pregnancy is organized around specific stages in the development of the pregnancy, including around specific markers in foetal development achieved with the passage of time (chronologized in weeks or months).²⁴⁶ For pregnancies that are continued to birth, even the birth is a time to be managed²⁴⁷ and managed by someone other than the pregnant person.

For pregnancies that are not continued, whether due to miscarriage or induced abortion, process and procedural requirements change with gestational age. Although medical

²⁴⁴ See for example, UN Committee on the Elimination of Discrimination Against Women (CEDAW) 'General Recommendation No. 34: The rights of rural women' (2016) UN Doc. CEDAW/C/GC/34; UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 22: The Right to Sexual and Reproductive Health (Art. 12 of the Covenant on Economic, Social and Cultural Rights)' (01 May 2016) UN Doc E/C/12/GC/22; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Interim Report to the General Assembly (3 August 2011) UN Doc. A/66/254

²⁴⁵ World Health Organization (n 78) In contexts where ultrasound is used, pregnancy dating is also guided by measurements related to the foetus.

²⁴⁶ Siân M Beynon-Jones, 'Gestating times: women's accounts of the temporalities of pregnancies that end in abortion in England' (2017) 39(6) *Sociology of health & illness* 832

²⁴⁷ *ibid*

abortions can be provided at any point in pregnancy, self-management is only recommended in the first 12 weeks.²⁴⁸ With increased gestation, the locations of care also change, with those in later gestation often needing to stay in a facility for care. Surgical options also vary depending on gestation, with vacuum aspiration provided earlier in gestation and dilation and evacuation procedures recommended beyond 14 weeks.²⁴⁹ Moreover, individuals are encouraged to avoid allowing “too much time” to pass, as risks increase with gestation as well.²⁵⁰ Thus, these time limits become a social reproductive mechanism, reinforcing a normative dimension of the management of time. Moreover, the production and reliance on the concept of time are not limited to medicine or medical processes. Almost all abortion related laws implicate obstetric biological rhythms with reference to when the clock starts (i.e., reference to whether pregnancies should be dated by conception or last menstrual period) or by creating delimiters in access with gestational age limits. Of note, I call these obstetric as opposed to gynaecological rhythms as seen in the law because abortion laws typically refer to the pregnant individual as ‘mother’ even though not all pregnant individuals are women or have children.

Abortion seekers, whose narratives were analysed for this thesis specifically, identified the existence of these rhythms and limits as intersecting legal requirements when trying to access care. As noted in Chapter 2, 32% (n=200) of individuals specifically included information related to gestational age of the pregnancy. For example, one noted:

“Georgia just became the sixth state to pass the six week abortion ban. At five weeks, two days I found out I had to make a decision about what to do with the

²⁴⁸ World Health Organization (n 78)

²⁴⁹ *ibid*

²⁵⁰ Beynon-Jones, ‘Gestating times: women's accounts of the temporalities of pregnancies that end in abortion in England’ (n 246) 834

future of my family. The state of Georgia is saying that I should have made that life altering decision in five days to reach their six week ban. Many women get past six weeks before even knowing they are pregnant.”²⁵¹

Here, this narrator acknowledges that the law has created an expectation related to being able to act on the concept of time that is unrealistic given biological rhythms with pregnancies dated from the last menstrual period;²⁵² 4-5 weeks typically pass before women even know they are pregnant. Complicating this fact is that not all women demonstrate “signs of pregnancy”, especially when using contraception.²⁵³ The use of gestational limits within the law then elevates the notion of and encourages a process of “‘time displacement’, in which the present becomes conflated with anticipated future events.”²⁵⁴

Through this process, the foetus takes on the status of an infant, thereby allowing the State to take an interest in the outcome of the pregnancy and create barriers in access to abortion. While in some countries the point of conception triggers foetal acquisition of rights, in many, viability (the point at which a foetus can survive outside the womb) is the point at which additional protections for the foetus are introduced. As pregnancies develop, the foetus may be viewed developmentally as a potential human being,²⁵⁵ which often triggers other laws and policies. For example, in some countries, the policing of pregnancy

²⁵¹ Case 94

²⁵² World Health Organization (n 78) In contexts where ultrasound is used, pregnancy dating is also guided by measurements related to the foetus.

²⁵³ Beynon-Jones, ‘Gestating times: women's accounts of the temporalities of pregnancies that end in abortion in England’ (n 246) 835

²⁵⁴ Siân M Beynon-Jones, ‘Timing is everything: the demarcation of ‘later’ abortions in Scotland’ (2012) 42(1) *Social studies of science* 53, 55

²⁵⁵ Sarah Franklin, ‘Fetal fascinations: new dimensions to the medical-scientific construction of fetal personhood’ in Sarah Franklin, Celia Lury and Jackie Stacey (eds), *Off-Centre: Feminism and Cultural Studies* (Harpercollins Academic 1991)

has resulted in the creation of foeticide statutes or foetal homicide laws;²⁵⁶ in some cases, this can be compounded by other laws related to drug use. In such circumstances, the foetus is pitted against the pregnant individual, and in many settings, the foetus is the protected interest by those meant to be applying the law.²⁵⁷

This dynamic emerged clearly in the narratives as well. One individual spoke of her experience with a foetal anomaly and the need to deal with other laws related to foetal burial provisions.²⁵⁸ Foetal protection laws also meant that some women had to wait “for the [foetal] heartbeat to stop”²⁵⁹ despite life-threatening emergencies for the pregnant individual such as rupture of membranes (where the fluid-filled sac surrounding the foetus ruptures increasing the risk of infection). One narrator specifically described how her life was put at risk as healthcare providers informed her that they could not intervene in her developing ectopic pregnancy (where the pregnancy develops outside of the uterus).²⁶⁰ In such cases, women are rarely able to invoke justice claims and resist the law. Instead, the rights of these women are completely displaced by those of the developing foetus.

Ultimately then, the lived experience of abortion seekers is compounded by this interplay of rhythms of social relationships and temporality inscribed within the law. Operating as delimiters to access, things like obstetrical rhythms and gestational limits directly influence abortion regulation. They also propagate norms around the management of time as it relates to abortion and speak to the influence of broader social constructs. This directly

²⁵⁶ Michele Goodwin, *Policing the womb: invisible women and the criminal costs of motherhood* (Cambridge: Cambridge University Press, 2020 2020)

²⁵⁷ *ibid*; Joanna N Erdman, ‘Theorizing Time in Abortion Law and Human Rights’ (2017) 19(1) Health Hum Rights 29

²⁵⁸ Case 582

²⁵⁹ Case 10

²⁶⁰ Case 466

impacts legal consciousness as it impacts the understanding of what is legal and when.

Specifically, the concept of the legality or illegality of an individual's abortion hinges then on broader socially constructed perceptions regarding when a foetus attains rights. This nuanced understanding of legality becomes crucial in determining when justice claims can even be asserted by abortion seekers, highlighting the intricate interconnection between legal consciousness and broader social constructs.

Furthermore, the interplay of time and space extends beyond shaping abortion regulations, influencing how abortion seekers are perceived by society. Judgments and attributes are also assigned to these individuals based on their navigation of local and transnational abortion laws. This emphasizes that national policies, including abortion laws locally, are not the sole determinants impacting abortion seekers' legal consciousness. In these circumstances, women are acutely aware of the interrelation between law and space, extending beyond legal contexts to encompass various physical locations like homes or healthcare facilities. This awareness is further magnified as abortion seekers navigate these spaces virtually, utilizing platforms like social media. The interplay between legal consciousness, time, space, and societal perceptions as demonstrated by abortion seekers' narratives further adds depth to comprehending the lived experiences of abortion seekers. It also contributes to abortion seekers' desire for policymakers to grasp these nuanced aspects, emphasizing the need for a more human-centred approach, as they express their ideas around ideal law.

Unfortunately, however, the narratives demonstrate that abortion seekers find themselves silenced, suppressed, and forced *outside the law*. In general, abortion seekers held the view

that the law was not a “source of hope, change, and empowerment,”²⁶¹ nor was it a resource to further manage their needs. Without additional support, abortion seekers found it challenging to view the law as a tool or to perceive themselves as capable of engaging with the law. Instead, they described the “needlessly punitive measures placed before [them]” and the “inhumane obstacles”²⁶² in their paths. Political discourse, they noted, specifically suggests that abortion seekers “deserve pain and punishment and jail time ... or should be put to death for having an abortion.”²⁶³ This perspective echoes findings from existing literature, which were raised in Chapter 1. Data suggest that abortion seekers believe that the use of “ridiculous language [and] legalese” speaks to the intention of the law, designed to make women feel guilty about obtaining an abortion.²⁶⁴ Additionally, laws preventing women from taking abortifacients at home, are seen as “‘horrible’ attempts to prevent women from accessing the service altogether.”²⁶⁵ Regulatory requirements that purposefully delay access, such as waiting periods, are seen as “stupid” as abortion seekers note that these waiting periods do not consider the fact that the decision to abort has already been made before the start of such waiting periods.²⁶⁶ For adolescents specifically, judicial bypass proceedings are seen as particularly humiliating because they have to “bare their lives in front of strangers” and in some cases [are] ridiculed for lacking knowledge around reproductive health issues.²⁶⁷

²⁶¹ Diana Hernández, “‘I’m gonna call my lawyer:’ shifting legal consciousness at the intersection of inequality’ (2010) 51(51) Special Issue Interdisciplinary Legal Studies: The Next Generation 95, 109

²⁶² Case 239

²⁶³ Case 65

²⁶⁴ Dennis, Burns and Douglas-Durham (n 154)

²⁶⁵ *ibid* 10

²⁶⁶ Katherine Ehrenreich and others, ‘Women’s Experiences Using Telemedicine to Attend Abortion Information Visits in Utah: A Qualitative Study’ (2019) 29(5) Women’s Health Issues 407

²⁶⁷ Kate Coleman-Minahan and others, ‘Young Women’s Experiences Obtaining Judicial Bypass for Abortion in Texas’ 64(1) Journal of Adolescent Health 20

In this thesis, narrators noted political agendas as a motivator for policymakers to support such punitive or restrictive measures. They spoke of politicians trying to cater to their voting demographic or prioritizing votes over healthcare. They spoke of “junk science” and how “toxic ideology is seeping into ... legislative bodies.”²⁶⁸ Some, in particular those who were faced with a foetal anomaly, spoke of being denied additional prenatal testing in very restrictive contexts. Specifically, they stated that such tests were not offered because “if the results show a high risk there is no solution or option to be offered.”²⁶⁹ Such positions, however, disregard the fact that individuals need information, not only for abortion decision-making but also to prepare for parenting. Knowing in advance that a child may be born with additional needs allows parents to ensure they have support structures in place, including emotional, physical, and financial support. In such cases, some abortion seekers sought such information elsewhere, but they saw the law as “literally ... imposing a geographic divide between doctor and patient.”²⁷⁰ Such experiences contribute to an evolving legal consciousness. Unlike others described in the literature,²⁷¹ abortion seekers could not in these moments seize the opportunity to mobilise the law to exercise their legal privilege as rights-bearing citizens because they felt they had no rights. Thus, their ability to engage with the law was directly impacted.

Rather than being a tool to support claims to human rights (including the right to health and life), the law was seen by women as a weapon “[f]orcing a woman to carry a pregnancy”, something that is as “monstrous as forcing a woman to end a pregnancy.”²⁷² In such cases, the law seemed so distant as not to be enabled as an instrument of justice, but still so close

²⁶⁸ Case 345

²⁶⁹ Case 497

²⁷⁰ Case 582

²⁷¹ Hernández (n 261)

²⁷² Case 610

that it could permeate such an intimate part of an abortion seeker's life. As introduced earlier in the Chapter, religion was cited as an influencing factor in the regulation of abortion law and in trying to impose ideological positions. Catholicism was referenced as a dominant influencer in the ways in which policymakers crafted and supported abortion related laws. Narrators provided specific examples of laws they perceived to be influenced by religious doctrine and that they saw as particularly harmful. For example, foetal burial laws were specifically noted to be linked to Christianity more broadly and to "violate the religious norms of several communities."²⁷³ They described feeling like the "state was trying to persuade [them] against their own decision[s]"²⁷⁴ and inflicting "trauma, both physical and psychological, because [of] some men in power."²⁷⁵ Narrators saw this as immoral and in contrast to the role of a politician, who should be acting as a "servant and advocate" for the people in their communities.²⁷⁶

Here again, the geopolitical nature of abortion care acts as a contextual factor influencing the ways in which abortion seekers experience the law, in that particular views are spread and magnified through various networks. For example, the European Parliamentary Forum for Sexual & Reproductive Rights for example has tracked the spread of particular ideologies rooted in traditionalist perspectives (often grounded in religion) on sexual and reproductive rights.²⁷⁷ Although supported by economic and social elites in specific high-income countries, the analyses demonstrate deliberate strategies to advance anti-choice and more

²⁷³ Case 582

²⁷⁴ Case 138

²⁷⁵ Case 483

²⁷⁶ Case 126

²⁷⁷ Neil Datta, 'Restoring the Natural Order: The religious extremists' vision to mobilize European societies against human rights on sexuality and reproduction' (Brussels April 2018) <<https://www.epfweb.org/node/175>> accessed 9 May 2023; Neil Datta, 'Tip of the Iceberg: Religious Extremist Funders against Human Rights for Sexuality and Reproductive Health in Europe' (Brussels June 2021) <<https://www.epfweb.org/node/837>> accessed 9 May 2023

broadly anti-gender initiatives at the national level in Europe, Africa, Asia/Oceania, the Middle East, Latin America and North America.²⁷⁸ In many cases, these efforts have directly translated into policy reform, whereby these types of international norms have been localised,²⁷⁹ including those related to abortion. It is against this backdrop that the legal consciousness of abortion seekers is developing, evolving, and changing, especially as they are attempting to navigate the local legal terrain amidst access to transnational reproductive healthcare.

In addition to the interconnected laws governing abortion specifically, other legislations related to reproductive healthcare collectively contribute to reinforcing the perception that the law is imposed on individuals. For example, abortion seekers spoke of how birth control was not accessible to them because of their age or marital status. They spoke of desiring permanent forms of contraception but being denied by the government, also because of age or lack of children. Abortion seekers saw these positions as a paradox in that “women are forced to carry babies ... but the government will not be there to hold their hands or babysit while the parents are working.”²⁸⁰ Instead, they “disappear like smoke once the child was born ... [leaving behind] no resources to provide for it.”²⁸¹ One narrator even stated that her provider suggested she carry the pregnancy to term and just “abandon the child after birth.”²⁸² Yet several highlighted how those who are anti-choice often advocate for adoption but make no mention of the overwhelming number of children without permanent placement, or how many are subjected to emotional or physical abuse. In such

²⁷⁸ Datta, ‘Tip of the Iceberg’ (n 277)

²⁷⁹ Marijke Breuning, ‘Roles and Realities: When and Why Gatekeepers Fail to Change Foreign Policy’ (2013) 9(3) Foreign Pol Anal-US 307

²⁸⁰ Case 540

²⁸¹ Case 390

²⁸² Case 565

cases, abortion seekers viewed the state as further “us[ing] children as weapons to control women” rather than seeing abortion as a “gift to future generations.”²⁸³

While stigma has been described elsewhere in the Chapter, here, abortion seekers specifically highlighted the challenge of facing stigma while simultaneously having little or no access to preventive measures in both less and more restrictive legal contexts. However, in restrictive contexts there was more ideological consistency with the notion of women as mothers. In such cases, the underlying stigmas associated with sex before marriage or pregnancy out of wedlock were noted by narrators to translate into existing parallel policies that restrict access to emergency contraception or other family planning methods. They spoke about being restricted in accessing permanent sterilization techniques, especially if they had no children. In some cases, such policies were merely invoked by providers due to personal beliefs about how women should act. One narrator from Poland described being denied access to contraception by a medical provider and instead being referred to a psychologist. The doctor believed that she was not “completely happy with [her] partner, since [she was] not ready for the fruit of [her] relationship's love.”²⁸⁴ In other cases, institutional policies were described. As one narrator from Malta described:

“I go to pharmacies outside Malta where you can visit the family planning section and see the options you have and ask for help... [but] when you buy a pack of condoms it is taken from under the counter... When you buy birth control pills from a pharmacy, it looks like you are asking for drugs... It is heart breaking that in Malta sex is still the work of the devil and not a normal part of a healthy relationship.”²⁸⁵

²⁸³ Case 612

²⁸⁴ Case 203

²⁸⁵ Case 460

The existence of local policies to restrict access to contraception and family planning methods reinforces the notion that sex is dirty and something that should not be done. The comparison of birth control pills to drugs, as well as the demonisation of sex, demonstrates these stigmas. In this case, this individual wanted access in a more open and accessible way.

Abortion seekers described facing various other obstacles as well. Obstacles accessing comprehensive sexuality education have already been highlighted earlier in this Chapter; however, narrators also described laws or policies that “kick” single mothers out of school or fire them from their jobs because they were pregnant outside of wedlock. Personal values, preferences and circumstances were not a consideration, as individuals described how these policies supposedly existed to support women to be mothers. In terms of access to contraception, abortion seekers noted their beliefs that these policies seem to exist to prevent regret – the regret of not having children. Even where methods of contraception are available, women described being priced out of options in that “people who work minimum wage jobs do not have access.”²⁸⁶ Without access to preventative services, women felt as if their only recourse was abortion.

As demonstrated, abortion seekers perceived the law as an imposition, with narrators highlighting political agendas motivating policymakers to support punitive or restrictive laws, often influenced by religion. This demonstrates an appreciation of the ways in which external factors can shape their lived experience of the law. Without additional support, abortion seekers then struggled to engage with the law, including in areas beyond abortion. Despite existing paradoxes with the legal system, fear and mistrust pervaded the experiences of abortion seekers, making them reluctant to seek medical care. The

²⁸⁶ Case 591

perceptions of the law as both a potential barrier and a mechanism for controlling access to reproductive services shape abortion seekers' attitudes, beliefs, and behaviours, and thus, their legal consciousness.

Conclusion

In this Chapter, I have highlighted the ways in which the narratives reflect perspectives that are in alignment with those described by Ewick and Silbey. Some narratives indicate a perspective that places the law in a prominent and authoritative position, while others acknowledge the need to navigate the legal system strategically to access necessary care, legitimising and distinguishing their experiences from others seeking abortion. At the same time, the analysis also demonstrates that individuals often circumvent, evade, or avoid the law, akin to those acting *against the law*. I do, however, note the transnational aspect of abortion care as a crucial aspect, which not only facilitates but, in some cases, creates the opportunity for individuals to resist the law. This Chapter further introduces the connection between hegemony, identity, and mobilisation, emphasizing the role of social media in providing immediate access to knowledge (including legal) for individuals facing similar circumstances. Social media platforms empower users to understand how the law can address their needs, fostering dynamic exchanges of information and support. This contributes to a collective awareness of rights.

However, there are several places where the analysis reveals that the sentiments expressed by abortion seekers diverge from the perspectives identified by Ewick and Silbey. Individuals recognised that the law does not apply evenly to all and that greater systemic biases are at play. Cultural expectations and gender norms are linked to the stigma around abortion, reinforcing power imbalances fuelled by societal beliefs. External factors such as political

agendas and religion, according to abortion seekers, play a significant role in shaping punitive or restrictive abortion laws, which reinforces the perception that regulation is not about protecting individual rights or ensuring access to quality healthcare. Rather, the law is seen as a mechanism of control, reinforcing gender norms tied to the perception that women's sole purpose is to reproduce. These factors magnify positions of powerlessness, especially when compounded by immigration and other laws beyond abortion law. Rather than attempting to manipulate the law for personal gain or be driven by resistance towards more just outcomes, individuals were often compelled to exist *outside* the realm of the law.

There is also a recognition among abortion seekers of systemic biases and the perception of unequal application of the law. Specifically, there is an acknowledgement of opportunities for the law to discriminate in how the law can impact different groups unequally. This contributes to a more nuanced and complex understanding of how individuals perceive and interact with the law, particularly in the context of abortion seeking. It shows an appreciation for the broader social context within legal consciousness and sheds light on the ways in which such structural inequalities may impact the lived experience with the law.

Abortion seekers recognise that abortion regulation is part of a larger system, as influenced by the geopolitical context and coexisting laws. Moreover, the perception that the law serves as a mechanism for power and control is also accentuated by temporal elements, including social rhythms and gestational limits. While this has implications for morbidity and mortality as abortion seekers are driven towards unsafe, and often exploitive, practices, it adds a new dimension to the evolving legal consciousness of abortion seekers by demonstrating the complexities that arise when multiple legal pathways intersect and impact individuals' experiences with the law. It also demonstrates an awareness of the role

of broader socio-political factors influencing the formulation and implementation of abortion laws.

