

CHANGING AMERICA'S ABORTION LAWS: ROE V. WADE

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“She filed suit on behalf of herself, and all those women who have in the past at that present time or in the future would seek termination of a pregnancy.”

-Sarah R. Weddington, 1971¹

Throughout America’s history, women have had to struggle and fight for rights. Because of these unfair restrictions, women have had to battle for rights through legislation and the court system. Throughout the years women have been subordinate to men and in history had rights for far less time than men have had the same rights such as voting. In return, this has forced women to protest and fight for the rights that are under the constitution as protected rights like the right to privacy (see Appendix A). Even though the right to privacy is never explicitly stated in the Constitution, it can be inferred under the Fourteenth amendment's due process clause. Because of this inherent right to privacy in the 1970’s, the question arises: is abortion a woman’s right to privacy? The Supreme Court case *Roe v. Wade* in 1973 broke barriers for a woman's right to choose, what the states were allowed to intervene on, and how the court would later interpret a woman’s personal choice to an abortion. All of these aspects broke the prior laws and regulations surrounding abortion and criminal abortion laws.

Women like Norma McCorvey, Linda Coffee, and Sarah Weddington, who all had a strong will of what they wanted, got the case off the ground. The issue of abortion, along with reproductive rights, began long before the court case of *Roe v. Wade*. Most of the state abortion laws dated back to the early nineteenth century, when during this time period, according to History.com, “ In 1873, Congress passed the Comstock law, which made it illegal to distribute contraceptives and abortion-inducing drugs through the U.S. mail. By the 1880s, abortion was

¹ Oyez *Roe v. Wade* Oral Argument

outlawed across most of the country.” Also in the nineteenth century, they did not have the medical knowledge that we have today². Making it virtually impossible for women with unwanted pregnancies to get an abortion, the only exception to these laws were if a woman's life was endangered. Doctors often did not want to perform the procedure because, “Most state laws on abortion were so vague that doctors didn’t know or could tell if they were committing a crime.³” This left many women with unwanted pregnancies and nowhere to turn except to travel. A few doctors “offered abortions of uncertain safety, but across the border in Mexico,” according to *She Put the V in Roe v. Wade*. These circumstances left women getting killed because of the unsanitary conditions, along with the possible lack of experience the people had who were performing the illegal abortions. According to the Center for Reproductive Rights “As many as 5,000 to 10,000 women died per year following illegal abortions and many others suffered physical and psychological injury.” Also according to Planned Parenthood “In 1965, illegal abortions made up one sixth of all pregnancy related deaths.” All of these roadblocks for women made it extremely hard to find a place with safe and skilled professionals who could perform the task at hand. That was until Norma McCorvey (see Appendix B), Linda Coffee, and Sarah Weddington decided enough is enough and challenged the Texas Penal Code Law that made it illegal and a crime to obtain an abortion if it was not by a medical professional used to save the mother’s life. The U.S. Case Report says, “Any violence or means whatever externally or internally applied, and thereby procure an abortion, he shall be confined in the penitentiary not less than two nor more than five years.” This is the Texas law that these three women are fighting against, when McCorvey finds herself pregnant for the third time and does not want to

² Roe v. Wade The Abortion Rights Controversy in American History

³ Landmark Court Cases

have, keep, or put up for adoption like her previous children. She just simply did not want the child so she went to her doctor to talk about getting an attorney, which then led her to Sarah Weddington and Linda Coffee. The two attorneys had already been trying to find an unhappy pregnant women to help challenge the Texas state abortion laws. Although they had found McCorvey, she was hesitant to use her name, they gave her a fake name of Jane Roe. Coffee was also the attorney who wrote the petitions and got the case going and to see where it was going to stand;⁴ they also were going to use the court case *Griswold v. Connecticut* as a backbone because it provided the precedent of privacy which was the same precedent that they were trying to accomplish with this court case. In *Griswold v. Connecticut* the courts ruled that contraceptive fell under the right to marital privacy which is what Coffee believed that abortion was included in. They also used the case for their ruling of “couples rights to privacy precluded the state from dictating whether they would or would not have a baby,” (TIME). The Doe’s had also previously helped in the district court by challenging the laws by presenting that it was possible for things to go wrong with contraceptives and women just not being ready to be a mother⁵, but the courts rule that it was justiciable. Sarah Weddinton and Linda Coffee delivered their work to the courthouse on March 3, 1970; even though they ruled it void the attorneys were not satisfied because the district attorney could still be allowed to enforce the laws they had said were unconstitutional⁶. Coffee filed an appeal directly to the Supreme Court and on December 13, 1971 the court case was argued.