From these perspectives then, narratives included expressed desires about regulation being implemented on a case-by-case basis based on the realities of women's everyday lives. They wanted lawmakers to investigate what people really need to be supported in obtaining quality comprehensive abortion care, emphasising the need for policymakers to adopt a more human-centred approach in crafting ideal laws. As a result, abortion seekers could see the law as a potential tool for positive impact, which also demonstrates that legal consciousness is not solely based on the realities faced by individuals, but on aspirational beliefs. I will now turn my attention to Chapter 4 to examine the interplay between legal consciousness and identity to further investigate whether and how the existing constructs of legal consciousness in this space aligns with the understanding and experience of abortion seekers.

CHAPTER 4 – IDENTITY

In Chapter 1, I described how legal consciousness research has been categorised as focusing on hegemony, identity, or mobilisation. Specifically, Chua and Engle identified these 3 schools as ways researchers have sought to define law, legality, and legal consciousness.¹ In Chapter 3, I explored the concept of hegemony, in particular, the ways in which abortion seekers share perspectives with those who are *before*, *with*, and *against the law*. I demonstrated how some abortion seekers hold the law in a prominent and authoritative position with specific actions, attitudes and conventions that come to be reified as ‘the law.’ At the same time, abortion seekers acknowledged that sometimes there is a need to navigate the legal system strategically to access necessary care, while at other times to circumvent, evade, or avoid the law altogether. However, I also demonstrated that often abortion seekers are driven *outside the law*, as their acts of resistance do not stem from a motivation to claim their rights but rather out of a sense of having no other choice. Specifically, their actions are not attempts to challenge the status quo by finding crevices in the law’s power to exploit. Instead, abortion seekers see the law as a mechanism of control, reinforcing gender norms tied to the perception that women’s sole purpose is to reproduce. These perceptions influence abortion seekers’ relationship with the government, leading to feelings of anger, disappointment, mistrust, and fear. Healthcare seeking is often impacted as well, with implications for morbidity and mortality. These experiences shed light on the ways in which social norms and other power dynamics shape legal consciousness.

¹ Lynette J Chua and David M Engel, ‘Legal Consciousness Reconsidered’ (2019) 15(1) Annu Rev Law Soc Sci 335

In Chapter 1, I also raised Simon Halliday's categorisation of legal consciousness research, posited to demonstrate the diversity among sociolegal research related to legal consciousness.² As a reminder, these approaches include a critical approach, an interpretive approach, a comparative cultural approach, and a law-in-action approach. The critical approach focuses on understanding the law's hegemonic force, while the interpretive approach focuses more closely on how individuals' understanding and beliefs about the law influence their actions and decisions. Rather than focusing on the legal consciousness of ordinary individuals, the comparative cultural approach aims to discern the distinct legal consciousness of different societies or cultural groups³. Finally, researchers using a law-in-action approach are interested in the legal consciousness of critical actors in the implementation process.⁴ Regardless of the approach, in all cases, personal identities have the potential to inform individuals' meanings around law and legality.⁵ In appreciating the subjectivity that shapes legal consciousness, Chua and Engel also recognise how "the place of law in people's lives is intimately connected to their sense of who they are."⁶ However, who people believe themselves to be, how they see themselves, and other expressions of personal identity can vary. These variations can directly inform and shape legal consciousness.

Thus, in this Chapter, I turn my attention to the notion of identity and how it impacts the legal consciousness of abortion seekers. Specifically, I will build on the analysis from Chapter

² Simon Halliday, 'After Hegemony: The Varieties of Legal Consciousness Research' (2019) 28(6) *Social & Legal Studies* 859

³ It is important to note that the very definition and boundaries of the term culture are debated. Pierre Legrand, among others, speaks to some of these issues, including on the usefulness of the concept. See further, Legrand, P. (2006). *Comparative Legal Studies and the Matter of Authenticity*. *Journal of Comparative Law*, 365.

⁴ Halliday (n 2)

⁵ *ibid*

⁶ Chua and Engel (n 1), 4

3 to describe how hegemony and identity are interconnected, which is further impacted by mobilisation (a concept expanded on in Chapter 5). Specifically, I will demonstrate how these factors play complementary roles in the development and evolution of the legal consciousness of abortion seekers. I will consider the construction of various identities and their interactions with the law, which will shed light on abortion seekers' notion of what is legal or law-like by exploring their beliefs and attitudes towards and of the law. I will demonstrate how legal consciousness is shaped by a combination of experiences and structural positions, which impact how individuals perceive their rights and how they experience the law. Specifically, I show how legal consciousness constantly evolves through interactions with various normative systems, cultural contexts, and social influences. This will include whether individuals can and do identify with the law and what their beliefs are about what is ideal law.

Personal identity

Personal identity, in its many forms, emerged as a concept among the narratives in this thesis. Personal identity can both influence or explain how individuals experience the law and be a product of that experience – i.e., be both the explanandum (what is to be explained) and the explanans (what explains another outcome).⁷ For example, 13% (n=82) of the narratives included some reference to the self-imposed dichotomous labels of 'pro-choice' and 'pro-life',⁸ and these labels directly affected how abortion seekers lived the law. Individuals characterised themselves as one or the other, and it was because of this

⁷ Stergios Aidinlis, 'Defining the 'legal': two conceptions of legal consciousness and legal alienation in administrative justice research' (2019) 41(4) Journal of Social Welfare and Family Law 495

⁸ 53 narratives were associated with the term 'pro-choice'; 29 with 'pro-life'.

descriptor that they believed abortion should or should not be legally available. For example, one individual identifying as pro-choice stated:

“Pro-choice doesn’t mean advocating every woman everywhere end her pregnancy because it is more convenient for everyone else involved. It means allowing women to decide what is best for them and supporting them in those decisions, no exceptions.”⁹

Here, this abortion seeker makes the direct link between being pro-choice and the law when she defines ‘pro-choice’ as ‘allowing women to decide.’ She also makes an ask of the government by stating that individuals should be supported in their decisions, with no exception. This also speaks to a common feature of abortion law, the existence of grounds or stated exceptions to the law, whereby individuals can access legal abortion. However, this statement further reflects a perspective on what the ideal law should be, which was introduced in Chapter 3, but will be expanded upon later in this Chapter.

While some narratives included very general phrases such as being “for” or “against” abortion, many were more specific in that they claimed to be pro-choice because they believed in abortion being legal and accepted. Narrators further associated these identities with explicit rights, such that they were “pro-choice because every woman has the [legal] right to decide what to do with her body” or to have the “right to life”¹⁰. Driven by personal circumstances, they described themselves as being ‘truly’ pro-life because they recognised that every person deserves a right to life. Individuals noted being “in a fight for ...life”, highlighting that their “li[ves] mattered.”¹¹ As one abortion seeker noted, “banning abortion

⁹ Case 187

¹⁰ Case 477

¹¹ Case 543

and other reproductive services is the true opposite”¹² of being pro-life. Importantly, these abortion seekers viewed the law not just as a point of resistance, as discussed in Chapter 3, but also as a tool to advance their perceived rights. Abortion seekers specifically saw the law to be a supportive force to advance their beliefs, rights, and identity.

Some, however, only invoked the law when they perceived it to be relevant to their current identity,¹³ i.e., as someone with a justifiable need. For example, individuals claimed to believe in the legal right of abortion for others but claimed to be pro-life for themselves.

Many thought they would never get an abortion despite being pro-choice. However, the law became more relevant when individuals found themselves in need of an abortion.

Individuals, for example, specifically spoke about being “extremely” “pro-life”¹⁴ before their pregnancies but then switching to being pro-choice or understanding the need for legal abortion when faced with a mistimed or undesired pregnancy.

Abortion seekers recognised that there were implications tied to these dichotomous identities (pro-choice versus pro-life), especially as they advocated for legal access.

Individuals, for example, spoke about being pro-choice “no matter the reasons, no matter the circumstances”¹⁵ while still wrestling with complex emotions related to their identity as pregnant women. They described facing a “duality” with being pro-choice and seeking out legal access while simultaneously mourning the loss of their pregnancies. One-third of the narratives (n=207) referenced this complexity, with many describing the need for lawmakers to understand that it is not “black and white.” They spoke about not needing the

¹² Case 237

¹³ Chua and Engel (n 1)

¹⁴ Cases 13, 65, 76, 331, 363, 427, and 502

¹⁵ Case 113

additional barriers imposed by the law. Instead, they wanted a “world of legal abortion, [where] there is no trauma, no stigma, no fear of total loneliness, and above all, no unwanted and unloved children.”¹⁶ However, abortion seekers understood that to be able to influence these lawmakers, there needed to be a change in the way individuals spoke about abortion. For example, one narrator specifically spoke of the need to:

“take control of not only our bodies, but of the spin that anti-choice politicians and religious figures have put on a medical procedure that has huge consequences for women’s freedom.”¹⁷

They recognised that currently the “pro-life discourse... steals [their] right to say without fear of legal reprisal targeted at women”¹⁸ that the right decision can also be a difficult one. They further recognised a disconnect between their values and what the state deemed legal in terms of abortion related decisions, and they found it difficult to reconcile their personal feelings with feeling like having an abortion was “illegal and dirty.”

Abortion seekers emphasised that instead of recognising personal circumstances, the law itself contributed to negative identities for abortion seekers. Narrators described how the law painted them out to be “monsters,” “baby-killers,” and “murderers.” Terms like ‘unborn child’, ‘dismemberment’, ‘slices, crushes, grasps’ – were all identified by abortion seekers and believed to be used in laws to invoke further negative imagery related to abortion seeking. Abortion seekers described feeling the impacts of abortion being portrayed in this way, even at the level of receipt of care. They spoke of the existence of security personnel outside clinics and the need for intense security measures to merely enter a clinic. They

¹⁶ Case 68

¹⁷ Case 119

¹⁸ Case 582

spoke of receiving care in clinics with bulletproof glass. They described these features as those they commonly associated with criminals. Like those in the study by Flores raised in Chapter 1, the association of such security features with criminality meant that abortion seekers “layer[ed] space and place onto the notion of legal consciousness”.¹⁹ Here, there was a palpable, physical impact of societal attitudes and legal influences on the literal structure and environment of abortion care settings.

As raised in Chapter 3, beyond the legalese related to abortion, the mere regulation of abortion through the criminal code created criminal identities for these women. They spoke about the fact that despite being a common procedure, the fact that abortion is classified under laws like the “Crimes Act” in some countries perpetuated the “draconian way termination of pregnancy is viewed ... from a legal perspective.”²⁰ Regulation through the criminal or penal code, as well as how abortion was described in the text of the law, further contributed to the stigma perceived and experienced by abortion seekers. This resulted in abortion seekers being reluctant to turn to the law or to those applying the law (such as medical providers), as they found the public portrayal of abortion “hurtful.” One narrator described her fear of being discovered – a fear that is “beyond the fear of dying... [the] body wants in any way to [resolve] what is happening.”²¹ The angst and distress caused by knowing that abortion was illegal and worrying that something might happen that would result in needing to go to the hospital led some to be physically and mentally ill.

Moreover, the literature supports the notion that due to this imposed criminal identity, abortion seekers do not trust healthcare workers to keep their information private or

¹⁹ Andrea Flores, Kevin Escudero and Edelina Burciaga, ‘Legal-Spatial Consciousness: A Legal Geography Framework for Examining Migrant Illegality’ 41(1) Law & policy 12, 13

²⁰ Case 81

²¹ Case 570

confidential.²² The data suggest that this fear is heightened where providers are part of the abortion seeker's community; in such cases, individuals fear that private information would be inappropriately disclosed.²³ They describe "high-profile facilities [that] retain copies of abortion-seekers' IDs in files, making women easily traceable and identifiable"; this was done as an insurance mechanism as many providers were themselves engaging in illegal activities and wanted to ensure abortion seekers would not report them.²⁴ The data also suggest that doctors tell women seeking post-abortion care that they will be reported to the police if there is suspicion that they had induced an abortion.²⁵

Similarly, abortion seekers within this thesis spoke of "paranoias aris[ing]," worrying that, for example, the "police had been monitoring [them] and were going to bust through the doors at any given moment."²⁶ They spoke about feeling as if they had committed a crime and, at times, associated this with going to prison (See Figure 8).

²² Center for Reproductive Rights, 'Forsaken lives: the harmful impact of the Philippine criminal abortion ban' (2010) <http://reproductiverights.org/sites/crr.civicactions.net/files/documents/phil_report_Spreads.pdf>; Abigail R A Aiken and others, 'Barriers to accessing abortion services and perspectives on using mifepristone and misoprostol at home in Great Britain' (2018) 97(2) Contraception 177; Chimaraoke O Izugbara, Carolyne Egesa and Rispah Okelo, 'High profile health facilities can add to your trouble': Women, stigma and un/safe abortion in Kenya' (2015) 141 Social science & medicine (1982) 9

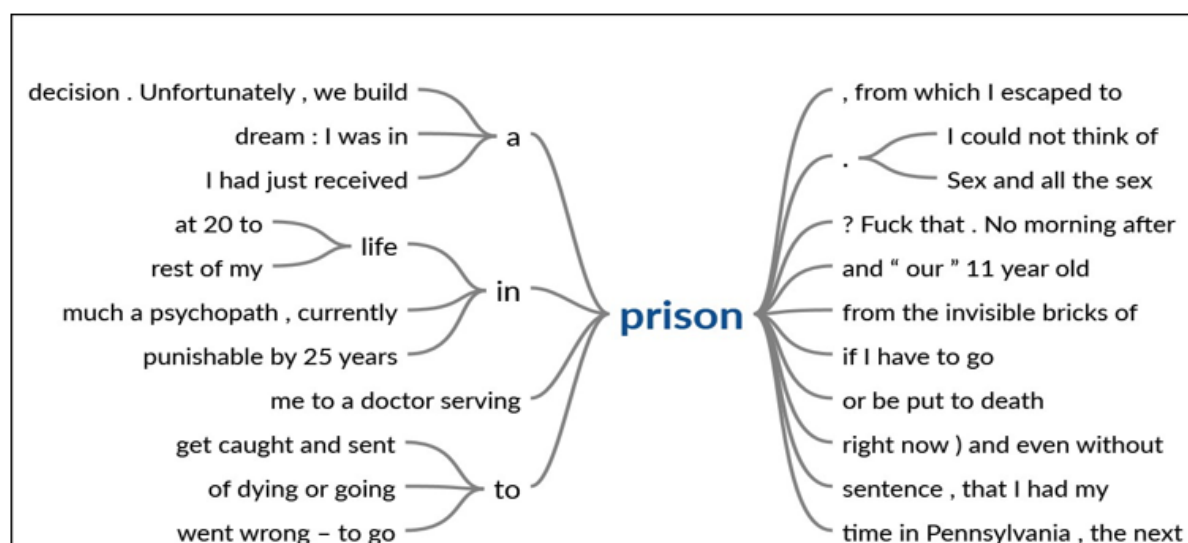
²³ Aiken and others (n 22)

²⁴ Izugbara, Egesa and Okelo (n 22), 4

²⁵ Center for Reproductive Rights (n 22)

²⁶ Case 498

Figure 8 – Hierarchical depictions of words associated with crime and prison



This fear and mistrust influenced health-seeking behaviour in that women were driven from seeking safe care within a facility. Graphic descriptions of “stuffing lemon juice up” the vagina to cause a miscarriage, as well as considerations around using “a steel hanger or a knitting needle”²⁷ were included in the narratives. Abortion seekers also spoke about avoiding the use of misoprostol (a medicine used for medical abortion) for fear that it would be found in the blood.

As introduced in Chapter 3, narrators described efforts to seek out illegal providers or travel to other areas to escape the effects of the law. As one abortion seeker from a restrictive context noted, the moment she “step[ped] off the plane” she could “take a breath of fresh air” because she was not a “criminal [there].”²⁸ Others described living in a foreign country where abortion was illegal, and spoke about the need to travel back to their “home country” where they could “feel safe, secure – and most importantly, not like a criminal.”²⁹ This also echoes the findings in Chapter 3, which in particular, highlighted the pivotal role of the

²⁷ Case 501

²⁸ Case 501

²⁹ Case 488

transnational dimension in abortion care. In this context, the ability of the abortion seeker to depart from her home country facilitated not only access to different healthcare options but also the acquisition of a distinct identity (separate from being a criminal). The act of 'taking a breath of fresh air' symbolises liberation from the constraints imposed by her home country, providing empowerment within the new environment. This underscores the profound influence of legal contexts on the consciousness of individuals seeking abortion care. Thus, this narrative vividly illustrates the interconnection between hegemony and identity, showcasing how the transnational nature of abortion care becomes a catalyst for personal transformation and emancipation from the societal shackles of her home country, in particular at the time of abortion seeking. Furthermore, it reinforces the notion of time as a contextual factor for abortion seekers, suggesting that identities may be temporal. The law's relevance may be most pronounced when it reinforces the existence of a particular identity. However, it is also possible that due to the stigma associated with abortion (as raised throughout the thesis), the label of 'criminal' may persist for this individual even beyond the period of pregnancy and abortion seeking. This highlights the potential enduring influence of the law on shaping and perpetuating the identities of those who seek abortion care.

The fear of being caught or facing penalties left abortion seekers feeling “lonely... abandoned [and] cut off from the whole world.”³⁰ They described how the government provides “no support for women, only bullying”³¹ with no mention of the entire procedure. Scared to contact health professionals, individuals who were self-managing their abortion processes at home, for example, described how they told their partners to only call for help

³⁰ Case 64

³¹ Case 280

if they were unconscious. As described by many narrators, taking such a risk was the only option because they felt like “outsiders to [their] society... that the government ha[d] betrayed [them]”, by “imposing opinions ... on others” and remaining “passive in such circumstances.”³² It is important to note that these actions did not seem to be motivated by an inner desire to resist the law, or escape the effects of the law³³ due to perceptions related to injustice about the law (like those who are *against the law*). Here, these women seemed to be motivated by fear of the law, which is directly linked to the criminalised identity as imposed by the law, forcing them *outside the law*. The interplay then between identity and hegemony becomes apparent again, reinforcing the other. Hegemony specifically is clearly present, in that by creating these identities for women, the law maintains its power and control.

In some cases, these experiences are compounded by other imposed identities by the State, including related to residency or immigration status. Regulation of these individuals often occurs with inputs from multiple agencies,³⁴ and results in them being governed by conventions or treaties at levels beyond the national level³⁵ compounding their experience. Where countries have national migration policies in place, they often include regulation of labour markets; and economic and social development; as well as related to access to social, health and education services to name a few.³⁶ It is these national legal frameworks that

³² Case 461

³³ Patricia Ewick and Silbey Susan S. ‘The common place of law: stories from everyday life’ (Chicago; London: University of Chicago Press 1998) 187

³⁴ Ariella J Messing, Rachel E Fabi and Joanne D Rosen, ‘Reproductive Injustice at the US Border’ (2020) 110(3) Am J Public Health 339

³⁵ Africa Check, ‘GUIDE: Defining migration, migrants, and refugees (and why it matters)’ (2016) <<https://africacheck.org/fact-checks/guides/guide-defining-migration-migrants-and-refugees-and-why-it-matters>> accessed 2 June 2023

³⁶ Migration Data Portal, ‘Migration policies and governance’ (2022) <<https://www.migrationdataportal.org/themes/migration-policies-and-governance>> accessed 2 June 2023

appeared most in the narratives as individuals spoke of the impacts of immigrant/migrant status as it relates to their experience of abortion law. Specifically, immigration and residency laws were noted by several narrators as an additional obstacle in trying to navigate access to abortion. Individuals spoke about not being able to access legal services because they did not have for example, a residency permit. Thus, abortion seekers described being forced to order pills online, seek care with private providers, or attempt to self-abort using herbs or other concoctions. In doing so they highlighted the injustice of having worked in and contributed to their countries' economies (including at times in the form of taxes), but still having to pay out of pocket for abortion services. One woman even highlighted the paradoxical situation that exists related to healthcare coverage, in that her "partner, the father of the baby" had permanent residency status. She further noted:

"and if he had uterus he can have it pretty much for a price of one night going out drinks, however he cannot cover the abortion for which he is sending me."³⁷

Another further spoke of the vulnerability she felt due to the issue of privacy laws in the context of navigating abortion regulation as an immigrant. She said:

"[t]here are no privacy laws... and in order to receive insurance reimbursement for health costs, all doctor visit information (including pictures of the uterus) need to be submitted to the employer."³⁸

In this case, while the lack of privacy laws seemingly applies to all individuals within the country, the potential impacts for an immigrant are much more severe. Protecting their

³⁷ Case 295

³⁸ Case 266

illegal status is even more important for those with limited protections. Forced *outside the law*, this abortion seeker ended up having a “traumatizing” illegal abortion in a “basement of what seemed like an empty hospital”. Thus, the compounding effect of multiple regulatory frameworks and parallel policies means that access to safe care is compromised for those abortion seekers with an identity tied to residency status. Thus, simply possessing knowledge of abortion laws is insufficient for abortion seekers to access services or assert legal entitlements. The coexistence of parallel frameworks complicates the landscape.

This evidence echoes findings from the literature that suggest that undocumented migrants are already at a disadvantage when it comes to accessing abortion services; many face language barriers, lack knowledge about how to navigate complex health systems, or are merely just denied access to services because of their status.³⁹ These disadvantages also exist for refugee women, but these women may be further marginalised as many are often sexually assaulted or forced to pay for the trip to a new country through prostitution.⁴⁰ As a result, many arrive in the new country pregnant⁴¹ and have a high risk for serious pregnancy complications.⁴² Some resort to self-management using unsafe practices when faced with limited resources and support.⁴³

Unfortunately, despite such experiences, the ability to mobilise around abortion law for immigrants can be limited. Mobilisation will be further explored in Chapter 5; however, I

³⁹ Kristina Killinger and others, ‘Why women choose abortion through telemedicine outside the formal health sector in Germany: a mixed-methods study’ (2022) 48(e1) *BMJ sexual & reproductive health* e6-e12

⁴⁰ Lucia Fontanelli Sulekova and others, ‘The Pregnancy Outcomes Among Newly Arrived Asylum-Seekers in Italy: Implications of Public Health’ (2021) 23(2) *Journal of immigrant and minority health* 232

⁴¹ *ibid*

⁴² Hawa-Idil Harakow and others, ‘Pregnancy complications among refugee women: A systematic review’ (2021) 100(4) *Acta obstetrica et gynecologica Scandinavica* 649

⁴³ Fontanelli Sulekova and others (n 40)

raise it here to demonstrate that the ways in which individuals understand their ability to engage with the law is directly related to their identity. As one narrator stated:

“I’m an immigrant so I cannot vote, but to those who can and will and even have, having an abortion was a decision that saved my life...Others don’t have to agree with my choice, but as an immigrant, to have a choice in this political climate is amazing”.⁴⁴

Here, this woman demonstrates an understanding that her illegal status actively limits her ability to fully participate politically. Specifically, she is unable to engage with the political process at all, which in the case of abortion has serious implications for her life. With no ‘choice in this political climate’, her personal circumstances are made invisible in consideration towards an ideal law that better reflects the needs of her, and others like her. Thus, her experience and overall legal consciousness are directly impacted at this moment when she is in need of an abortion, but also moving forward in the way she views the role of legal design. As she ‘cannot vote’, her experience will never be considered.

The experiences highlighted above demonstrate that legal consciousness is shaped by a combination of experiences and structural positions, which impact how individuals perceive of their rights and experience the law. The dichotomous labels of ‘pro-choice’ and ‘pro-life’ had a direct impact on how abortion seekers lived the law. In particular, individuals selectively invoked the law based on their own perceived identities. Moreover, the law played a crucial role in shaping the identity of abortion seekers, often casting them as killers or criminals, with this impact being intensified by factors like residency or immigration status. These social constructions of legal identities and the effects on individuals’

⁴⁴ Case 87

experiences directly inform abortion seekers' legal consciousness. Additionally, the presence of parallel legal frameworks poses a challenge to the singular focus on legality when formulating policies related to abortion. Policymakers must consider the intricate interplay between formal legal provisions and the diverse array of parallel structures influencing individuals seeking abortion services. This includes acknowledgement of the temporal aspect of abortion seeking, as well as the transnational aspect of abortion care. These factors influence how abortion seekers interpret and make sense of social and legal norms, authority, and processes more broadly, which affects their attitudes, behaviours, and decision-making with regard to abortion. Moreover, the analysis demonstrates that hegemony and identity are closely linked, and that there are various ways in which individuals create legal meaning. This emphasises the role of legal pluralism, a concept I will now explore.

Role of legal pluralism

In Chapter 1, I raised the pluralistic nature of law. There I introduced the idea that people understand the law differently. For some, merely turning to state law is enough. For others, alternative normative systems may be at play.⁴⁵ Traditional social-scientific legal pluralists, for example, see the "law as an external object of knowledge."⁴⁶ Institutions, processes and contributing norms exist in a delimited measurable way, such that there are boundaries for sources of legal rules. As a result, legal subjects are associated with specific legal orders.⁴⁷ Critical legal pluralists instead focus on individuals and not on legal orders. Individuals are

⁴⁵ Brian Z Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (2008) 30(3) Sydney Law Review 375 <<https://heinonline.org/HOL/P?h=hein.journals/sydney30&i=373>>

⁴⁶ Martha-Marie Kleinhans and Roderick A Macdonald, 'What is a Critical Legal Pluralism?' (1997) 12(02) Canadian Journal of Law and Society/ La Revue Canadienne Droit et Société 25, 37 <<https://www.cambridge.org/core/article/what-is-a-critical-legal-pluralism/A950AEEF6DC5EB17B2E48CB67593E947>>

⁴⁷ *ibid*

viewed as capable of producing legal knowledge; by participating in normative communities, individuals create legal subjectivity. This transformative capacity “maintains and creates [legal] realities.”⁴⁸ Thus, individuals are seen to be actively inventing law, such that normativity often becomes how power (or hegemony) is used to control communities.⁴⁹ However, from this perspective, the law may also exist to function beyond just as a mechanism of social control. It is more autobiographical,⁵⁰ which is influenced by the “multiplicity of identities” held by individuals.⁵¹

Activities linking meaning and behaviour by a loosely shared body of norms and practices might qualify as law.⁵² Where there are enough people within a social arena with the conviction that something is to be considered law (or law-like),⁵³ the law becomes “whatever people identify and treat through their social practices as ‘law’.”⁵⁴ From this lens, Tamanaha, a legal scholar, has put forth a framework of legal pluralism.⁵⁵ The framework considers six categories of normative ordering and is particularly helpful when thinking about the legal consciousness of abortion seekers. The first category is official legal systems and includes legislative laws, tribunals, human rights and other things typically seen as law or legal related.⁵⁶ In the case of abortion law, this would speak to the laws contained within a country’s constitution, penal code or other regulatory source.⁵⁷ The remaining five

⁴⁸ *ibid* 38

⁴⁹ *ibid* 40

⁵⁰ *ibid* 46

⁵¹ *ibid* 40

⁵² Brian Z Tamanaha, ‘A Non-Essentialist Version of Legal Pluralism’ (2000) 27(2) *Journal of law and society* 296 <<http://www.jstor.org.bham-ezproxy.idm.oclc.org/stable/1410566>>

⁵³ *ibid* 319

⁵⁴ *ibid* 313

⁵⁵ Tamanaha, ‘Understanding Legal Pluralism: Past to Present, Local to Global’ (n 45)

⁵⁶ *ibid* 397

⁵⁷ It is important to note that in the context of abortion regulation, the abortion laws of several countries have been colonially inherited, either through codified, common, or statutory law. For further details, see Charles G Ngweni, ‘Reforming African Abortion Laws and Practice: The Place of Transparency’ in Rebecca J. Cook, Joanna

categories focus on systems of normative ordering, the first of which includes customary systems that are often labelled as 'indigenous' or 'traditional' law.⁵⁸ These include social rules, institutions or approaches commonly used to maintain order. Related to abortion law, customary laws as they relate to gender norms may be relevant here, including where they are related to family laws or matters. The next category includes religious normative systems. Like in customary systems, cultural norms are reflected in religious norms, but religious norms include metaphysical aspects, which often elevate these norms within social spaces.⁵⁹ In both customary and religious normative systems, there are certain norms that are incorporated into legal systems officially or are recognised as parallel laws alongside official legal order.⁶⁰ Customary and religious normative systems can also reflect morality, or deeply held shared values within a community, and ethics, which is more closely linked to the justification for how actions are perceived in terms of being right or good.⁶¹ Although often distinguished from law,⁶² as will be demonstrated shortly, for abortion seekers in particular, morality and ethics are linked to ideas around social conduct and can at times be more relevant than official law.

The third normative system identified by Tamanaha is the economic/capitalist system, which can include a range of market practices, from informal norms that encourage private dispute resolution to more codified processes. As demonstrated in Chapter 3, within the abortion context, an economic system is also present in contexts where individuals are

N. Erdman, and Bernard M. Dickens (eds): *Abortion law in transnational perspective: cases and controversies* (University of Pennsylvania Press 2014)

⁵⁸ Tamanaha notes that these labels were constructed in circumstances of colonisation, whereby the practices and institutions of particular societies were marked as distinct from those of colonisers.

⁵⁹ Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (n 45) 398

⁶⁰ *ibid* Tamanaha refers to Natural law principles as an example of a religious norm with distinct legal status.

⁶¹ Jennifer Horner, 'Morality, ethics, and law: introductory concepts' (2003) 24(4) *Seminars in speech and language* 263

⁶² *ibid*

forced to turn to the informal sector (i.e., where abortion services are provided outside the formal health system), the rules of which are often determined by healthcare providers.⁶³

There are also functional normative systems, which have internal ordering mechanisms set up to regulate specific activities, sometimes coming in contact with official legal systems.

Examples here might include educational systems, hospitals, or other social institutions. In

the abortion context, hospitals and other medical systems/processes are governed by

informal and formal normative systems.⁶⁴ Finally, community normative systems exist,

which are tied together by some common language within a specific set of boundaries.

These can include groups of individuals sharing a history within a particular geographical

space or even “communities of interaction which exist purely on the internet comprised of

people from around the world.”⁶⁵ Among these individuals, shared cultural norms exist,

which can describe customs, habits, or even shared identities.

In Chapter 3, I introduced findings from the narratives that spoke to the perceived role of

religion in the development of laws. However, beyond this role, the narrators also

highlighted how religion and identity were linked to inform social behaviour in such a way as

to appear law-like. For example, one abortion seeker described how Jewish law views the

foetus, as “a life in the process of development” that is afforded “greater gravity as a

pregnancy proceeds.”⁶⁶ Considering this, abortion is seen as a serious decision. However, it

is a decision that is left up to the “ultimate choice up [of] the woman and her family” and for

this particular abortion seeker, it was her Jewish law that guided her decision. Another

⁶³ Tamanaha, ‘Understanding Legal Pluralism: Past to Present, Local to Global’ (n 45)

⁶⁴ Tamanaha’s normative systems resemble a system-theoretical approach in the various functions and boundaries described. See further, Niklas Luhmann, ‘A sociological theory of law/ Niklas Luhmann: Translated by Elizabeth King and Martin Albrow’ (Edited by Martin Albrow. Martin Albrow tr, London: Routledge & Kegan Paul 1985)

⁶⁵ Tamanaha, ‘Understanding Legal Pluralism: Past to Present, Local to Global’ (n 45) 399

⁶⁶ Case 582

seeker similarly referred to “Christian logic” and the belief that “God has created or allowed the creation of all things,” which includes abortion services.⁶⁷ Individuals reflecting religious perspectives also spoke about being “free to decide” to have an abortion based solely on their own conscience and personal relationship with God. Where official law was in moral alignment with abortion seekers’ perspectives, like for others in the literature,⁶⁸ the law was legitimised. However, often, the law was out of step with religious beliefs. In such cases, abortion seekers deferred to their religious teachings.

Abortion seekers spoke heavily about what they perceived to be morally right or wrong from a religious perspective. They identified “God [as] the ultimate author of [their] lives,”⁶⁹ using religion to come to an answer about whether to have an abortion or not, a decision they came to by prayer or by speaking with a religious figurehead. Although some viewed abortion in a negative light, they relied on the belief that they could access “God’s mercy and grace without condition.”⁷⁰ Where abortion seekers expressed guilt or shame around abortion, many spoke of the moral dilemmas that exist because of the belief that it is a sin and because of the idea that “God will always provide.”⁷¹ They worried less about the consequences of breaking official law and instead were haunted by the fears associated with having committed “the mortal sin” – murder.

In some cases, these perspectives informed beliefs about what official law should look like. Because abortion was seen as taking the life of another person, individuals expressed the belief that it should be regulated as such in official law. Some even noted that abortion was

⁶⁷ Case 541

⁶⁸ Jonathan Jackson and Tom R Tyler, ‘Future Challenges in The Study of Legitimacy and Criminal Justice’ (Oxford: Oxford University Press 2013)

⁶⁹ Case 112 and 120

⁷⁰ Case 20

⁷¹ Case 184

illegal in their context because “moral and religious reasons dominate.”⁷² Narrators further described their countries as religious or “traditional” in nature. In such cases, narrators were guided by their customary and/or religious systems, which beyond official law reflect a culture of ideas that constitute a way of life.⁷³ In this way, abortion seekers are like those investigated by Engel and Engel in Thailand, described in Chapter 1,⁷⁴ whereby factors such as religion and culture inform legal consciousness more than official law. Similarly, existing literature demonstrates that women's legal consciousness regarding marriage and childbearing in China is shaped by ‘qing’ (feelings or attitudes linked to the high value of family obligations and respect for elders).⁷⁵ In settings where abortion is illegal, the shame and stigma associated with abortion make individuals feel like they are “one of the most wanted criminals” and directly impact self-esteem and personal relations.⁷⁶ In another study conducted in the Philippines, where abortion is illegal,⁷⁷ abortion was associated with “*gaba* (punishment or bad karma)” and seen as a deviant or undesired behaviour linked to stigma. Abortion and those associated with it are not only viewed to be criminal but also immoral; it is the fear of ‘gaba’ (and not the law formally) that dictates behaviour.⁷⁸ Thus, not only are beliefs and attitudes related to law and justice impacted by these normative systems, but religion and culture serve as a way of life, thus diminishing the role of official law.⁷⁹

⁷² Case 273

⁷³ Tamanaha, ‘Understanding Legal Pluralism: Past to Present, Local to Global’ (n 45)

⁷⁴ David M Engel and Jaruwat S Engel, *Tort, custom, and karma: globalization and legal consciousness in Thailand* (Jaruwat S. Engel and American Council of Learned Societies trs, Stanford, Calif.: Stanford Law Books, 2010 2010)

⁷⁵ Qian Liu, ‘Legal Consciousness of the Leftover Woman: Law and Qing in Chinese Family Relations’ (2018) 5(1) Asian JLS 7

⁷⁶ Center for Reproductive Rights (n 22)

⁷⁷ Jessica D Gipson, Alanna E Hirz and Josephine L Avila, ‘Perceptions and Practices of Illegal Abortion among Urban Young Adults in the Philippines: A Qualitative Study’ (2011) 42(4) Stud Fam Plann 261

⁷⁸ *ibid*

⁷⁹ Engel and Engel (n 74)

It is essential to highlight the intersection with mobilisation here, a concept that will be further explored in Chapter 5. Being unable to identify with the law led some to take on new roles as activists or join a collective. One narrator, for example, spoke about being driven by her religious norms to ensure that “women— not their fathers, husbands, or priests — get to determine if, when, and how they create and grow their family.”⁸⁰ She spoke about fighting to “honor [women] ... in [the] legislative process” and working to further “gender justice, including abortion rights”⁸¹ to create laws that she and others could identify with. Some were specifically motivated by their previous abortion seeking experience, advocating for legal reform so that women would not continue to be mistreated. Others spoke about participating in specific forms of activism such as towards decriminalisation because they believed that the “right to control [one’s] own body is fundamental to ... humanity, and that must translate into legislation.”⁸² Individuals spoke about the real need to live according to their own rules, not imposed by anyone else and how they felt stronger “by the power of sisterhood”⁸³.

In fact, (mis)identification with the law informed how narrators further positioned the right to abortion from a moral and ethical perspective, independent of what exists in official law. Specifically, abortion seekers appealed to a notion of shared values or beliefs.⁸⁴ Narrators called on others to recognise that decisions around abortion are made from “necessity” and that it is God who creates the path to abortion. It is from this perspective that abortion seekers justified their abortions, as well as those of others within their communities. As the guiding force for many abortion seekers, they relied on these shared normative systems to

⁸⁰ Case 556

⁸¹ Case 556

⁸² Case 27

⁸³ Case 59

⁸⁴ Jackson and Tyler (n 68)

appeal to the need for compassion related to personal circumstances. In this way, abortion seekers went beyond merely urging others (including lawmakers) to consider the personal aspects of abortion; they sought acknowledgement of diverse religious identities in the formulation of laws.

Moral considerations rooted in other values, beyond religion, also informed law-related behaviour, perceptions around the law's efficacy, and more specifically how people understood and invoked the law.⁸⁵ Approximately one-sixth of narratives (n=110) included some reference to the need to prioritise themselves or their existing family and the fact that an internal moral compass guided the decision to abort. Individuals specifically sought support for their beliefs (even if just in the form of other narratives with shared perspectives) about what was right or wrong regardless of the law. They used the sites as a barometer to assess whether their views were supported in their social media communities. At times these behaviours were in line with abortion law, while at others they were not. These findings support those described by Young⁸⁶, a study raised in Chapter 1, whereby shared elements of consciousness informed by group norms impact individuals' understandings of law. This will be expanded upon in Chapter 5 (within the analysis of the concept of *Mobilisation*), but it is raised here to demonstrate the role and impact of community identity cultivated through social media to inform behaviour. Abortion seekers' "sense of self [was] "distributed" across a network of significant others"⁸⁷ affecting their legal consciousness.

⁸⁵ Laura B Nielsen, 'Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment' (2000) 34(4) *Law & society review* 1055

⁸⁶ Kathryne M Young, 'Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight' (2014) 48(3) *Law & society review* 499

⁸⁷ Chua and Engel (n 1), 18

Thus, a collective identity, like for the migrants in Yang's study,⁸⁸ emerged as a driving force for abortion seekers law-related conduct within this thesis, not official law. Research by Hendley also explored the relevance of official law, particularly around how individuals think of things as right and wrong and their commitment to fairness. Participants in Hendley's study described their experiences with others living within their pod"ezd, a small community of individuals sharing a stairwell in a Russian apartment building.⁸⁹ Dispute resolution within these pod"ezds were informed less by formal legal systems and more by an internal moral code and the code of their pod"ezd. While Hendley's research was specifically about dispute resolution, similarities can be seen in the analysis of the narratives of abortion seekers. Abortion seekers relied on the communities created by various social media platforms to garner support about their perspectives, including those related to the role of law in their abortion experience. Like in Hendley's research, interpersonal relationships⁹⁰ were created via social media, which enabled individuals to connect on the issue of abortion (even if not physically), facilitating the development of relational and collective legal consciousness. However, this development was not linear, but instead always in flux, as they often received these inputs in real-time, meaning at the time of need. Thus, by sharing stories on social media, they were not only acutely aware of the experiences of others but also of how their lived experience compared to what they knew or expected would be the experience of those in other countries. These perceptions then influenced ideas of what is or would be ideal within their contexts.

⁸⁸ Duanyi Yang, 'Why Don't They Complain? The Social Determinants of Chinese Migrant Workers' Grievance Behaviors' 73(2) ILR Review 366

⁸⁹ Kathryn Hendley, 'Resolving Problems among Neighbors in Post-Soviet Russia: Uncovering the Norms of the Pod"ezd' (2011) 36(2) Law & Social Inquiry 388

⁹⁰ *ibid*

It is important to note that where official law is perceived to be fair, just, and neutral, seemingly operating from an ethical framework, its authoritative status is maintained.⁹¹ However, where individuals feel as if they cannot identify with the law, they may question the legitimacy, or the power and the authority of the law. In this case, many abortion seekers identified a disconnect between official law and perceptions about what is right or wrong, as informed by these social interactions. They spoke of feeling full of “rage that women in [their] country had to endure such humiliation”⁹² or being “sad” that there is “still no legal possibility of terminating” and “hop[ing] it will change someday.”⁹³ They wanted their rights to be protected, as happens in other countries. One abortion seeker, for example, compared her illegal experience in Poland, to one in the United Kingdom, where she felt she was “looked after at the highest level”.⁹⁴ This experience led her to believe that women should have reproductive choices, and that abortion should be both legal and reimbursed. These sentiments were echoed in several narratives as individuals noted for example, that “[e]veryone has the right to choose and it should be the same in [their] country.”⁹⁵ Another individual spoke of how she went “to a sunny country where women can and do abortions on demand.”⁹⁶

Informed by a community identity, the perception of an ideal abortion law was then characterised by a demand for fairness and non-discrimination in its application.

Recognising the often arbitrary and subjective nature of abortion laws, abortion seekers wanted to be treated with respect in the legislative process and treated with dignity. Their

⁹¹ Jackson and Tyler (n 68)

⁹² Case 214

⁹³ Case 22

⁹⁴ Case 200

⁹⁵ Case 523

⁹⁶ Case 68

desire goes beyond individual preferences; they seek the reflection of their values (beyond religious as described above) and emphasise particularly those embedded in their shared community. Where the norms and values that an individual holds are not apparent in the law, individuals tend to feel alienated by the law. Alienation can include feelings related to a lack of clarity around the law; a sense of powerlessness related to the law, its processes, or outcomes; or beliefs that supposed rules are not binding.⁹⁷ Moreover, where official legal norms contradict conventional customary norms, “lived norms will continue to govern social action.”⁹⁸ This again underscores the significant link between hegemony and identity, highlighting how these experiences contribute to perceptions of the law as a mechanism of control. In this perspective, the values of politicians or other individuals applying the law are seen as imposed, further emphasising the need for legislation that respects the diverse values within the affected community. In Chapter 5, I will further demonstrate how identity and hegemony inform perspectives around mobilisation.