⁴ Vanity Fair EXCLUSIVE: ROE V. WADE’S SECRET HEROINE TELLS HER STORY

⁵ Legal Information Institute *Roe v. Wade*

⁶Vanity Fair EXCLUSIVE: ROE V. WADE SECRET HEROINE TELLS HER STORY

On January 22, 1973 the courts issued the ruling of Roe v. Wade which broke the previous barriers that women had been trying to break but finally did. The Supreme Court had to answer the question: “Dose the constitution recognize a woman’s right to terminate her pregnancy by abortion?” (Oyez Roe v. Wade). The Texas statute that were under attack for about a century was finally broken and deemed unconstitutional and vague . The now previous laws put McCorvey in a situation where she had claimed to have been raped “in hopes that it would speed things up in the court system” (An Interview with Norma McCorvey, The “Roe” Of Roe v. Wade interview). But now because of the 7-2 ruling that within the first trimester of pregnancy state can not regulate abortion, in the second trimester state can put in regulations based on the mother’s health and in the third trimester the state can flat out prohibit abortion because the fetus is fully developed; however they may allow abortion if the mother’s life in in danger. The farther along a woman is in her pregnancy and the more the fetus is developed the greater interest the government would have in protecting the potential life of the fetus. The ruling would allow any pregnant woman within the first trimester to have the right to an abortion without the state intervening. The Supreme Court made the ruling off of the Fourteenth amendment⁷, and the Due Process Clause. The attorneys also used the First, Fourth, Fifth, and Ninth Amendment because together they also alluded to the inherent right to privacy⁸. Justice Blackmun gave the majority opinion saying, “We acknowledge our awariness of the sensitive and emotional nature of the abortion controversy, of the vigorus oopsing views, even among physicans, and of the deep and seeming aboslute convctions that the subject inspires” (landmark Cases Justice Blackmun, majority opinion in Roe

⁷ We The People: The Fourteenth Amendment and the Supreme Court

⁸ <https://dictionary.thelaw.com/right-to-privacy/>

https://docs.google.com/open?id=16qPDyDDwkrFujCN2yPPLt_fnx0XYY0M3Wz0Q5o5Cx3Ev
. Wade). Although the highest court in America ruled that women must be allowed access to abortion, there was obviously backlash from people with opposing views. These views even being justices amongst Justice Blackmun. In 1976 the Solicitor General said that Roe was “the court failed to establish legitimacy...I cannot accept or believe will be accepted by the American people” (We The People: The Fourteenth Amendment and the Supreme Court). There were many other groups who disagreed with the legalizing of abortion such as the Roman Catholics⁹. Through Roe v. Wade Norma McCorvey, Sarah Weddington, and Linda Coffee all broke the previous barriers that women had to go through in finding or performing an abortion to help set the new abortion precedent.

Consequently to the new precedent most all of the states had to change their abortion laws, according to ABC News in 1973 seventeen states were going to have to change their abortion laws, although there were a few exceptions. For example states like New York already had legalized abortion before the court case when other states were going to have to drastically change their laws to fit the new parameters of the court ruling¹⁰. The new precedent also made it to where the right to privacy to be left alone and free from unwanted government intrusion. The impact of Roe would carry through the decades to help decide upcoming court cases. According to Planned Parenthood, “The decision also set a legal precedent that affected more than 30 subsequent Supreme Court cases involving restrictions on access to abortion.” The Supreme Court case Webster v. Reproductive Health Services in 1989 was impacted by the precedent that Roe v. Wade set. In Webster v. Reproductive Health Services the state of Missouri wanted

⁹<https://www.nbcnews.com/video/jan-22-1973-nbc-news-reports-roe-v-wade-decision-death-of-lyndon-johnson-125836867728>

¹⁰ The New York Times High Courts Rules Abortion Legal For the First Three Months

impose very strict abortion laws although the court decided with Missouri on the case it did not have any effect on places outside of Missouri. Although the Supreme Court decided with the stricter abortion laws they did not overturn *Roe v. Wade*. According to *The Supreme Court Case 5-4 Narrowing Roe v. Wade Upholds Sharp State Limits on Abortion* Justice Harry A. Blackmun said that “A constitutional right to abortion still remained.” Abortion is still being argued and more recently being restricted to the first eight weeks in Missouri (<https://fortune.com/2019/05/20/can-roe-v-wade-be-overturned/>). The topic is still being debated (see Appendix C) in states like Missouri, among Roman Catholics, and even Norma McCorvey. According to Planned Parenthood “Six states have only one health center that provides safe legal abortion.” Contrast to the laws in the U.S. Ireland has completely legalized abortion and will not charge doctors or women.¹¹ The legalization of abortion has made the procedure safer and has caused far less deaths since its legalization. According to Planned Parenthood “Today less than .3% of women that have a legal abortion end up in the hospital with a serious complication.” Which goes along with Planned Parenthood also saying “Legal abortion is one of the safest medical procedures in the U.S. with a safety record over 99%.” This is obviously a huge shift in safety in comparison to it causing “1 in 6 pregnancy related deaths” (Planned Parenthood) when the procedure was done illegally. Another possible aspect that could have been affected by *Roe v. Wade* is the overall average education and average age of marriage for women changed. According to *TheConversation.com*, the average marriage age in 1970 was 21 and 18 to 24 year olds 25% who had a high school education and was enrolled in college and eight percent had completed four years of college, compared to in 2018 the average marriage age for women is 27