However, it is crucial to highlight that the temporal nature of pregnancy and abortion-seeking influences how individuals construct and respond to these community identities. These identities, like the experiences themselves, are based on specific moments in time. Notably, as described at the start of this Chapter, it is during the time of pregnancy or abortion seeking that the role of law or what is law-like often becomes relevant. It is also the time at which many will engage with and contribute to social media platforms. Specifically, individuals seeking abortion utilise these online platforms for mutual support and to exchange information about abortion access and regulations, irrespective of the

⁹⁷ Marc Hertogh, *Nobody's law: legal consciousness and legal alienation in everyday life* (London: Palgrave Macmillan, 2018 2018) 55–56

⁹⁸ Tamanaha, ‘Understanding Legal Pluralism: Past to Present, Local to Global’ (n 45) 401

legal landscape in their respective countries. The sharing of personal stories on these platforms enabled abortion seekers to surpass national boundaries, facilitating the dissemination of ideas and experiences. While official laws played a role in the narratives of many abortion seekers, as previously discussed, notions surrounding the ideal also played a pivotal role in shaping evolving legal consciousness. Consequently, the impact of community identity extended beyond the decision-making process of abortion, influencing perceptions of the law, and guiding social behaviour.

Conclusion

In this Chapter I have highlighted how the narratives demonstrate the ways in which the law is connected to identity, informing who individuals are and impacting how they perceive, experience and act in relation to the law. Regulation through criminal or penal codes, along with how abortion is described in legal texts, contributes to the stigma experienced by abortion seekers. By imposing a criminalised identity, the law governs behaviour and shapes a hegemonic structure, perpetuating its dominance. While some abortion seekers perceive the law as a supportive force for advancing their beliefs, rights, and identity, others only invoke the law when it is relevant to their current identity. This can also be influenced by the concepts of space and time, further enriching the legal consciousness of abortion seekers.

The analysis further demonstrates that abortion seekers, much like other individuals in legal consciousness research, draw on a variety of resources to inform decision-making. Social, cultural, religious, and gender norms are seen as distinct from official legal norms, leading to a dynamic and evolving legal consciousness for abortion seekers. Normative alignment or misalignment impacts the way individuals identify with the law, and as demonstrated

throughout this Chapter influences ideas about the role of law and what would be ideal.

Abortion seekers' desire for person-centred care underscores the need for the legal framework to recognise unique experiences and needs, considering broader social inequalities and intersections impacting abortion seekers' lived experiences. Additionally, the existence of parallel legal frameworks complicates a singular focus on legality in formulating abortion policies. Moreover, it is crucial to acknowledge that the evolution of legal consciousness is not linear but in constant flux, influenced by real-time inputs, particularly during moments of need.

These findings complement what I have demonstrated thus far in the thesis. In Chapter 3, the analysis of abortion seekers' narratives revealed how their perspectives align with legal consciousness concepts described by Ewick and Silbey. However, abortion seekers also recognise that the law does not apply evenly to all and that systemic biases play a role. In such cases, abortion seekers diverged from existing perspectives in legal consciousness and were often forced *outside the law*. Feelings of powerlessness are magnified, especially when compounded by immigration and other laws beyond abortion regulation. These experiences reinforce the need to explore complementary factors in the evolution of legal consciousness.

Taken together, these two Chapters highlight the interplay between structural factors, individual experiences, and collective identity in shaping how individuals perceive and interact with the law. This underscores the importance of considering hegemony and identity in concert to advance our understanding of legal consciousness. Transitioning to the next Chapter, I will examine the concept of mobilisation. This analysis not only enhances the comprehension of the dynamic evolution of legal consciousness but contributes to concepts

that speak to the ways in which equitable legal systems may be developed that genuinely address the needs and experiences of individuals.

CHAPTER 5 – MOBILISATION

The analysis will continue by looking at *Mobilisation*, including how individuals perceive of rights and consider its relevance when faced with a problem.¹ This includes the appreciation demonstrated by narrators that to engage with law in everyday life, individuals need more than the expansion of legal knowledge; they need support, including in being empowered as rights holders. The analysis also further supports that a collective legal consciousness can develop through social media sites. Responding to this, individuals make decisions about whether and how to use the law, both to pursue personal objectives and to bring about social change.

Beyond hegemony and identity, legal consciousness research has also focused on the mobilisation of the law and has explored the actions and decisions of individuals related to using the law when dealing with problems in their lives (i.e., their ability to mobilise law).² From this perspective, this is similar to the ways in which I described in Chapter 3 how abortion seekers are able or not able to use the law as a tool towards their personal objectives.

Researchers have also more specifically investigated the role of law in bringing about social change, focusing on aspects of human agency.³ Such research has explored how individuals perceive of rights and consider their relevance when faced with a problem.⁴ As noted in

¹ Lynette J Chua and David M Engel, 'Legal Consciousness Reconsidered' (2019) 15(1) *Annu Rev Law Soc Sci* 335

² Stergios Aidinlis, 'Defining the 'legal': two conceptions of legal consciousness and legal alienation in administrative justice research' (2019) 41(4) *Journal of Social Welfare and Family Law* 495; Simon Halliday, 'After Hegemony: The Varieties of Legal Consciousness Research' (2019) 28(6) *Social & Legal Studies* 859 Research related to abortion and mobilisation has been conducted by Wilson, a study introduced in Chapter 1. That study, however, was specifically related to the legal consciousness of abortion activists-turned-litigants.

³ Chua and Engel (n 1)

⁴ *ibid*

Chapter 4, these decisions may be impacted and/or motivated by local norms and practices.⁵

However, by exploring legal consciousness from this rights perspective, researchers have attempted to better understand how individuals mobilize their rights, including those that are “intended to achieve justice or protect disadvantaged populations”.⁶ Looking at the narratives of abortion seekers from this lens demonstrates that abortion seekers also view abortion care and related laws as linked to their ability to claim their rights. Moreover, individuals used their narratives as a mechanism by which to share knowledge and support, as well as inspire others to think differently about the law. This was again facilitated using social media, which enabled a relational understanding of abortion and its regulation.

Justice & rights

In Chapter 3, I described the ways in which abortion seekers considered the rights of life, liberty, and health, as well as reproductive rights more specifically. There, the analysis demonstrated that abortion seekers considered the ways in which the law did or did not confer rights. For many abortion seekers, access to legal abortion was restricted and they were unable to use the law as a tool to solve a problem in their lives, i.e., they were unable to mobilise the law. However, even in these contexts, they spoke specifically about fighting for legal and public abortion because they saw abortion as a right that was linked to the ability to decide about their body and health. In fact, 28% (n=178) of narratives included some mention of abortion as

⁵ ibid

⁶ ibid 8

a right, and this link was made across various legal contexts (i.e., both restrictive and less restrictive).

Moreover, even when they found it difficult to mobilise the law, they saw the law's role in delivering on those rights. As one abortion seeker noted, it is important to:

“educate oneself about pro-choice candidates and voting strategies. Policies shape concrete truths, and the dignity of human choice should never be discounted as an abstraction.”⁷

By specifically speaking to policy formation and the ways in which individuals might participate in this process, including by electing officials with shared values, this individual recognizes the role of law in bringing about social change. Specifically, this sentiment reflects an understanding that communications by particular individuals, in this case politicians, can influence individuals' attitudes and beliefs, illustrating a link to hegemony. Moreover, the deliberate association of these messages with the 'pro-choice' identity underscores an endeavour to resonate with specific values, perpetuating a moral discourse. This strategy is one that appears to be utilised by law makers themselves as well. For example, a sentiment analysis conducted on abortion laws in the United States (U.S.) from 2019 demonstrated that more than 50% of bills included negative language.⁸ The authors found that laws reflect an intentional use of selected emotionally charged words, which either emphasise or minimise specific frames such as those linked to human rights or law-breaking.

⁷ Case 342

⁸ Danny Valdez and Patricia Goodson, 'Neutral or Framed? A Sentiment Analysis of 2019 Abortion Laws' (2022) 19(3) Sexuality research & social policy: journal of NSRC: SR & SP 936

The framing of laws along specific political ideologies also seemed to influence mobilisation by abortion seekers to include ideas around human agency in their narratives. For example, one narrator stated:

“I fight for women to determine their own destinies and pursue whatever fulfils them ... I believe deeply in feminism, ... I hated the fact that women were considered second to men and that there was a double standard when it came to sex”.⁹

Here, this abortion seeker is describing a desire for a greater social change, such that women can ‘determine their own destinies’. She links this position to feminism because of the ‘double standard’ that exists. In this way, she is drawing from a rights discourse “to make sense of troublesome events”.¹⁰ Similarly, abortion seekers spoke about how they observed “sweeping tides of regressive policies escalating”¹¹, whereby women’s rights were coming under attack. Such events forced them to “break [their] silence” and “shout [their] abortion”. Abortion seekers found that by publicly speaking about their abortions, they could destigmatize and normalize abortion. Doing so also allowed them to locate rights and justice, and not the law per se, at the centre of their abortion experience.

Abortion seekers also spoke about rights in the context of being able or willing to mobilise the law. For example, in less restrictive contexts, abortion seekers pushed back against individuals who were meant to be applying the law, in particular healthcare providers. When asked to

⁹ Case 556

¹⁰ Chua and Engel (n 1), 10

¹¹ Case 427

consider “the life inside of [them]”¹², they asserted their own right to life. When faced with a conscientious objector, they questioned what a healthcare provider’s beliefs had to do with whether they could get an abortion. One individual specifically described seeking a “refund for all the expensive testing” she underwent after her ultrasound showed that she may miscarry, and she was told the “only option was to continue the pregnancy.”¹³ She specifically saw this as a violation of her rights and sought recourse through a “formal complaint” and “won!”.

Individuals spoke about a system designed to deter women, to persuade them against their own decisions. Instead of being silenced, these women were more vocal and more active in their attempts to challenge the status quo regarding abortion regulation. They saw “no end to the lengths lawmakers”¹⁴ would go to significantly limit their rights and they did not want to “giv[e] in to ... externally-placed feelings”¹⁵. They wanted to claim their rights and “destinies” and to be politically empowered and brave. Moreover, abortion seekers wanted recognition of these rights in the form of protections from the state; in their expressed desires of ideal law, they wanted access to quality abortion care. For this to be the case, States must ensure through their “laws and policies, institutional arrangements and social practices” that individuals can effectuate their right to sexual and reproductive health.¹⁶ From their perspective, however, abortion seekers were not receiving these rights. They highlighted that “[w]omen should not

¹² Case 490

¹³ Case 256

¹⁴ Case 413

¹⁵ Case 326

¹⁶ World Health Organization, ‘Abortion care guideline’ (2022) 7

have to go through a gauntlet ... to get this basic care.”¹⁷ They should not have to “order the medication from shady internet pharmacies in Russia or India or who-knows-where-else.”¹⁸

Some abortion seekers even highlighted the need for abortion to be recognised as an essential service, something the World Health Organization (WHO) recommends.¹⁹ This became even more important for those impacted by Covid. Specifically, individuals wanted abortion to be legal, but also safe, accessible, and on demand in all or most cases, elements they associated to be present with other health options. This has also been noted in the literature, where individuals have highlighted that legal does not always mean accessible,²⁰ especially in rural areas.²¹ For example, in Great Britain, abortion seekers did not agree with the current law regulating how individuals purchased abortifacients, “because surely allowing a woman to buy the pills as she may buy a 'morning after pill' would [not only] save the NHS so much time and money and resources” but it would improve access to care.²² In the narratives for this thesis, individuals also recognised that “a nation that acknowledges [the] constitutional right to abortion is not the same as a nation that makes abortion accessible.”²³ In this way, they seemed to be highlighting the spurious protections offered by the law, which further reinforced hegemony by perpetuating the power gap between the law and those attempting to engage

¹⁷ Case 610

¹⁸ Case 610

¹⁹ World Health Organization, ‘Maintaining essential health services: operational guidance for the COVID-19 context: interim guidance, 1 June 2020’ (2020); World Health Organization, ‘Continuing essential Sexual Reproductive, Maternal, Neonatal, Child and Adolescent Health services during COVID-19 pandemic’ (2020)

²⁰ Abigail R A Aiken and others, ‘Barriers to accessing abortion services and perspectives on using mifepristone and misoprostol at home in Great Britain’ (2018) 97(2) *Contraception* 177

²¹ Katherine Ehrenreich and Cicely Marston, ‘Spatial dimensions of telemedicine and abortion access: a qualitative study of women's experiences’ (2019) 16(1) *Reproductive health*

²² Aiken and others (n 20)

²³ Case 103

with it. Individuals expressed the desire to feel like they could rely on their government so that they would not have to rely on the generosity of other countries.

Interestingly, some abortion seekers articulated a form of social contract, acknowledging the necessity for regulation. From this perspective, individuals seemed to concede to the need for governmental oversight in exchange for a commitment to ensuring access to quality abortion care. This is like the ways in which sex workers in Klambauer's²⁴ and Boittin's²⁵ studies (expanded on in Chapter 1) desired more regulation to protect their safety, their right to sexual health, and to reduce stigma related to sex work. Sharing similar perspectives, abortion seekers spoke of feeling more secure and safe specifically when actions were taken by their governments. This viewpoint suggests a complex interplay between individual autonomy, regulatory frameworks, and the expectation of receiving safe and high-quality healthcare services. It underscores the paradox of being marginalised by legal frameworks while still perceiving the potential for the law to serve as a beneficial instrument. Primarily, these women wanted laws that were responsive to their needs, recognised their basic human rights, and demonstrated trust in women to do the right things for themselves and their families.

Others investigating the medico-legal paradigm around abortion have explored the ways in which the law could be more responsive in supporting access to quality care. Assis and Erdman, for example, have observed that self-managed abortion activism centres on two key

²⁴ Eva Klambauer, 'On the edges of the law: sex workers legal consciousness in England' (2019) 15(3) *International Journal of Law in Context* 327

²⁵ Margaret L Boittin, 'New Perspectives from the Oldest Profession: Abuse and the Legal Consciousness of Sex Workers in China' (2013) 47(2) *Law & society review* 245

elements.²⁶ First, it emphasises the importance of respecting individuals and understanding their actual needs and circumstances. Second, it involves a commitment to supporting individuals in managing their abortions safely, meeting them where they are, such that they can use the resources available to them.²⁷ Despite the narratives encompassing various viewpoints on the cultural or social acceptability of abortion, there was a consensus in ensuring that the law aligns with the imperative to provide person-centred care. Specifically, narrators wanted the law to hold space for all people, including for those who think differently. In Chapter 4, I underscored the connection between religion and identity shaping social behaviour. Narratives within this context recognise the diversity of religious affiliations and values among individuals. However, the narrators also emphasised the crucial role of law in safeguarding autonomy. “We know that there are many religions in this country” and no one should be “forced ... to follow... one religion”²⁸. Thus, individuals are asserting the importance of respect for individual autonomy within the legislative process.

Linked to quality care, abortion seekers also wanted the law to protect their right to access information. The WHO Abortion care guideline states that the availability and accessibility of information is a cornerstone of an enabling environment towards quality comprehensive abortion care.²⁹ However, 15% (n=93) of the narratives spoke to misinformation, and more specifically how organised anti-choice efforts contributed to this issue. Individuals spoke about being directed to “help centres” either by the internet or through referrals by providers and

²⁶ Mariana P Assis and Joanna N Erdman, ‘Abortion rights beyond the medico-legal paradigm’ (2022) 17(10) *Global public health* 2235

²⁷ *ibid*

²⁸ Case 549

²⁹ World Health Organization, ‘Abortion care guideline’ (n 16)

how these centres turned out to be “pro-life” “crisis” pregnancy centres or “anti-choice place[s] in disguise”³⁰. Unable to gain information about abortion, women described being exposed to “religious people” trying to “guilt” them into continuing their pregnancies. For example, in their searches for information, women encountered “members of pro-life group[s]” who described a woman’s “life purpose” as becoming a mother”;³¹ they offered financial and emotional support through the pregnancy until they were no longer able to obtain a legal abortion. One narrator further described how she was unsure of what to do after she learned that she was pregnant, and she was directed to a crisis pregnancy centre for a free ultrasound. At the clinic they:

“broadcasted the image [of the fetus] on a huge television screen. They pointed at the fetal parts and said things like ‘Let’s check to make sure the head is attached.’”³²

This same narrator spoke about the fact that without knowing where to turn for information, she was “panicking” and “willing to accept any free help [she] could get”.³³

Unfortunately, the narratives reveal that abortion seekers cannot necessarily then turn to healthcare providers to access accurate abortion related information. Narrators described healthcare workers who would not provide comprehensive abortion care, including information provision, as well as not providing appropriate referrals. One spoke about being refused care based on “religious (Christian) grounds” leaving her feeling as if she was “being manipulated...

³⁰ Case 138

³¹ Case 562

³² Case 103

³³ Case 103

patronised and infantilised”.³⁴ Having come across several objectors, this narrator described the delays associated with accessing information and care. She and others were “shocked” to learn that their providers’ beliefs “have anything to do with whether or not [they] can obtain an abortion.”³⁵ Individuals also described being turned away with no mention of a conscience clause or being “told off about not using contraceptives”³⁶ and provided with little information about options. However, abortion seekers described wanting to “know what to do, where to report, who to talk to” and “what to expect”³⁷. Although conscientious objection or refusal may be protected in various types of laws (i.e. employment, contract and/or abortion law), as described by abortion seekers, the State had failed to ensure that women can still access health services when faced with an objector³⁸ or protect their right to health more generally. One narrator even noted that not “surprisingly there is little to no oversight to ensure” that a referral happens, forcing her to “literally start knocking on doors.”³⁹ In these cases, governments were doing little to “prevent and eliminate discrimination, stigmatization and negative stereotyping that hinder access” to health services.⁴⁰

³⁴ Case 135

³⁵ Case 559

³⁶ Case 258

³⁷ Case 212

³⁸ See further, UN Committee on the Elimination of Discrimination Against Women (CEDAW) ‘General Recommendation No. 24: Article 12 of the Convention (Women and Health)’ (1999) UN Doc A/54/38/Rev.1, chap. I; UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No. 22: The Right to Sexual and Reproductive Health (Art. 12 of the Covenant on Economic, Social and Cultural Rights)’ (01 May 2016) UN Doc E/C/12/GC/22

³⁹ Case 459

⁴⁰ World Health Organization, ‘Abortion care guideline’ (n 16) 8

Although freedom of expression is a protected right under several international and regional treaties and is included as a value in most national constitutions,⁴¹ it can be restricted where “it violates the rights of others, or, advocates hatred and incites discrimination or violence.”⁴² In the case of abortion, organised efforts to actively keep individuals from obtaining safe abortions and intimidate providers are widespread. In the U.S. for example, anti-abortion extremists have targeted patients, providers, and volunteers, including in healthcare settings.⁴³ Violence has been on the rise, including an increase in the number of arsons, bombings, assaults, and clinic invasions.⁴⁴ In response to such incidents, the U.S. Congress enacted the Freedom of Access to Clinic Entrances Act of 1994, which has been used to prosecute several individuals.⁴⁵ Some countries have focused their efforts on the physical space surrounding clinics and have introduced buffer zones to restrict how close protestors can get to those entering facilities.

Individuals, whose narratives were analysed within this thesis, described living in countries with buffer zones or legally protected areas around clinics and how these protective measures positively impacted their experience. They saw this as a demonstration of the State’s recognition of their rights. However, not all States have buffer zones, and even still, such efforts

⁴¹ Amnesty International, ‘Freedom of Expression’ <<https://www.amnesty.org/en/what-we-do/freedom-of-expression/>> accessed 31 May 2023; United Nations, ‘Universal Declaration of Human Rights’ <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 31 May 2023

⁴² Amnesty International (n 41)

⁴³ Claire Connolly, ‘Violence Against Abortion Providers Continues to Rise Following Roe Reversal, New Report Finds’ (2023) <<https://prochoice.org/violence-against-abortion-providers-continues-to-rise-following-ro-reversal-new-report-finds/>> accessed 1 June 2023

⁴⁴ *ibid*

⁴⁵ The United States Department of Justice, ‘Recent Cases on Violence Against Reproductive Health Care Providers’ (2023) <<https://www.justice.gov/crt/recent-cases-violence-against-reproductive-health-care-providers>> accessed 1 June 2023

fall short of also protecting individual's right to information. In both restrictive and less restrictive contexts, narrators spoke of how misinformation is allowed by the State to propagate in public spaces, disabling the realisation of the right to health. For example, abortion seekers specifically wanted their governments to shield them from abortion related propaganda and protestors. Ten per cent (n=64) of the narratives from various contexts referred to such experiences. Narrators described being faced with billboards of "dead baby parts with the words murder and baby-killer"⁴⁶ written on them. They described being exposed to "banners" that showed things like "baby hand prints made out of blood"⁴⁷ which led to an exaggerated perception of the foetus's age. Abortion seekers also spoke about protestors outside of clinics who held placards of aborted fetuses, and dead baby parts or handed out baby leaflets. They described being heckled and chased, exposed to "manipulative things like 'mommy don't kill me' or 'your baby loves you.'"⁴⁸

Individuals recounted not only their experiences at clinics but also how such propaganda had permeated many aspects of their lives. It was difficult to be shielded from "conservative news" for example, or from massive "billboard[s] of dead baby parts with the words murder and baby-killer hurling at you at 40 mph".⁴⁹ Individuals spoke about how they were impacted by 'pro-lifers', specifically as they were trying to exercise a legal entitlement in contexts where abortion is legally permissible, and often connected these experiences to the State at large. They spoke of being devoid of State protections, and recognised this as an injustice. Interestingly, some

⁴⁶ Case 107

⁴⁷ Case 546

⁴⁸ Case 408

⁴⁹ Case 107

narrators living in jurisdictions where exposure to antichoice propaganda was less common still described the impact of offensive anti-abortion speech. For example, some spoke about learning of such experiences in other countries and being surprised at what was happening all around the world. As one individual noted, such events were “terrifying”, and she was grateful that she did not have to “deal with religious nut-job forced-birthers”.⁵⁰

Although many narratives made the link between the law and access to quality abortion care, some individuals questioned the role of the law at all. They saw abortion laws as an “affront to all women”⁵¹ with the main purpose being to control women. They too saw abortion as healthcare but desired less interference by law and the lifting of bans. While they understood that healthcare requires medical oversights, many abortion seekers spoke of separating the law from medicine when it came to abortion. As noted in Chapter 3 within *Hegemony*, individuals believed that “[p]oliticians who generally have little or no medical training have no business being in the middle of ... private medical decisions”⁵² and that such interference was motivated by a desire to impose specific values or perpetuate feelings of shame and guilt. Interestingly, the reference to ‘medical training’ suggests that healthcare professionals have a place in the abortion decision. However, generally, abortion seekers saw abortion as a necessary decision, which was theirs alone. Access to abortion is a right, and any intrusion by the law is unjust. For those in restrictive contexts with this view, the law was “irrelevant”.

⁵⁰ Case 364

⁵¹ Case 373

⁵² Case 147

Interestingly, the salience of domestic official law specifically is further diminished when human rights norms are invoked by global actors.⁵³ This highlights the geopolitical nature of abortion care. For example, non-governmental organisations utilise mechanisms such as the European Court of Human Rights⁵⁴ and United Nations treaty-monitoring bodies⁵⁵ to bring abortion related suits. In doing so, the hidden abortion seeker becomes visibilised and new legal principles develop.⁵⁶ One such example is the recognition of abortion as a right within the human rights instrument that is intended to promote and protect human rights and basic freedoms for those on the African continent – the African Charter on Human and Peoples' Rights.⁵⁷ Article 14(2)(c) of the Protocol to the African Charter lays out the conditions under which individuals should be permitted to access abortion care. As “an enumerated right at the regional level, the Protocol advances global consensus on combating unsafe abortion” while encouraging domestic alignment with minimum access grounds.⁵⁸ Even such efforts demonstrate the potential salience of domestic law, as countries are encouraged to review and revise local laws where necessary to ensure compliance with regional and international human rights standards.⁵⁹

⁵³ Brian Z Tamanaha, 'Understanding Legal Pluralism: Past to Present, Local to Global' (2008) 30(3) Sydney Law Review 375 <<https://heinonline.org/HOL/P?h=hein.journals/sydney30&i=373>>

⁵⁴ *ibid*

⁵⁵ Charles G Ngwenya, 'Reforming African Abortion Laws and Practice: The Place of Transparency' in Rebecca J. Cook, Joanna N. Erdman, and Bernard M. Dickens (eds): *Abortion law in transnational perspective: cases and controversies* (University of Pennsylvania Press 2014)

⁵⁶ Atina Krajewska, 'Reimagining Reproductive Rights: Studying Invisible Subjects, Principles, and Structures of Transnational Reproductive Health Law' (2019) 7(2) Journal of medical law and ethics 201, 216

⁵⁷ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58 (African Charter)

⁵⁸ Ngwenya (n 55) 172

⁵⁹ It is important to note that where human rights are violated, as an obligation under International Human Rights Law, States must review, reform and/or revise their laws. See for example, UN Human Rights Committee (HRC) 'General comment no. 36, Article 6 (Right to Life)' (3 September 2019) UN Doc CCPR/C/GC/35

Regardless of the salience of law per se, these narratives demonstrate that abortion seekers found common ground in their pursuit of understanding and asserting their rights. Social media was demonstrated to be a crucial platform for understanding and asserting these rights, providing widespread information. Posting narratives was a way for these abortion seekers to promote social discourse, recognising that “open discussion is the only way [to] change the law and social expectation ... recognis[ing] the rights of women.”⁶⁰ Doing so centred these abortion seekers’ experiences on rights and justice rather than solely on the law. The fact that abortion seekers also drew from a range of rights, such as life, liberty, health, and reproductive rights, sheds light on how legal consciousness is influenced by broader political and ideological contexts. Influenced by desires for laws that facilitate access to quality abortion care, helping individuals to navigate the legal landscape through a rights-based framework was a way for abortion seekers to focus on what they believed to be the real-life needs of those reading their stories.

The role of knowledge and support

Existing legal consciousness research exploring mobilisation has often focused on the expansion of legal knowledge. With improved knowledge, individuals can become more adept about when and how the law might be used.⁶¹ Moreover, existing research demonstrates the presumption that “[p]eople need to know about, and understand, the law, in order to mobilize their rights.”⁶² However, knowledge of one’s rights does not automatically translate into a claim of

⁶⁰ Case 81

⁶¹ Diana Hernández, “‘I’m gonna call my lawyer:’ shifting legal consciousness at the intersection of inequality’ (2010) 51(51) Special Issue Interdisciplinary Legal Studies: The Next Generation 95

⁶² Mary N Trautner, Erin Hatton and Kelly E Smith, ‘What Workers Want Depends: Legal Knowledge and the Desire for Workplace Change among Day Laborers’ 35(4) Law & policy 319, 332

those rights. Instead, individuals must be empowered to recognise and effectively mobilise the law to claim their rights. The analysis of the narratives of abortion seekers demonstrates an understanding of this underlying concept with a clear intent to empower or facilitate claims making.

More specifically, as mentioned above, abortion seekers spoke about needing access to information, medicines, and healthcare providers offering safe services. In response to these needs and experiences, narratives reflect individuals' sharing of experiences to equip others with knowledge, strategies, and support for navigating their abortion journey, encompassing legal aspects. Their aim was to enable access to health as a fundamental right. In this way, these narrators were striving to improve the lived experience of other abortion seekers, which directly impacted the legal consciousness of both those providing information and those receiving it.

For individuals providing knowledge and support on these social media platforms, they were like the core workers in Nguyen's research.⁶³ Specifically, their contributions to other abortion seekers extended to raising awareness of diverse contexts, exploring strategies to address rights violations (including in restrictive contexts), and contemplating ways in which the law could be strategically utilised as a tool. In supporting other women and girls seeking abortions, these narrators are like others doing feminist law work as described in the literature.⁶⁴ More than just being a legal commentator, these narrators recognised how existing legal frameworks

⁶³ Tu P Nguyen, 'Legal Consciousness and Workers Resistance in Đồng Nai Province, Vietnam' (2017) 12(2) Asian J Comp Law 311

⁶⁴ Mairead Enright, Kathryn McNeilly and Fiona de Londras, 'Abortion activism, legal change, and taking feminist law work seriously' (2020) 71(3) Northern Ireland legal quarterly 359

“have either withheld help ... or failed appropriately to respond” to their needs.⁶⁵ Thus, these narrators stepped in to fill the gap. They reminded readers that “others [cannot] take away [their] decision-making rights”⁶⁶, nor could they be “silenced or shamed for exercising [the] right to [their] womb[s]”⁶⁷. Abortion seekers used their narratives to reinterpret “what it means to engage with and ‘do’ law in everyday life”.⁶⁸ They used their stories to raise awareness and to construct a narrative that normalises abortion and reflects a position of empowerment. Moreover, as one narrator emphasised, these stories are:

“a small ripple in this moment. But you know what? Small ripples became larger ripples that become waves that become tides...tomorrow we are the tide that changes the future”.⁶⁹

Interestingly, approximately 10% (n=60) of abortion seekers specifically noted how important it was to share personal stories so that individuals did not feel alone, so they are not left with questions. They saw storytelling as a way to unite as a collective, moving forward together instead of regressing. They specifically spoke of sharing their stories “because thousands of women are falling victim [to] objectification”⁷⁰ at the hands of a “broken judicial and health care system”⁷¹. They felt it was important to talk about their abortion seeking experiences to help other women find freedom.

⁶⁵ ibid 368

⁶⁶ Case 66

⁶⁷ Case 445

⁶⁸ Enright, McNeilly and Londras (n 64), 385

⁶⁹ Case 65

⁷⁰ Case 66

⁷¹ Case 72

These efforts did not go unnoticed, as 8% (n=48) of narratives specifically included a reference to gaining knowledge or support from others' experiences. They identified the role that reading others' stories had on their abortion experience. Individuals described gaining knowledge about abortion laws, including related to additional legal requirements, even from individuals in different legal contexts. They spoke about information gained related to how to manage an abortion alone, what to expect during the abortion process, and when to call for help. They learned about resources that could facilitate access to medicines and/or access to financial assistance. Abortion seekers also spoke about how reading the stories of others made them feel stronger and empowered. They spoke about fears being alleviated, including those related to misinformation they had around infertility as a risk of abortion. They appreciated knowing that many women were experiencing the same concerns, facing similar obstacles, and having the same needs (i.e., knowing they were not alone). One narrator specifically described how her eyes were opened to "women's reproductive rights, health care, and how imperative it is that people have a choice" describing "a whole new urgency to fight for these rights".⁷² For those abortion seekers receiving the information, their beliefs and attitudes towards abortion, as well as towards the law, were specifically influenced by their understanding of others' experiences.⁷³ Thus, such information sharing directly impacted their lived experience of the law and their understanding of rights (i.e., their legal consciousness).

⁷² Case 53

⁷³ Kathryn M Young, 'Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight' (2014) 48(3) Law & society review 499, 500

The ways in which abortion seekers described a change in their abortion experience, including related to the law directly, is like the research conducted by Barua and Haukanes,⁷⁴ as described in Chapter 1. The analysis here reinforces the notion that with expanded knowledge and awareness about rights and entitlements specifically, self-efficacy can be improved, particularly in how one navigates the law.⁷⁵ These experiences demonstrate the significant impact of learning from others' experiences related to beliefs and attitudes towards the law. The analysis demonstrates that individuals gained valuable information, support, and a sense of empowerment. This illustrates how legal consciousness is not solely based on formal legal norms or individuals' personal legal knowledge, but is also informed by collective knowledge, shared experiences, and a sense of solidarity among individuals facing similar challenges. Specifically, the analysis demonstrates that by learning from others' experiences, individuals can reshape their perspectives on the law, enhancing their ability to navigate complex legal (and in the case of abortion seekers, associated medical) systems and engage in legal mobilisation.

Moreover, in addition to improved knowledge and self-efficacy, mobilisation for abortion seekers was driven by the desire to increase public rights consciousness.⁷⁶ In addition to helping individuals obtain specific stated objectives (both medical and legal), abortion seekers also focused their mobilisation efforts on addressing broader issues of rights and justice. Thus, by sharing their narratives, abortion seekers collectively shaped a consciousness that inherently

⁷⁴ Padmaja Barua and Haldis Haukanes, 'Organizing for Empowerment: Exploring the Impact of Unionization on Domestic Workers in India' (2020) 55(1) *Studies in comparative international development* 27

⁷⁵ *ibid*

⁷⁶ Enright, McNeilly and Londras (n 64), 377

includes legal consciousness, given the nature of abortion regulation. Through this collective consciousness, abortion seekers acted as social change agents⁷⁷ by going beyond their individual experiences and elevating and promoting new claims and norms.⁷⁸ Such actions inherently shape the discourse surrounding abortion rights and help to challenge systemic barriers and injustices. In this way, legal consciousness becomes more than just a personal reflection of lived experiences, it becomes something that can be harnessed to drive societal transformation and promote the realisation of rights.

While the analysis demonstrates that these abortion seekers' legal consciousness is relational and impacted by other members of these common social networks, as is the case in legal consciousness more generally, it is important to note the particularities raised in this thesis. As mentioned throughout the thesis, these abortion seekers used social media to contribute to improved knowledge and support and highlighted shared elements of consciousness by focusing on aspects of human agency to bring about social change. Due to the ability to provide and reflect on immediate real-time inputs of those in their social circles, legal consciousness is not merely an evolving process but one that is in a constant state of flux. These examples describe how individuals' thoughts and actions reflect the interactions they have with others, but they also reflect the ways in which legal consciousness can be interactive and co-constitutive for all those engaged on the platform.⁷⁹ In the case of abortion regulation, this freedom to exchange ideas and experiences means that the legal consciousness of abortion seekers can incorporate diverse perspectives, without being restricted by physical location or

⁷⁷ *ibid*

⁷⁸ *ibid*

⁷⁹ Chua and Engel (n 1)

geographical constraints, fostering a comprehensive and responsive understanding of the law. As a result, because the boundaries between individual cognition and relationships with others is quite porous (via social media),⁸⁰ the analysis demonstrates that the legal consciousness of abortion seekers is a “fully collaborative phenomenon.”⁸¹ These interactions also ensure the perpetual evolution and transformation of legal concepts, making legal consciousness current and responsive to societal changes. This underscores the significance of considering diverse and evolving means through which individuals engage with the law, express their rights, and seek social justice.

Organizing & mobilising

As I have described, abortion seekers mobilised through relational means, whereby they participated in and impacted on a collective consciousness. They used their interconnectedness and shared experiences to build solidarity and engage in activism to bring about collective social change.⁸² In fact, 40% (n=250) of narratives included some text that could be viewed as advocacy. Specifically, they framed their interactions with legal and healthcare frameworks to highlight the need for social reform by concretising the “real life of abortion law”.⁸³ More specifically, abortion seekers used their narratives as a tool to conduct various types of feminist law work.⁸⁴ In addition to providing both practical advice and information, as well as support, abortion seekers also positioned the right to abortion from moral and ethical perspectives. They used their narratives to delegitimise existing law, publicly educate others on legal issues,

⁸⁰ ibid 18

⁸¹ ibid 19

⁸² Enright, McNeilly and Londras (n 64)

⁸³ ibid 380

⁸⁴ ibid 360

and mobilise support based on justice claims.⁸⁵ By posting their narratives on social media, they demonstrated how individuals were more alike than dissimilar, fuelling public discourse. The social media sites not only offered abortion seekers a place to describe the obstacles they faced, but as I have shown in this and the previous Chapters, many have also shared the ways in which the boundaries of criminal law can be pushed.⁸⁶ They recounted the ways in which they procured abortions, by travelling, using medicines, or through other clandestine mechanisms. In “tickling the law”, they “reveal[ed] its hidden limits, effects or hypocrisies, and ultimately [tried] to stimulate change.”⁸⁷

Abortion seekers explicitly described the everyday practices that they believed stimulate legal change,⁸⁸ including the ways in which they acted as organisers. Specifically, they described transformational strategies, which gave meaning to their action and activism.⁸⁹ Individuals described supporting reproductive choice and freedom through personal efforts to facilitate access for others. They described their roles as abortion doulas, escorts, and even as eventual healthcare providers. One individual described her role as a volunteer in the ‘Jane’ collective, a network of individuals who “were trained how to give abortions” and “supported reproductive rights”.⁹⁰

⁸⁵ *ibid* 364

⁸⁶ *ibid* 370

⁸⁷ *ibid*

⁸⁸ *ibid* 378

⁸⁹ Joe Coe, ‘Mobilising vs Organising’ (2015) <<https://www.coeandkingham.org.uk/strategy/mobilising-vs-organising/>> accessed 3 April 2023

⁹⁰ Case 551

Others, too, spoke about how they helped friends go through the process of abortion. One described how she:

“offers ... people having abortions alone in an unfamiliar city a comfortable place to stay and experience medical abortions with dignity and privacy, alongside somebody who knows what they’re going through ... [making] a friend for life.”⁹¹

Although these women were directly facilitating access to abortion care, through their work they built a sense of community, drawing from both individual and group experiences.⁹² They empowered people to make the best decisions for themselves by being supportive, compassionate, and respectful.

Abortion seekers also described efforts to bring people together. For example, one narrator spoke about her role in network organising. She described how she:

“responded to a public call for action [and] helped create a forum for other people to share their own stories about abortion, not just [herself], and [she] went home feeling like [they]’d done something really beautiful and empowering.”⁹³

By creating an environment where individuals were encouraged to engage in mutual support, this abortion seeker facilitated a connection among other abortion seekers that welcomed and fed aspirations⁹⁴ towards safe and legal access to abortion. Abortion seekers used social media sites to empower each other, share knowledge and galvanize supporters. By sharing their

⁹¹ Case 452

⁹² Coe (n 89)

⁹³ Case 276

⁹⁴ Cynthia S Parker, ‘Network Organizing’ (2013) <<https://interactioninstitute.org/network-organizing/>> accessed 3 April 2023

stories, they brought people together, “building trust and respect”⁹⁵ and participating in digital advocacy⁹⁶ (potentially without even the intent to do so). They recognised the continuous need to advocate for the right to choose “because once that choice is denied, that’s when abortions become dangerous.”⁹⁷

Some of this community building was facilitated by organised groups as well. Seventeen per cent (n=109) of narratives included some reference to abortion care that was aided by an activist nongovernmental organization or a similar agency. Abortion seekers not only described the ways in which these groups assisted in access to trained providers or medicines, but they also spoke about donations made and/or received, which enabled another person to access an abortion. Individuals described receiving direct feedback about the fact that they had just paid for the abortion of another, fostering unity among a “sisterhood.”⁹⁸

Even where abortion seekers did not engage in organized events per se, they still contributed to a collective voice by publishing their narratives in a public forum. They spoke about “respecting” the choices of others, “embracing” one another, and helping people find their own power and voice. In some cases, individuals even identified recent legal reforms locally, raising awareness about the need for collective action. They spoke to community power, encouraging others to share their own stories – to help one another, highlighting opportunities to engage in

⁹⁵ Gibrán Rivera, ‘Organizing or Mobilizing’ (2012) <<https://interactioninstitute.org/organizing-or-mobilizing/>> accessed 3 April 2023

⁹⁶ Shane R Brady, Jimmy A Young and David A McLeod, ‘Utilizing Digital Advocacy in Community Organizing: Lessons Learned from Organizing in Virtual Spaces to Promote Worker Rights and Economic Justice’ (2015) 23(2) *Journal of community practice* 255

⁹⁷ Case 364

⁹⁸ Case 59

the democratic process towards law reform.⁹⁹ In this way, abortion seekers acted as mobilisers. They used their narratives to demonstrate how active steps can be taken towards a stated objective.¹⁰⁰ For example, individuals described participating in amicus briefs for court cases or offering direct testimony about their personal experiences to counter a law. They also used print media and other fora (including art installations) “to destigmatize, educate and hopefully help others.”¹⁰¹ One narrator even created a t-shirt that read ‘thank god for abortion.’ She described it as “sacred signage ... a wearable message, something you didn’t have to carry if you were running.”¹⁰² For this abortion seeker, she wanted to “agitate when and where [she could] ... to disrupt a space and the status quo,” something she described as “racist, femicidal, classist, [and] ableist”.

Others mobilised more directly, by lobbying at state capitols (in the U.S.) for example. Individuals spoke about sharing their truth and experiences with local representatives because they hoped that others would have an easier experience. The goal was to counter narratives such as those reinforcing notions about abortion regret, among others, and to use their voice to strengthen agency claims linked to exercising choice in abortion. Narrators described donating money to larger organisations or directly participating in more organised events to “march for women’s rights”, “stand up for women” and for “health care.” Joining such groups allowed them to attend reproductive justice demonstrations or other campaigns for abortion rights while shouting slogans such as “my body is my choice”, “freedom, love and

⁹⁹ Enright, McNeilly and Londras (n 64), 378

¹⁰⁰ Rivera (n 95)

¹⁰¹ Case 281

¹⁰² Case 67

understanding"¹⁰³and “women demand the right to decide”.¹⁰⁴ Fighting for gender justice, including abortion rights, became an actual job for some, including for example, by becoming a campaign manager “on a fiercely progressive congressional campaign.”¹⁰⁵

Like other activists described in the literature, these abortion seekers needed to “look to different areas of law, and expand their networks and resources in these areas.”¹⁰⁶ Working towards keeping abortion safe and legal and to free women of the stigma of abortion, abortion seekers also looked for ways to “‘hack’ the legal system.”¹⁰⁷ They used their personal stories, which are difficult to negate, to stimulate a discourse around abortion law and the everyday experiences of women.¹⁰⁸ These stories highlighted the ways in which abortion seekers are more similar than not, in facing barriers to access. By participating in digital advocacy, abortion seekers connected on claims for justice¹⁰⁹ to shape this social movement.