¹¹<https://www.bbc.com/news/uk-northern-ireland-50125124>

and the majority of college students are women¹². Although they may not be a direct result of Roe v. Wade, women having the right to choose when they want to become a mother may have helped the average marriage age and education of women to become higher. On the other hand there are many people who are against abortion and one of those being the women who fought for it, Norma McCorvey. Years after she helped the abortion become legal in America her morals flipped and she became pro- life. In a Focused Press interview Norma McCorvey says she “tries to undo” what she had done with the court case. Her views changed because she had become a Roman Catholic .¹³ Overall the impact of the case is immense whether it was for pro-life or pro-choice groups many groups of people have been impacted the courts decision in one way or another. Roe v. Wade has broken numerous barriers for women and has truly showed that “Women will do what they feel they have to do regardless of what the laws are” (Laura Kaplan Former Member Of 'Jane' Abortion Service Remembers Time Before Roe v. Wade). Although there is a great amount of disagreement when it comes to abortion many believe that it is important that there is a safe route for women to choose when it comes to that big of a decision. Although many states are restricting people in the government like Barack Obama,¹⁴ and the Clintons.¹⁵ They both spoke out about the issue when they were in office.

¹² <https://theconversation.com/how-roe-v-wade-changed-the-lives-of-american-women-99130>

¹³

https://www.washingtonpost.com/national/norma-mccorvey-jane-roe-of-roe-v-wade-decision-legalizing-abortion-dies-at-69/2017/02/18/24b83108-396e-11e6-8f7c-d4c723a2becb_story.html

¹⁴

<https://obamawhitehouse.archives.gov/the-press-office/2015/01/22/statement-president-42nd-anniversary-roe-v-wade>

¹⁵ https://clintonwhitehouse2.archives.gov/WH/EOP/First_Lady/html/generalspeeches/1999/19990122.html

The case also shows the perseverance that Sarah Weddington and Linda Coffee had when they were fighting for what they believed in. They collectively changed laws that were almost a century old and helped women gain a new aspect of privacy. Roe v. Wade made a difference in a woman's right to choose, what the states are allowed to intervene on and how the courts would continue to interpret a woman's choice to an abortion. All these aspects helped women be in the status that they are today.

APPENDIX A:



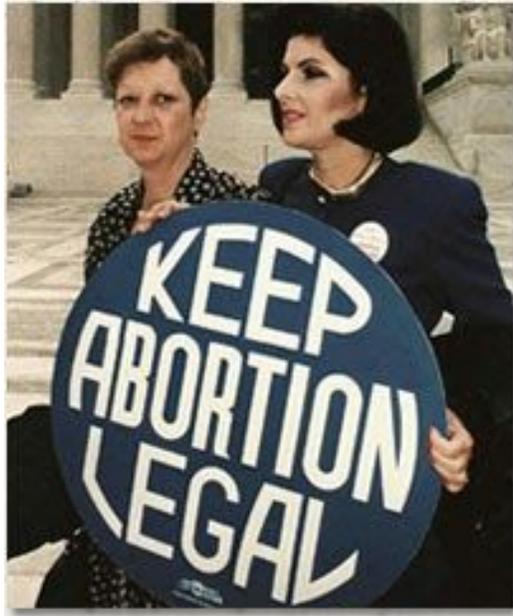
This picture shows women in New York in the year 1972 protesting to fight for abortion rights.

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2019, www.vox.com/2019/5/24/18630825/abortion-roe-v-wade-vs-jane-

[Collective.](#)

APPENDIX B:



This is a picture of Norma McCorvey or Jane Roe as she was known in the court case. She is the person on the left, they are protesting to keep abortion legal.

“The Supreme Court . Expanding Civil Rights . Landmark Cases . Roe v. Wade (1973): PBS.”

The Supreme Court . Expanding Civil Rights . Landmark Cases . Roe v. Wade (1973) |

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