Conclusion

Abortion seekers’ narratives within this thesis vividly depict the intricate interplay between individuals, legal frameworks, and societal expectations. The narratives demonstrate that abortion seekers are like others within the legal consciousness field, with coexisting, and at times divergent, perspectives of the law. Abortion seekers often describe a system designed to dissuade women; yet, despite being forced *outside the law*, many see the role of law as a mechanism to facilitate the recognition of their rights. The expressed desire for legal

¹⁰³ Case 358

¹⁰⁴ Case 284

¹⁰⁵ Case 270

¹⁰⁶ Enright, McNeilly and Londras (n 64), 379

¹⁰⁷ *ibid* 380

¹⁰⁸ *ibid*

¹⁰⁹ *ibid*

recognition of reproductive rights, access to quality healthcare, and acknowledgement of abortion as an essential service underscores a fundamental quest for individual autonomy and human rights. The interplay of hegemony, identity, and mobilization consistently shapes legal consciousness, influencing engagement with the law and shaping ideas about ideal legislation. Such views are informed by a relational consciousness that is enabled by social media.

Moreover, social media platforms, as highlighted in this Chapter, are a way in which abortion seekers have connected on the issue of abortion and abortion regulation more specifically. Individuals shared everyday practices that they believed could drive legal change, employing transformational strategies to give meaning to their action and activism. Efforts to bring people together and build communities were facilitated by organised groups, but even those who did not engage in organised events contributed to a collective voice by sharing their narratives in public forums. Abortion seekers acted as mobilisers, using their stories to showcase the various paths toward achieving their objectives. These examples demonstrate the ways in which individuals perceive their actions as meaningful within a context related to abortion regulation. More specifically, they reveal how relational dynamics can influence the development of social movements, including how shared legal consciousness fosters collective action and activism.

However, the dynamic nature of social media empowers individuals to promptly reflect on personal experiences and adapt their legal consciousness in real-time, establishing an uninterrupted stream of shared experiences reflecting a broad range of perspectives, accessible worldwide. This impacts the reader as well as the poster. Thus, social media emerges as a powerful tool, influencing the ongoing development of legal consciousness and contributing to a more inclusive and informed legal discourse. Moreover, using social media as a data source

significantly enhances legal consciousness research, offering a unique approach to understanding how individuals comprehend, perceive, and interact with the law.

CONCLUSION

This thesis sought to examine the alignment of the existing legal consciousness framework with the experiences of abortion seekers. Three specific research questions guided the analysis:

1. In what ways do the prevailing themes of hegemony, identity, and mobilisation manifest among abortion seekers?
2. To what extent do the observed manifestations align with or diverge from the existing literature, and how might these themes be interconnected in the experiences of abortion seekers?
3. What are the implications of these findings for understanding the legal consciousness of abortion seekers?

The narratives of 627 abortion seekers provided information to answer these questions.

As a medical procedure or process that is heavily regulated by law, the analysis of abortion seekers' narratives reveals that hegemony and the sustainability of legal institutions do have relevance to the experiences of abortion seekers. Like those interviewed by Ewick and Silbey,¹ abortion seekers also drew from multiple sources of authority, cultural practices, and meanings to participate in the interpretative framework and set of resources known as legality. However, the analysis demonstrates that in doing so, the existing legal consciousness framework does not adequately capture abortion seekers' experiences with the law.

¹ Patricia Ewick and Silbey Susan S. 'The common place of law: stories from everyday life' (Chicago; London: University of Chicago Press 1998)

Importantly, I do not argue that the law lacks power. On the contrary, I acknowledge the presence of hegemony interlinked with all themes. However, the analysis suggests that instead of solely focusing on why the law maintains its power, it is essential to shift the perspective and explore how the law might be failing in fulfilling its purpose. By approaching this from the lens of the abortion seeker, the analysis clearly emphasises the need for a more responsive and adaptive legal system, one that addresses the desires, concerns and experiences of the individuals involved. To do so, it becomes vital to understand how they see the role of law, how they experience it, and what they seek from the law. Thus, rather than solely concentrating on the reasons for maintaining hegemony, the focus shifts towards finding ways to improve the law such that it is more effective for abortion seekers. This includes providing what is genuinely sought after by individuals, which may consist of a more empathetic law or, in some cases, no law at all. Finally, the thesis illustrates the need for an inclusive human-centred approach that considers the diverse perspectives and experiences of abortion seekers, which emphasises treating abortion seekers as individual users of the law and the creation of regulations that genuinely meet their specific needs and circumstances.

Moreover, this research reveals that the legal consciousness of abortion seekers is dynamic and context-dependent, shaped not only by identity and mobilisation but also by temporal, as well as broader social and political elements. The use of social media intricately shapes the dynamic nature of legal consciousness. These platforms enable the instantaneous exchange of information across diverse cultural, geographical, and legal landscapes. The responsiveness of individual consciousness to these inputs is also evident in the continual evolution observed. Individuals not only acquire knowledge but also garner support, fostering a collective

consciousness that actively contributes to building awareness regarding rights. This dynamism underscores the perpetual evolution of legal consciousness, with a heightened and constant flux observed during pregnancy and in the context of abortion seeking. This demonstrates how individuals rely on their legal consciousness to understand the law or other norms that may be law-like but also to facilitate the understanding and navigation of abortion regulation for others. This demonstrated reciprocal relationship adds to the comprehension of the legal consciousness of abortion seekers, but it also advances the methodological approach to investigating how individuals live the law.

Factors such as geopolitical context, intersecting laws, and stigma specifically impact abortion seekers' experiences with the law, emphasising the need for a more holistic understanding of the social environment in which abortion regulations operate. The relevance of the law also varies depending on personal circumstances, such as social or political status. The analysis demonstrates that while some abortion seekers do not consider the law as relevant to their situation, most express specific desires regarding regulations. They desire laws that recognise their individuality, understand their circumstances, and prioritise their values and needs. This perspective acknowledges that the law has a pervasive impact on all individuals and aspects of life and is accompanied by certain expectations or requirements. By systematically understanding what it is that is important to abortion seekers, pathways towards paradigmatic policy change are established. For both legal consciousness and abortion scholarship, more generally, the expressed desire for a more human-centric approach provides valuable guidance on how to improve and make policies more meaningful to the individuals impacted by abortion regulation.

A comprehensive summary of findings

In conducting this research, my analysis began by using an established legal consciousness framework set out by Ewick and Silbey.² The framework includes a set of concepts and principles that provide a foundation for understanding and analysing legal consciousness. In the same way those interviewed by Ewick and Silbey exhibited more than one form of legal consciousness, so too did abortion seekers in many instances. Abortion seekers, like those *before the law*, underscored the authoritative position of the law and relied on its predictability. Often in contexts with fewer legal constraints, individuals perceived the law as an inherent and positive aspect of their environment. They regarded the law as a constant, timeless entity, expressing loyalty even when faced with additional requirements. Abortion seekers also generally recognised that the same hierarchical structure that constrained their legal action could also be beneficial. Specifically, where abortion seekers fulfilled the conditions of the law, those applying the law could be compelled to act.

At the same time, abortion seekers exhibited similarities with individuals who aligned themselves *with the law*. Specifically, the analysis revealed that some abortion seekers saw the potential for the law to cater to their needs, especially when they perceived their needs as more legitimate than others. Additionally, some individuals who were previously against abortion changed their views when they needed an abortion, impacting their perspectives on abortion regulation. They strategically engaged with identifiable actors to advocate for their interests. For those in more restrictive settings, there was a greater need for tactical

² *ibid*

manoeuvring. This required them to be more resourceful and constantly adapt, which was facilitated by sharing on social media.

Some, however, did not view the law as objective and rational. Like those who are *against the law*, they perceived it as subjective and arbitrary, leading them to seek ways to circumvent, evade, or avoid it. Here, the transnational nature of abortion related care created opportunities for this resistance, especially for those in more restrictive contexts. They turned to intermediaries or other agents to bypass legal restrictions and live according to their own rules. In doing so, abortion seekers found that they were capable of going through the abortion process on their own and that they were stronger than they believed. These individuals resisted because of a sense of powerlessness and a desire for justice, challenging perceived unfairness within the legal system.

However, abortion seekers were acutely aware that the law was not always applied impartially, and they recognised the existence of other biases compounded by abortion regulation. These injustices were noted to be related to socioeconomic inequities, racial disparities, and power imbalances within personal relationships. Individuals also recognised that abortion laws disproportionately impacted women, highlighting the role of gender-based biases in the legal system. The law was then perceived as a mechanism of control, stripping individuals of bodily autonomy and perpetuating power imbalances. The imposition of law was highlighted as well, with political agendas and religious influences playing a role in shaping abortion regulations. The text of the law concretised ethical and moral positions, perpetuating specific ideological stances on abortion. Unlike those who are *against the law*, who seek to undermine the law on

the grounds of justice, abortion seekers often found themselves *outside of the law* out of sheer necessity. Despite recognising their lack of power, this awareness did not drive their actions.

The analysis further emphasises the broader social context within legal consciousness and sheds light on how structural inequalities impact lived experiences with the law. Acknowledging opportunities for the law to discriminate highlights how legal consciousness is shaped by the understanding that the law can impact different groups unequally. More specifically, this speaks to the conditions, or social positions, that enable greater engagement with the law.

While the acknowledgement that social and political factors can impact legal consciousness is a well-established concept, the recognition of systemic biases in abortion law provides a more nuanced understanding. This distinction is crucial as abortion involves a medical process deemed essential by many, magnifying the perceived severity of such biases. Individuals recognised that external influences like political agendas and religious beliefs heavily influenced punitive or restrictive abortion laws and perpetuated feelings of powerlessness among those seeking abortions.

Compounding these experiences is the fact that the law is not fixed as abortion seekers navigate different contexts of abortion regulation. The concept of space, including different physical locations like homes or healthcare facilities, significantly influenced how women perceived and interacted with the law. Specifically, as abortion seekers navigated local legal landscapes while accessing transnational reproductive healthcare, their legal consciousness developed, adapted, evolved, and changed in nature. In many cases, many individuals turned to professionals, non-governmental organisations, and other intermediaries (often situated in other legal contexts) for care or assistance in the absence of adequate legal protections and

recognition of their rights. The coexistence of regulations related to customs and medicines, coupled with limited legal protections for those seeking abortion services across borders or needing to travel for care, often rendered abortion seekers invisible as rights bearers, forcing them *outside the law*. This further demonstrates that the significance of law in the lives of abortion seekers can become more or less prominent when they engage with both domestic and global actors. The relevance of law then varies depending on individual circumstances.

The analysis demonstrates that the existence of multiple legal frameworks can also create confusion, particularly when contradictions or inconsistencies arise, or worsen anxieties in places where abortion is criminalised. This experience can be magnified by laws that protect antichoice propaganda, fail to ensure access to reliable information or permit conscientious objection. As a result, abortion seekers perceived States' failures to protect their right to health, as well as other rights. Even for those in less restrictive contexts, individuals contrasted their experience with those in countries with more restrictive abortion regulations. This led to a deeper appreciation for the importance of legal protections and the impact they can have on one's abortion experience. In both restrictive and more permissive legal contexts, the experiences of being denied care, facing limited access to information and being exposed to harmful speech or acts all influenced how abortion seekers perceived and interacted with the law. These experiences become even more challenging for individuals who identify as migrants or have similar statuses, as these identities further restrict their ability to navigate and access the healthcare system.

Thus, this analysis further demonstrates that legal consciousness is influenced by both personal experiences and societal positions (including as it relates to identity). This affects how

individuals view their rights and interact with the law. For abortion seekers, the terms 'pro-choice' and 'pro-life' significantly shaped the way abortion seekers experienced the law. Individuals selectively invoked the law based on their perceived identities and legitimate needs. While this decision was influenced by necessity, people particularly mentioned transitioning to a 'pro-choice' stance or recognising the necessity of legal abortion when confronting a mistimed or undesired pregnancy.

The law also played a crucial role in defining the identities of abortion seekers, often stigmatising them as killers or criminals, identities that were yet again compounded by factors like residency or immigration status. These societal constructs of legal identities and their effects directly impacted abortion seekers' legal consciousness, as they shaped how abortion seekers interpreted and understood social and legal norms, authority, and processes, thereby influencing their attitudes, behaviours, and decision-making concerning abortion. The law for abortion seekers is not merely something to be navigated despite one's identity; it becomes an intrinsic part of individuals' experiences, seeping into every facet of their lived reality in an intimately profound manner. Essentially, individuals embody the law, emphasising integration of legal constructs into personal identity. In this way, legal consciousness is not merely something an individual has or demonstrates but reflects who they are or who they believe themselves to be.

Furthermore, the analysis highlights that the impact of identity extended beyond abortion decision-making; it influenced people's perceptions of the law more broadly and guided their social behaviour. Abortion seekers frequently base their choices on moral considerations derived from personal religious beliefs and other values that shape their way of life. Social

norms, including ethical, moral, and gender norms, were viewed as distinct from the official legal system. Normative alignment or misalignment significantly affected how individuals identified with the law. In particular, the degree to which official law aligns with personal values and concepts of right or wrong influenced how individuals perceived their connection with the law and their ability to engage with it. Participation in normative communities (via social media) enabled individuals to establish their legal subjectivity, reflecting the dynamic process of legal consciousness. These interactions further shaped individuals' beliefs about what aspects of the law need to be modified or improved to better align with their needs.

The stigma surrounding abortion specifically created an additional layer of complexity for abortion seekers. More specifically, abortion seekers perceived the role of law as perpetuating and reinforcing the stigma surrounding abortion. The narratives provided a clear illustration that abortion seekers acknowledged the influence of cultural and gender-related social norms present within the legal framework. They saw the law as perpetuating hierarchical reasoning concerning abortion access and reinforcing stereotypes about women who seek abortions. Ideas about what is considered good or bad, and justifiable or not, significantly influenced how individuals understood and experienced the law. They also impacted how individuals saw other abortion seekers. Specifically, abortion seekers perceived that not all abortion cases are the same, making legitimacy claims more challenging for those with multiple abortions.

Moreover, according to abortion seekers, stereotyping also occurred by healthcare professionals, which affected their actions towards abortion seekers. This stigma meant that healthcare professionals could leverage their positions of power, establishing informal rules linked to revenue generation. Consequently, abortion-related stigma adversely affected

the quality of abortion care, manifesting in poor treatment, access barriers, and the imposition of unnecessary requirements. Considering this, the impact of stigma on abortion care underscores the need to account for the broader social and cultural context when exploring legal consciousness development. Although seen as essential medical care by many abortion seekers, these contextual factors significantly shaped individuals' attitudes, perceptions, and interactions with the law, including their ability to make rights claims.

Beyond living within a restrictive or less restrictive context, abortion seekers exhibited how time and the law are interconnected and experienced on a personal level. The interplay of rhythms and temporality is embedded within the law. For example, elements like gestational limits directly shape abortion regulation and propagate norms related to the management of time concerning abortion. They also shape ideas concerning when justice claims can be asserted and influence how others perceive abortion seekers. Specific attributes and judgments are assigned to abortion seekers based on how they navigate the intersection of various laws involving these concepts. These factors directly affected the decision-making process surrounding abortion.

Despite claims made by lawmakers related to the protection of health and public security, abortion seekers pointed out several contradictory positions put forth by the law and those responsible for enforcing it. This led to a tension, as expressed by abortion seekers, about their desires regarding the law. Some individuals were angry or disappointed about abortion-related regulations and felt betrayed by the government; some even expressed an outright rejection of the current law. They sought to be treated with respect in the legislative process. On the other hand, where abortion was legally available and accessible, some narrators felt secure and safe

due to government actions but still desired more. For example, individuals described feeling uneducated, unprepared, and unsupported in their interactions with the law. They expressed a preference not to rely on the internet or intermediaries for access to information or services and desired protection from media and misinformation. They wanted safeguards against needlessly painful procedures conducted by individuals working clandestinely. Challenges extended to accessing contraception, post-pregnancy support, and services for children.

Beyond the provision of quality reproductive healthcare services, abortion seekers wanted the law to be accessible and applied equitably, avoiding discrimination based on socioeconomic factors or other variables. They highlighted the need for transparent and inclusive policymaking to foster a sense of fairness and justice. These narratives emphasise the critical role of government actions in shaping perceptions of what individuals have a right to in the realm of abortion and contribute to the broader discourse on legal consciousness. This reveals that legal consciousness is not solely based on present realities but also aspirational beliefs.

With limited protections in place, abortion seekers had to learn on their own how and where to access medicines, which further shaped their developing legal consciousness. As described earlier, posting narratives was a way for these abortion seekers to promote social discourse, and in doing so, they centred their experiences on rights and justice rather than solely on the law. Individuals recognised the significant role that reading others' stories played in shaping their abortion journey.

Through these narratives, individuals acquired crucial knowledge about abortion laws, including additional legal requirements. They gained insights into how to manage an abortion alone, what to expect during the process, and when to seek help. The stories also provided information on resources for accessing medication or financial assistance. However, reading the experiences of others had a profound impact on abortion seekers. It made them feel stronger and empowered, alleviating fears and dispelling misinformation.

Legal consciousness goes beyond formal legal norms; it is shaped by collective wisdom, shared experiences, and a sense of solidarity among individuals facing similar challenges. The analysis challenges the assumption that official law always holds a central role in people's lives and highlights the diversity in how individuals perceive and interact with the law or law-like norms. It demonstrates that learning from others' experiences can reshape individuals' perspectives on the law (or what is law-like), enhance their ability to navigate complex legal systems and mobilise for legal action. This is true for both the person posting the narrative and the one reading it. Specifically, abortion seekers considered whether the law provided them with rights or not. They discussed their rights in the context of their ability or willingness to use the law to address their situation, often regardless of their legal landscape. Abortion seekers strategically employed their narratives as a means to empower and facilitate claims-making. They utilised social media platforms to share everyday practices that they believed could drive legal change, employing transformational strategies to give significance to their actions and activism. Sharing their stories allowed them to move forward together instead of regressing.

Consequently, abortion seekers experienced a constantly shifting legal consciousness while trying to understand and adapt to the ever-changing legal landscape. This approach allowed them to effectively address the real-life needs of those engaging with their stories. Thus, the process of what it means to experience the law for these abortion seekers extended beyond individual incidents, constituting a perpetual stream of insights shaped by exposure to diverse narratives and perspectives. This means that legal consciousness is continuously evolving for abortion seekers free from personal or geographical constraints, transcending legal borders and cultural boundaries. Moreover, by guiding individuals through the legal landscape using a rights-based framework, abortion seekers challenged the assumption that mere knowledge suffices in the policy paradigm. From a methodological perspective, these findings emphasise the importance of considering diverse and evolving ways individuals interact with the law, assert their rights, and pursue social justice. They illustrate how relational dynamics can influence the development of social movements. Due to the interconnectedness of individuals' perspectives (including legal) within their social communities, the thesis demonstrates how legal consciousness can be specifically harnessed to drive broader societal transformation to promote the realisation of rights.

Thus, like Ewick and Silbey³ and many other legal consciousness researchers⁴, we see the presence of law in everyday life. Hegemony, identity, and mobilisation play pivotal roles in

³ *ibid*

⁴ See for example, Simon Halliday, Celia Kitzinger and Jenny Kitzinger, 'Law in everyday life and death: a socio-legal study of chronic disorders of consciousness' (2015) 35(1) *Leg Stud (Soc Leg Scholars)* 55; Abigail C Saguy and Forrest Stuart, 'Culture and Law: Beyond a Paradigm of Cause and Effect' (2008) 619(1) *The Annals of the American Academy of Political and Social Science* 149; Jerome E Carlin, Jan Howard and Sheldon L Messinger, 'Civil Justice and the Poor: Issues for Sociological Research' (1966) 1(1) *Law & society review* 9 <<http://www.jstor.org/bham-ezproxy.idm.oclc.org/stable/3053046>>

shaping the legal consciousness of abortion seekers. These factors, while crucial and widely examined in the field, are complemented by additional elements commonly explored in the literature. However, the legal consciousness of abortion seekers is also influenced by factors that are more specific to the abortion seeking experience. This nuanced approach contributes to a more comprehensive understanding of how legal consciousness operates in the context of abortion.

Through sharing their personal experiences, abortion seekers brought attention not only to the law's limitations concerning their specific situations but also its failure to address broader social injustices. They highlighted that the law itself perpetuated these injustices actively. Their expectations went beyond addressing personal concerns; they sought recognition of the complexities involved in making abortion decisions. They also emphasised the State's responsibility to provide accurate information, financially supporting abortion costs, treating abortion as an essential healthcare service, and ensuring accessible and high-quality care for all. By contemplating an ideal law, they emphasised how the law could be utilised, indicating their desire to be recognised as active participants who benefit from the law. Thus, legal consciousness is not solely based on present realities but also on aspirational beliefs. This underscores a fundamental belief in the law as a constructive tool, recognising the importance of legal protections and challenging the assumption that mere legal knowledge is sufficient to assert one's rights.

It is important to note that the methodology I employed (analysis of social media narratives) played a crucial role in uncovering my findings. As discussed in Chapter 2, by appreciating the social organisation of narratives, one can recognise that narratives tend to mirror dominant

cultural meanings, ideologies, and power dynamics.⁵ Going beyond the constructionist approach, narrative analysis enables a deeper examination of historical, political, and economic discourses, and how narratives contribute to the production or reproduction of these meanings and power relations.⁶ Although I started with the assumption that evidence of legal consciousness would be present in these narratives, I was open to the possibility of identifying and analysing additional themes. This allowed me to gain a more comprehensive understanding of the legal consciousness of abortion seekers.

Despite making valuable contributions to the existing literature, this thesis has some limitations worth noting. Firstly, although the sample size of 627 narratives is significant, it is important to recognise that this data is not intended to be generalised. Each narrative represents a unique personal experience. The narrators identified several biases embedded in the system, encompassing aspects related to gender, politics, race, and socioeconomic factors. However, when contemplating law or policy reform, it becomes challenging to devise interventions that can be universally applied.

Currently, the thesis acknowledges various factors as contributing elements to the intricate understanding of legal consciousness. Additionally, it takes into account the compounding influences of geopolitical context, intersecting laws, and stigma. However, the current analysis faces challenges in fully appreciating the specific contributions of each of these factors to the broader question of legal consciousness. It is possible that a deeper examination may not have

⁵ Patricia Ewick and Susan S Silbey, 'Subversive Stories and Hegemonic Tales: Toward a Sociology of Narrative' (1995) 29(2) Law & society review 197, 211

⁶ Cigdem Esin, Mastoureh Fathi and Corinne Squire, 'The SAGE Handbook of Qualitative Data Analysis' (SAGE Publications, Inc 2014)

been feasible to unravel this complexity entirely. Nevertheless, it is important to acknowledge that a more focused approach, with an emphasis on exploring individual factors, might have provided a clearer understanding of their distinct contributions, potentially yielding further insights.

Moreover, in striving for a more human-centred approach, it becomes complex to address all these factors simultaneously. However, legal design, which will be explored further below, offers a promising avenue to explore these aspects collaboratively with abortion seekers themselves. It advocates for a "learning by doing" approach, allowing for ongoing efforts to experiment with potential solutions.⁷ If trade-offs are necessary, the individuals directly affected should have the agency to decide on the best course of action. This approach can lead to a more just and rights-oriented legal system.

The second limitation is also connected to the use of social media narratives. While these narratives exhibited considerable variation in length and detail, they were shaped by the abortion seekers' own choice of the story they wanted to share. Consequently, certain information directly related to my three research questions may still be missing. Since I did not conduct personal interviews with the participants, I could not ask more specific or probing questions about their understanding or perception of the law, or the roles of hegemony, identity, and mobilisation more specifically. Due to the limitations of not conducting personal interviews, I also could not delve deeper into the actual impacts of the social and institutional factors that posed challenges for abortion seekers.

⁷ The Legal Design Alliance <<https://www.legaldesignalliance.org/>> accessed 7 August 2023

The absence of direct interaction also prevented me from building a trustful relationship with participants, which would have encouraged them to share even more about their desires for an ideal law. For example, individuals demonstrated the perspective that the law may be selectively invoked, or at times have no role at all in abortion care; this was based on needs. However, for those who desire no law, it was not entirely clear to me whether individuals truly believed there should be no place for law at all in abortion related care, or if the reference was just to the place of abortion within criminal law. I was unable to consider whether these specific abortion seekers had accounted for the potential role of law in health regulation, where the law could still play a significant and relevant role, as was noted by other narrators within the thesis. Such information might have provided a more nuanced understanding of participants' perspectives and their stance on the necessity or absence of legal frameworks.

The lack of direct interaction also made it challenging to compare the results more broadly, particularly due to the diverse and sometimes unknown legal contexts surrounding abortion in various regions within the narratives. As a result, I was unable to draw any specific conclusions regarding the effectiveness of existing abortion legal frameworks in different contexts. Being unable to probe further on these issues means I may have missed potential insights that I have not even considered.

The third limitation pertains to a broader methodological concern, specifically addressing the challenge of effectively conducting legal consciousness research in contexts where both legal consciousness and the legal landscape in abortion regulation are continually evolving. Notably, legal consciousness is not a static construct; it adapts and transforms as individuals' and societal experiences and attitudes change over time. Similarly, not only might abortion laws vary

significantly at the subnational jurisdiction level, but in some contexts the legal framework governing abortion is subject to constant modification.⁸ This introduces complexities in trying to understand this dynamic relationship. Related to this is the fact that the way individuals utilise and engage on social media platforms is also evolving at a rapid pace. As noted in Chapter 2, social media has become an influential medium for expressing opinions, sharing experiences, and shaping public discourse. Through the use of artificial intelligence (AI), access to knowledge and information (including legal) may be even easier. New AI-driven algorithms and application software are being developed regularly. Thus, as user behaviour and technological capabilities evolve, the content and themes of narratives on social media are likely to change accordingly. Given these dynamic shifts, examining new narratives today might yield entirely different results compared to the data collected earlier.

Thus, the current research exhibits three main limitations that readers should bear in mind when interpreting the findings. Firstly, the sample used in the study is not representative and, therefore, not generalisable to the broader population. Secondly, the exclusive reliance on social media as the data source might introduce limitations in the scope of information collected. Lastly, conducting research during a rapidly evolving period (related to law and social media) poses challenges in capturing a comprehensive understanding of legal consciousness, which is also always evolving. These limitations should be taken into account to ensure a nuanced understanding of the research outcomes.

⁸ The United States is one such example where this occurs.

Taking this work forward

Upon reflecting on the definitions of legal consciousness presented in Chapter 1 by researchers within the field, it becomes evident from this thesis that abortion seekers' legal consciousness incorporates elements from various perspectives. They do actively participate in the construction of legality,⁹ holding many different ideas about the nature, function, and operation of law.¹⁰ The process of constructing an understanding of and relationship to the law involves dynamism,¹¹ especially as abortion seekers actively engage in and collectively create a shared consciousness while pursuing their personal interests.¹² This considers both cognitive aspects (ideologies) and behavioural aspects (practices). While these perspectives can be contradictory at times,¹³ in order to fully appreciate the lived experience of abortion seekers, we must make room for such “conceptual murkiness”¹⁴.

By embracing this complexity, the thesis brings to the forefront some of the social and institutional factors and conditions that influence legal consciousness for abortion seekers. In addition, although it was clear that often abortion seekers are forced *outside the law*, this thesis, more importantly, demonstrates how legal consciousness evolves as individuals participate in a “collective and emergent process”.¹⁵ In this way, this thesis addresses a

⁹ Ewick and Silbey Susan S. (n 1)

¹⁰ David M Trubek, ‘Where the Action Is: Critical Legal Studies and Empiricism’ (1984) 36(1/2) Stanford Law Review 575, 592

¹¹ Michael W McCann, *Rights at work: Pay equity reform and the politics of legal mobilization* (Language and legal discourse, 2nd ed. University of Chicago Press 1997) 7

¹² Lynette J Chua and David M Engel, ‘Legal Consciousness Reconsidered’ (2019) 15(1) Annu Rev Law Soc Sci 335, 2

¹³ David M Engel and Frank W Munger, *Rights of inclusion: Law and identity in the life stories of Americans with disabilities*/David M. Engel and Frank W. Munger (Chicago series in law and society, University of Chicago Press 2003) 12

¹⁴ Ewick and Silbey Susan S. (n 1) 20

¹⁵ Patricia Ewick and Susan Silbey, ‘Sociology of legal consciousness and hegemony’ in Jiří Přibáň (ed), *Research Handbook on the Sociology of Law* (Edward Elgar Publishing 2020) 168

limitation identified by Ewick and Silbey themselves. Specifically, in the development of their “matrix of the schemas of law and legality” they recognise that their work did not explore the contextual conditions (group memberships, or social positions) of the individuals they interviewed.¹⁶ While they appreciated other legal consciousness researchers' efforts to consider these factors, they perceived these researchers as also falling into the trap of an “individualistic fallacy.”¹⁷ In particular, they noted, that legal consciousness research has resulted in a discourse related to types of legal consciousness that may exist, where these types are then distributed among various social actors.¹⁸ Ewick and Silbey recognise that their proposed three schemas further contributed to this understanding of legal consciousness as an individual attribute. However, from their perspective, such approaches tend to oversimplify the dynamic nature of legal consciousness, making it appear more rigid and static.

Despite this claim, Ewick and Silbey themselves made additional efforts to incorporate social structures such as religion and science into their subsequent work, but still, their research remains fundamentally focused on understanding how the law sustains its endurance.¹⁹ This thesis, however, goes one step further. It considers these social and institutional factors, but not with the purpose of explaining why the law maintains its power. Instead, the analysis suggests the need to shift the perspective and explore how the law might be failing in fulfilling

¹⁶ Ewick and Silbey's work has also faced criticism from scholars within the legal consciousness field for this reason. See for example Chua and Engel (n 12); Rosie Harding, *Regulating sexuality: Legal consciousness in lesbian and gay lives* (Social justice, Routledge 2011); Marc Hertogh and Marina Kurkchiyan, “‘When politics comes into play, law is no longer law’: images of collective legal consciousness in the UK, Poland and Bulgaria” (2016) 12(4) *International Journal of the Law in Context* 404

¹⁷ Ewick and Silbey Susan S. (n 1) 166

¹⁸ As discussed in chapter 1, the various types of legal consciousness proposed by researchers have been found to either align or deviate from those put forward by Ewick and Silbey. However, these proposed types of legal consciousness are primarily associated with broader themes such as hegemony, identity, or mobilization.

¹⁹ Ewick and Silbey Susan S. (n 1)

its purpose. Regardless of the law's hegemony, for abortion seekers, there is a desire to find ways to improve the law so that it can be more effective. This includes providing what is genuinely sought after by individuals, which in most cases is a desire for a more empathetic law. This emphasis holds significance because it acknowledges the limitations and negative consequences of the law, as well as the disparity between the law in written form and its actual implementation. Through a thorough examination of the legal consciousness of abortion seekers, one can also, however, recognise the concept of hope for the law – hope for positive impact, serving as a tool to drive social change and foster better individual and societal outcomes. Thus, this expanded understanding of legal consciousness from the perspective of abortion seekers can inform policy and legal reforms that better address the needs and rights of individuals seeking reproductive health care; thereby contributing to abortion research more generally as well. The thesis underscores the necessity of adopting an inclusive, human-centred approach that considers the diverse perspectives and experiences of abortion seekers. This approach prioritises treating abortion seekers as individual users of the law and calls for the development of regulations that genuinely cater to their unique needs and circumstances.

More specifically, human-centred design has developed from the concept of user-centred design, which originated as a way to improve the experiences of people working with interactive systems like computers.²⁰ Human-centred design, however, takes a more comprehensive and holistic approach to individuals.²¹ It considers the needs of individuals

²⁰ Stephen W Draper and Donald A Norman, 'User centered system design: new perspectives on human-computer interaction/ edited by Donald A. Norman, Stephen W. Draper' (Hillsdale, N.J; London: Lawrence Erlbaum Associates 1986)

²¹ Marc Steen, Nicole de Koning and Arlette Pikaart, 'Exploring human centred approaches in market research and product development: three case studies' (ACM International Conference Proceeding Series)

(including those that are more latent) in various contexts to improve an intervention.²² A crucial element of human-centred design entails involving stakeholders, particularly those who will use the innovation or benefit from the intervention, early on in development to ensure that the intervention aptly responds to their needs.²³

Human-centred design can be enhanced by drawing from concepts from citizen science.²⁴

Citizen science sees patients as active coresearchers rather than mere subjects whose opinions are sought in the development of an intervention. This approach creates avenues for individuals to actively participate in shaping public health research agendas, which is particularly crucial when examining health-seeking behaviour. It was precisely this aspect that initially attracted me to this research—specifically, exploring how legal consciousness influences decision-making. However, as my research progressed, broader objectives emerged. During the research, it became evident that abortion seekers sought more from the law. The focus for abortion seekers was not on changing behaviours around abortion, but instead on being recognised as autonomous agents with agency over their decision-making. They wanted to be acknowledged as users and recipients of the law, not just passive subjects.

²² *ibid*

²³ See for example, Jeongyee Bae and others, 'Development of a user-centered health information service system for depressive symptom management' (2009) 11(2) *Nurs Health SCI* 185; Kathryn A Birnie and others, 'I Can Cope PostOp: User-centered design of a smartphone-based app for self-management of postoperative pain in children and adolescents' (2019) 21(4) *JMIR Form Res* e12028-e12028; Caricia Catalani and others, 'A clinical decision support system for integrating tuberculosis and HIV care in Kenya: A human-centered design approach' (2014) 9(8) *PLOS ONE* e103205-e103205; Kay Connelly and others, 'Development of an ecological momentary assessment mobile app for a low-literacy, Mexican American population to collect disordered eating behaviors' (2016) 2(2) *JMIR Public Health Surveill* e31-e31

²⁴ Ann Borda, Kathleen Gray and Laura Downie, 'Citizen Science Models in Health Research: an Australian Commentary' (2019) 11(3) *Online J Public Health Inform* e23-e23; Lex van Velsen, Geke Ludden and Christiane Grünloh, 'The Limitations of User-and Human-Centered Design in an eHealth Context and How to Move Beyond Them' (2022) 24(10) *Journal of medical Internet research* e37341-e37341

Adopting a human-centred approach to medicine,²⁵ including to abortion,²⁶ is not a novel concept. In the medical field, such approaches are frequently employed during the development of new technologies or interventions, aiming to address specific problems or needs.²⁷ In this thesis, however, abortion seekers are calling for more; they are calling for legal design, or the application of a human centred design approach to their legal problems²⁸ related to abortion. Legal design appreciates that legal issues are seldom isolated but rather interwoven with personal, societal, and cultural factors.²⁹ Moreover, legal design acknowledges the diverse range of individuals engaging with the law. Whether they be regulators, lawyers, those that apply the law (e.g., healthcare workers in the context of abortion care), or those affected by the law, each group has different objectives when considering their interactions with law.³⁰ This approach goes beyond a regulatory impact assessment, which focuses on questions of how to regulate to achieve a specific policy goal.³¹ Such assessments consider the

²⁵ Irene Göttgens and Sabine Oertelt-Prigione, 'The Application of Human-Centered Design Approaches in Health Research and Innovation: A Narrative Review of Current Practices' (2021) 9(12) JMIR Mhealth Uhealth e28102-e28102

²⁶ Ipas, 'Abortion Self-care is Health Care: Ipas's approach and current projects' (2019) <<https://www.ipas.org/wp-content/uploads/2020/07/ASCFS-E19.pdf>> accessed 7 August 2023; Power to Decide, 'Human-centered Design in Reproductive Health' (2023) <<https://powertodecide.org/design-thinking>> accessed 7 August 2023; Kate Wahl and others, 'User-centred design and development of a patient decision aid for choice of first trimester abortion method' (2021) 43(5) Journal of Obstetrics and Gynaecology Canada 670 <<https://www.sciencedirect.com/science/article/pii/S1701216321001791>>

²⁷ See for example, Bae and others (n 23); Birnie and others (n 23); Catalani and others (n 23); Connelly and others (n 23)

²⁸ Jeff Cox, 'Human-Centered Design in Legal Education: Why It's Needed Now and What's at Stake' (2020) <<https://www.lawtechnologytoday.org/2020/02/human-centric-design-in-legal-education-why-its-needed-now-and-whats-at-stake/>> accessed 26 November 2022

²⁹ Altacon Speaker, 'The importance of human-centered design for legal services' (2019) <<https://alta.law/the-importance-of-human-centered-design-for-legal-services/#:~:text=Human-centred%20design%E2%80%94an%20approach%20that%20puts%20the%20people%20with,more%20people%2C%20and%20plan%20for%20a%20better%20future.>> accessed 7 August 2023

³⁰ Estelle Hary, 'Arianna Rossi: « legal design offers a human-centered perspective to the law »' (2020) <<https://linc.cnil.fr/arianna-rossi-legal-design-offers-human-centered-perspective-law>> accessed 26 November 2022

³¹ *Reviewing the stock of regulation* (OECD Publishing 2020)

objectives of a regulation, the potential impacts of that regulation, as well as alternative methods, including less restrictive means, to achieve stated objectives.³² However, in this thesis, abortion seekers advocate for the use of their empirical data to consider the weight, meaning and impact of abortion law on their individual lives and society at large. Legal design recognises that anyone can be and is a user of law, and that law is everywhere.³³ This human-centred approach promotes creativity, encouraging disruption in static institutions, and challenging ideas about not only what the law is, but what it should be.³⁴

It is important to note that the World Health Organization (WHO) advocates for treating abortion as health care, not as something that should be regulated through criminal law.³⁵ Even as a health care intervention though, some form of regulation is often necessary or required. The mere fact that the WHO Abortion care guideline recommends that abortion be available on request,³⁶ underscores the potential everlasting role of law in abortion regulation. Legalisation, and not just decriminalisation, requires that a legal framework be put in place to support an enabling environment.³⁷ Such a framework would need to consider the complex geopolitical context of abortion, including transnational reproductive health care as described within the thesis. It would also need to consider the intersection of other laws, including those related to other regulatory mechanisms, such as related to licensing, procuring, and delivering abortion medicines. Policies need to be in place that develop and strengthen care provided by

³² *ibid*

³³ Hary (n 30)

³⁴ Cox (n 28)

³⁵ World Health Organization, 'Abortion care guideline' (2022)

³⁶ *ibid*

³⁷ *ibid*

healthcare workers, develop financing mechanisms to support facility and other supplies, and implement monitoring and evaluation systems. These are some of the priority areas as highlighted by WHO in considering how to respond to health system challenges.³⁸

However, what came out of the analysis went beyond considering health system challenges.

Abortion seekers raised elements of legal design in their desire for law makers to consider the “user interface of law” – the actual interactions between law and the abortion seeker.³⁹

Although they found ways to access abortion, they wanted solutions that would improve the experiences of the individuals⁴⁰ utilising the abortion legal framework. This goes beyond just consideration of access grounds. Specifically, abortion seekers emphasised the need for a more “lawyerly focus” on their experiences, such that there could be a greater consideration of things like rights and other rules that constrain them.⁴¹

Applying legal design requires efforts at multiple levels. For example, multiple stakeholders would need to be involved in what reform is needed and how.⁴² Most importantly, these discussions would need to include abortion seekers themselves. In addition to conducting a legal mapping, to better understand the current system of abortion and other intersecting laws and policies, additional participatory research is needed to comprehend individuals’

³⁸ World Health Organization, ‘Everybody’s business -- strengthening health systems to improve health outcomes’ (2007) <<https://www.who.int/publications/i/item/everybody-s-business----strengthening-health-systems-to-improve-health-outcomes>> accessed 6 August 2023

³⁹ Petra Hietanen-Kunwald, Helena Haapio and Nina Toivonen, *Legal Design Perspectives: Theoretical and Practical Insights from the Field: Systems theory as a research framework for dispute prevention and resolution by design*. (Ducato, Rossana, Strowel, Alain tr, First, 2021)

⁴⁰ See for example, Speaker (n 29); Margaret Hagan, ‘Legal Design as a Thing: A Theory of Change and a Set of Methods to Craft a Human-Centered Legal System’ (2020) 36(3) Design issues 3; Margaret D Hagan, ‘A Human-Centered Design Approach to Access to Justice: Generating New Prototypes and Hypotheses for Interventions to Make Courts User-Friendly’ (2018) 6(2) Indiana journal of law and social equality 199

⁴¹ Hagan (n 40), 4

⁴² *ibid*

needs and opportunities for intervention⁴³. Such approaches may prove to be difficult in the context of abortion, whereas noted by the narratives, individuals often fear criminalisation and stigma, which leads to mistrust and fear. Thus, abortion seekers may be reluctant to come forward or participate in research. However, such efforts have been shown to be possible in abortion research.⁴⁴ As Lerma and colleagues demonstrated in research with abortion seekers after implementation of a restrictive law in the United States, individuals perceived there to be too few first-person narratives of abortion experiences.⁴⁵ For individuals in that study, participating meant seizing an opportunity to voice their opposition to restrictive abortion laws and policies that had caused harm, hardship, and distress.⁴⁶

The analysis clearly highlights the significance of considering diverse perspectives, including cultural, social, and religious viewpoints. It is also crucial to consider the intersections with access to education and information. Addressing other systemic biases and regulations, especially concerning migrants, is equally important. Armed with this information, it becomes feasible to create new products, services, and policies then that can enhance the functioning of the legal system and better serve the needs of people.⁴⁷ This potential was realised during the Covid-19 pandemic, where various approaches to ensure access to essential health services,

⁴³ *ibid*

⁴⁴ Pany Sananikhom and others, 'Strategic assessment of reproductive health in the Lao People's Democratic Republic' (2000) 15(2) *Asia-Pacific Population Journal* 21; Brooke R Johnson, Mihai Horga and Peter Fajans, 'A Strategic Assessment of Abortion and Contraception in Romania' (2004) 12(24) *Reprod Health Matters* 184; Emily Jackson and others, 'A strategic assessment of unsafe abortion in Malawi' (2011) 19(37) *Reproductive Health Matters* 133

⁴⁵ K. Lerma and others, 'Reasons for Participation in Abortion Research in Restrictive Settings' (2023) 121 *Contraception* 110042

⁴⁶ *ibid*

⁴⁷ Hagan (n 40)

such as abortion were implemented.⁴⁸ Countries explored options to reduce in-person consultations for abortion services by considering different avenues, and telemedicine emerged as one such approach,⁴⁹ especially as there was an increased demand for self-managed abortion.⁵⁰ The use of such services proved to be safe, effective and acceptable.⁵¹ This experience aligns with a common practice in legal design, where introduction of new programs occur at the same time as reform of laws or other regulatory structures.⁵²

Taking such an approach to legal design as it relates to abortion seekers, however, also means recognising the potential to not only impact individual rights but also to address broader social justice issues. These desires then speak to higher-level implications concerning access to justice, democracy, and the rule of law.⁵³ The analysis has demonstrated several features of the health and human rights implications when dealing with the interface of abortion regulation. What an actual ideal law might look is beyond the scope of this thesis. However, in brief, there is a clear call for access to quality comprehensive abortion care, including ensuring safety, equity, timeliness, and affordability. Abortion seekers emphasised the necessity for a fair and just abortion regulation that is transparent and unbiased in its application. They advocated for a

⁴⁸ Caroline Moreau and others, 'Abortion regulation in Europe in the era of COVID-19: a spectrum of policy responses' (2021) 47(4) *BMJ sexual & reproductive health* e14-e14

⁴⁹ *ibid*

⁵⁰ Abigail R A Aiken and others, 'Demand for self-managed online telemedicine abortion in eight European countries during the COVID-19 pandemic: a regression discontinuity analysis' (2021) 47(4) *BMJ sexual & reproductive health* 238

⁵¹ Erica Chong and others, 'Expansion of a direct-to-patient telemedicine abortion service in the United States and experience during the COVID-19 pandemic' (2021) 104(1) *Contraception* 43

⁵² Hagan (n 40)

⁵³ The Independent Expert on the Promotion of a Democratic and Equitable International Order has included abortion, as one of several examples, in assessing domestic democracy. See for example, Alfred-Maurice de Zayas, Report of the Independent Expert on the promotion of a democratic and equitable international order (17 July 2014) UN Doc A/HRC/24/38. See further, World Justice Project, 'What is the Rule of Law?: The Four Universal Principles' <<https://worldjusticeproject.org/about-us/overview/what-rule-law>>

regulation that caters to the marginalised, acknowledges individual circumstances, and effectively addresses implementation challenges. This perspective reflects the appreciation that as an abortion seeker, even in contexts where abortion is illegal, one is a possessor of rights. It further demonstrates that individuals see the potential for law as a means to validate those rights, even if not in its current form.

This is where the principles of legal design and legal consciousness intersect, as they both emphasise the significance of appreciating how legal interventions align with the lived experiences and perspectives of the individuals they aim to serve. Legal design harnesses innovation, and recognises the ever-growing set of tools available in this Fourth Industrial Revolution, which “is characterized by a fusion of technologies that is blurring the lines between the physical, digital, and biological spheres.”⁵⁴ This is particularly relevant for this thesis, where I have used social media narratives, recognising the ability of individuals to connect across the globe for support, information, and access to abortion-related law and care. These personal narratives provide insights into the ways in which legal consciousness develops or evolves, information that policymakers could use to make services more usable and engaging.

⁵⁴ Klaus Schwab, ‘The Fourth Industrial Revolution: what it means, how to respond’ (2016) <<https://www.weforum.org/agenda/2016/01/the-fourth-industrial-revolution-what-it-means-and-how-to-respond/>> accessed 26 November 2022 In this article, Schwab describes four industrial revolutions that have occurred: The First “used water and steam power to mechanize production. The Second used electric power to create mass production. The Third used electronics and information technology to automate production.”

Future research opportunities

Considering the findings, as well as the practical implications for this work, several opportunities exist for future research in the area of legal consciousness. As previously mentioned, gaining a comprehensive understanding of the realities of law requires delving deeper into the lived experiences of those impacted by the law. This entails a more profound appreciation of each of the social and institutional factors that influence legal consciousness, that go beyond what have already been surfaced in the literature, but there may also be additional factors yet to be identified. Therefore, further research is essential to explore whether other conditions impact the experiences of abortion seekers.

Furthermore, it is highly likely that a diverse range of methodologies will be necessary to capture the complexities involved. While participatory research has been supported in the literature as an inclusive approach (and one appreciated by abortion seekers⁵⁵), there are certain contexts where this might not be feasible or safe for participants. In some situations, the risks of stigmatisation, ostracization, or legal penalties may deter individuals from engaging in research on sensitive topics like abortion. As researchers, it will be imperative to develop and employ innovative methods that can safeguard the well-being and anonymity of participants while still yielding meaningful data. This might involve using digital platforms whereby individuals can respond to questions or share stories anonymously about specific issues so that individuals can share their experiences without fear of repercussions. This is of particular significance because certain factors identified in the narratives, such as age and migrant status,

⁵⁵ Lerma and others (n 45)

may carry distinct legal repercussions in the context of abortion. Understanding how these factors, among others, intersect with legal consciousness is essential to grasp the full scope of the challenges and experiences faced by individuals seeking abortion.

Related to this could be directed research within specific contexts, offering valuable insights into the complexities of legal consciousness surrounding abortion. One approach could involve comparing social, political, and cultural factors across countries while keeping the phenomenon of legal status constant (legal or illegal). This comparison would allow researchers to potentially discern how various factors interact and influence legal consciousness when the legal status of abortion remains the same. Such cross-country analyses could highlight the impact of diverse social, political, and cultural factors on individuals' perceptions and experiences within a consistent legal framework. Alternatively, a more focused examination could concentrate on a single country, delving deeply into the intricate interplay of social, political, and cultural factors within that specific setting. Likewise, this research could narrow its focus to examine specific groups such as adolescents, unmarried individuals, migrants, or individuals from diverse racial backgrounds, among others. Conducting an in-depth exploration of legal consciousness within a specific country or of any of these options would offer a comprehensive understanding of how various elements contribute to its formation. This endeavour could yield rich and valuable data, potentially carrying more weight and significance for analysis. The insights gathered through such research could be instrumental for advocates of legal reform, providing them with evidence-based arguments and strategies to push for necessary changes in the legal framework surrounding abortion.

Considering the prominent gender-related issues that have surfaced, conducting further research from a gender lens perspective becomes imperative. The perception of the law as a mechanism to exert control and perpetuate gender (and other social norms) underscores the significance of examining legal consciousness through a gender-sensitive approach. By adopting a gender lens, future researchers can delve into how legal consciousness is shaped by and further influences gender dynamics. This lens would enable a deeper exploration of how individuals' understanding of the law is intertwined with power structures, societal expectations, and notions of gender roles. Intentionally designing such a study from this perspective would also shed light on possible solutions.⁵⁶ Such research would not only offer valuable insights into the ways in which legal frameworks either uphold or challenge gender inequalities and norms, it could inform efforts to address gender-based discrimination and improve legal and policy frameworks concerning reproductive rights and autonomy.

This thesis has centred its research on the experiences of abortion seekers, encompassing individuals seeking care related to both induced abortion and pregnancy loss. It is important to note that in some instances, certain individuals represented both circumstances within their narratives. However, further insights could be gleaned by narrowing the focus to exclusively examine the experiences of those with pregnancy loss for example. In doing so, researchers may uncover additional challenges associated with this specific condition and the ways in which individuals engage with the law. Stigma or identity issues for example, related to miscarriage

⁵⁶ Blessing A Odogwu, 'Wearing Our Gender Lens in Research Design and Development.' in Eucharia O Nwaichi (ed), *Science by Women: Stories from Careers in STEM* (Springer International Publishing 2022)

may manifest differently than in cases of induced abortion.⁵⁷ Even the way individuals engage in social media may be affected.⁵⁸ Furthermore, the regulations surrounding induced abortion could have an impact on individuals seeking care for miscarriage, adding complexity to their experiences. As a result, these distinct circumstances might give rise to different feelings, perspectives, and understandings about how individuals navigate the legal landscape in relation to their specific situations.

Finally, this thesis has solely focused on the legal consciousness of abortion seekers, but it has not delved into the development or evolution of other actors involved in the abortion process. For example, the thesis demonstrated how a collective consciousness forged and shaped by shared experiences was facilitated through social media and digital advocacy, and by an interaction with individuals beyond those seeking abortions. To enrich our understanding further, future research could also specifically explore the experiences and legal consciousness of those who provide or assist with reproductive services, as these individuals play such a significant role in the abortion experience. Specifically, valuable insights could also be gained into how their legal consciousness is influenced by factors similar to those affecting abortion seekers, such as geopolitical context, intersecting laws, and stigma. Moreover, an exploration into how social media platforms might be harnessed more effectively to challenge hegemony, impact identity, or stimulate mobilisation (both for abortion seekers, but also other actors)

⁵⁷ Bommaraju, Aalap, MPH and others, 'Situating stigma in stratified reproduction: abortion stigma and miscarriage stigma as barriers to reproductive healthcare' (2016) 10 *Sexual & reproductive healthcare: official journal of the Swedish Association of Midwives* 62; Jennifer Fairchild and Michael I Arrington, 'Narrating and Navigating through Miscarriage, Stigma, and Identity Changes' (2023) 28(3) *Journal of loss & trauma* 252

⁵⁸ Nazanin Andalibi, 'Self-disclosure and Response Behaviors in Socially Stigmatized Contexts on Social Media: The Case of Miscarriage' (Conference on Human Factors in Computing Systems)

remains an avenue for further investigation. This could involve delving into strategies or methods that maximize the potential of these platforms to reshape legal consciousness in these dimensions.

This avenue of research offers an exciting opportunity to examine the broader ecosystem of reproductive healthcare, analysing the interplay between abortion seekers, providers, and assistors. Investigating how these three interconnected groups experience and perceive the law, within the context of their respective roles, can lead to a more comprehensive and holistic understanding of legal consciousness in the realm of reproductive health. Moreover, by studying all three perspectives simultaneously, researchers could identify potential points of convergence and divergence, illuminating the shared challenges and unique experiences faced by each group. Understanding how each of these individuals engages with the same law in different ways can shed light on their unique perspectives, challenges, and needs of those involved in the reproductive healthcare landscape. By comprehensively examining the legal consciousness of all actors involved in the abortion process, tailored efforts can be made to foster better communication, information transfer, collaboration, support, and mobilisation within the reproductive healthcare system. Such information could also contribute to the development of more effective policies, training programs, and advocacy initiatives. Thus, conducting such research on the legal consciousness of abortion seekers, assistors, and providers could provide valuable insights that inform legal design, recognising the diverse structures in which laws exist or are engaged.

In conclusion, this thesis aimed to explore whether and how the existing legal consciousness framework aligns with the experiences of abortion seekers, and what the implications are for

potentially improving the legal framework surrounding abortion. The analysis of 627 abortion seekers' narratives shed light on their interactions with legality and legal institutions. While the existing framework, which considers hegemony and the sustainability of legal institutions, holds relevance to their experiences, it falls short in capturing the full complexity of their encounters with the law.

The narratives challenge the assumption that official law universally holds a central position in individuals' lives, revealing that its significance varies depending on personal circumstances. Moreover, the research highlights that the legal consciousness of abortion seekers is dynamic and influenced by broader social and political constructs, including identity and mobilisation, but also geopolitical context, intersecting laws, and stigma. This calls for a more personalised and responsive legal approach that considers the social and political status of abortion seekers.

One significant finding is that while some abortion seekers did not always perceive the law to be relevant to their situation, most expressed specific desires regarding regulations. They sought laws that recognise their individuality, understand their circumstances, and prioritise their values and needs. The thesis also highlighted the interconnected nature of legal consciousness. It illustrated how a collective consciousness was formed and influenced by shared experiences through social media and digital advocacy. This highlights the importance of adopting a human-centred approach through legal design to better address the diverse and dynamic experiences of abortion seekers, including the ways in which legal consciousness evolves. Such learnings not only add to the comprehension of legal consciousness of abortion seekers, but also advance the methodological approach to investigating how individuals live the law. Overall, the research emphasizes the need for a comprehensive understanding of the

social environment in which legal regulations operate to improve the legal framework surrounding abortion and enhance the well-being of abortion seekers.

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Appendices

Appendix 1

Name of site (page)	Url	Focus countr(y/ies)/locations
2+ Abortions Worldwide	https://www.2plusabortions.com/ ; https://www.2plusabortions.com/international-directory	Global
Abortion Diary	https://www.theabortiondiary.com/	36 states within the United States of America; 21 countries from - Asia, Europe, Middle East, North and South America
Aborcyjny Dream Team	https://aborcyjnydreamteam.pl/en/	Poland
Abortion Rights Campaign	https://www.abortionrightscampaign.ie/2018/05/15/sharing-stories-i-hope-by-talking-about-it-i-can-make-a-small-difference/	Ireland
Advocates for youth (abortion out loud)	https://www.advocatesforyouth.org/abortion-out-loud/ (previously http://www.1in3campaign.org/)	United States of America, Sub-Saharan Africa, Asia, and the Caribbean
Atlantic (Personal Stories of Abortion Made Public)	https://www.theatlantic.com/notes/all/2016/01/personal-stories-of-abortion-made-public/423831/	United States of America
BBC (Woman's hour-Abortion Stories)	https://www.bbc.co.uk/programmes/articles/3kqkh6td2w65XWWg00MYf1t/abortion-stories-five-women-share-their-experiences	United States of America
Eight Stories	https://eightstories.wixsite.com/repeal	Ireland

Ending a wanted pregnancy (parents' stories)	https://endingawantedpregnancy.com/stories/	Unknown
Facebook	https://www.facebook.com (with multiple sub-extensions)	Global
Focos	https://www.focos.org.mx/focos/	Mexico
Human parts	https://humanparts.medium.com/the-weight-of-the-womb-269bc26bebb9	United States of America
Instagram	https://www.instagram.com/thechoice_vr/?hl=en	Global
International Planned Parenthood Federation	https://www.ippfen.org/blogs/neglected-and-stigmatised-women-are-denied-access-abortion-care-natelas-story	Georgia (country)
Jane's Due process	https://janesdueprocess.org/blog/teen-abortion-experiences/	United States of America
MSI (my abortion story)	https://www.msichoice.org/stories/my-abortion-story/#	Global
My abortion my life (abortion stories)	https://www.myabortionmylife.org/read-stories	United States of America focused but some global
my Body My Life	https://www.mybody-mylife.org/	United Kingdom
NARAL Missouri/Virginia	https://prochoicemissouri.org/example/our-voices/ ; https://naralva.org/heathers-story/	United States of America
Physicians of reproductive health (voices of courage)	https://prh.org/voicesofcourage/	United States of America
Planned Parenthood of Massachusetts (Advocacy Fund - Storytelling)	https://www.plannedparenthoodaction.org/planned-parenthood-advocacy-fund-massachusetts-inc/act/storytelling	United States of America
Planned Parenthood of Tennessee and	https://www.plannedparenthood.org/planned-parenthood-tennessee-and-north-mississippi/get-involved-locally/tennessee-stories-project	United States of America

North Mississippi (Tennessee Stories Project)		
Quesesepa (Let it be known)	quesesepa.cl (Let it be known)	Chile
Reclaim (abortion storytelling)	https://reclaimproject.org/story/	United States of America
Saaf	https://www.saafund.org/saafstories	Palestine, Uganda
Safe2choose	http://safe2choose.org/	Global
Self managed abortion	https://www.smapodcast.org/podcast/part-2-choosing-self-managed-abortion	United States of America
Shout your abortion	https://shoutyourabortion.com/	United States of America
SIHaA- so I had an abortion	https://soihadanabortion.squarespace.com/stories	Unknown
Teen vogue	https://www.teenvogue.com/story/abortion-stories	United States of America
The Guardian	https://www.theguardian.com/world/ng-interactive/2015/jan/22/-sp-roe-v-wade-42-years-womens-abortion-stories	United States of America
We testify	https://www.wetestify.org/stories#map	United States of America
WomenOnWeb	https://www.womenonweb.org/en/page/488/i-had-an-abortion; https://www.womenonweb.org/en/map	Global
YouKnowMe	https://twitter.com/hashtag/youknowme	Global

Appendix 2

First pass coding

Codes	
⊕ ^ Name	
<input type="radio"/>	abandoned by partner post abortion
<input type="radio"/>	ability to continue life after abortion
<input type="radio"/>	ability to do what you want for yourself
<input type="radio"/>	ability to engage in humor around abortion experience
<input type="radio"/>	ability to enjoy life after abortion
<input type="radio"/>	ability to talk about abortion with doctors
<input type="radio"/>	ability to talk about abortion with family and friends
<input type="radio"/>	abortion abroad not pleasant
<input type="radio"/>	abortion accessible but nit easy
<input type="radio"/>	abortion allows me to continue my live
<input type="radio"/>	abortion as a crime
<input type="radio"/>	abortion as a forbidden topic
<input type="radio"/>	abortion as a loss
<input type="radio"/>	abortion as a mechanism to live life as desired
<input type="radio"/>	abortion as a mechanism to make others feel guilt
<input type="radio"/>	abortion as a mechanism to make others feel shame
<input type="radio"/>	abortion as a necessary thing
<input type="radio"/>	abortion as a personal decision
<input type="radio"/>	abortion as a positive choice
<input type="radio"/>	abortion as a private matter
<input type="radio"/>	abortion as a responsible choice
<input type="radio"/>	abortion as a right
<input type="radio"/>	abortion as a right equals self-righteous
<input type="radio"/>	abortion as a right is callous
<input type="radio"/>	abortion as a secret
<input type="radio"/>	abortion as a self decision
AL	2185 Items

*This image serves as an illustration and does not encompass all the codes contained within the dataset on first pass. However, it does display the total count of codes present.

Second pass coding

Codes

- ⊕ Name
 - Abortion - power and control
 - Abortion as described to others
 - ⊕ ○ Abortion decision considerations
 - ⊕ ○ Abortion experience
 - ⊕ ○ Abortion general views
 - ⊕ ○ Abortion mobilization
 - ⊕ ○ Abortion process
 - Abortion reasons
 - ⊕ ○ Abortion regulation
 - ⊕ ○ Abortion stigma
 - ⊕ ○ Abortion travel
 - ⊕ ○ Accessibility of abortion
 - ⊕ ○ Associated reproductive health issues
 - Awareness of additional requirements of law
 - Discrimination or discriminatory or disproportionate effects
 - Identity
 - Knowledge of abortion law
 - ⊕ ○ Motives of others
 - ⊕ ○ Personal circumstances
 - ⊕ ○ Post abortion experiences
 - ⊕ ○ Quality of abortion care issues
 - ⊕ ○ Talking about abortion

 AL 176 Items

*This image serves as an illustration and does not encompass all the codes contained within the dataset on second pass. However, it does display the total count of codes present.

Final thematic ordering

Theme	Hegemony	Intersectional themes	Associated Codes
Associated Codes	Abortion as medical care/procedure, abortion as a necessity, abortion decisions – complexity, abortion regulation, access, access to information, authority, discrimination, disproportionate impact, gatekeeping, intermediaries, justice & rights , knowledge & awareness, law as an obstacle, legitimacy/ hierarchy, mechanism of control, mistrust, motivation to restrict, negative abortion experience, opportunity costs, ordering online, paradox, parental/ partner relations, positive abortion experience, negative abortion experience, personal circumstances , political discourse, positive abortion experience, power imbalance, quality of care, regulatory barriers, religion, travel, unsafe abortion	Geopolitical context Intersecting laws Stigma	Abortion considerations, abortion propaganda, abortion regulation, access to information, accessible (legally), adoption, associated reproductive health issues, discrimination, disproportionate impact, education, ethics/morals, facilitation, fear, gatekeeping/ers, gender norms, immigration, imposition of law, inaccessible (legally), intermediaries, justice & rights , justification, mistreatment, motivation to restrict, motives of others, negative abortion experience, opportunity costs, ordering online, other stigmas, personal circumstances , political discourse, positive abortion experience, protection, quality of care, regulatory
Theme	Identity		
Associated Codes	Abortion as medical care, abortion decisions – complexity, abortion regulation, access to information, coverage or resource issues, criminal/ killer, desire for legal access, discrimination, disproportionate impacts, ethics/morals, fear, gender norms, immigration, justice & rights , labels, legitimacy/hierarchy, mistrust, opportunity costs, personal circumstances , positive abortion experience, protection, quality of care, regulatory barriers, religion, salience of law, sharing stories, social norms, values		
Theme	Mobilisation		

Associated Codes	Abortion as a right, advocacy, inward, intermediaries, justice & rights , knowledge & awareness, motivation to restrict, outward, personal circumstances , sharing stories		barriers, religion, shared/ing stories, social norms, travel
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