**History of Abortion**

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The United States (US) Supreme Court's acknowledgment of the constitution's protection of a woman's right to terminate pregnancy in *Roe v. Wade* in 1973 has considerably influenced judicial and state legislature. A comparative ruling in *Doe v. Bolton* provides that the state cannot burden women’s capacity to exercise this right through legislation or regulations that undermine access to the procedure. The two rulings have historically generated a contentious debate, precipitating diverse governmental actions at the state, national, and local levels to undermine their effect or overturn the rulings. These subsequent regulations have triggered litigation demanding judicial refinement of the rulings to limit controversy. For example, after *Roe*, *Webster v. Reproductive Health Services* allowed states to restrict abortion, while Rust v. Sullivan limited the permissible scope and federally funded abortion-related actions. Today, the context of abortion legalization has been expanded to include state legislation and healthcare reforms such as Medicare. Therefore, an analysis of abortion history in the US demonstrates the state’s effort in institutionalizing abortion as a criminal offense, undermining women’s rights.

**Judicial History**

The judicial history of abortion can be traced back to the landmark ruling of the Supreme Court in *Doe* and *Roe* in 1973. According to the two cases, the Georgia and Texas policies on abortion violated women’s constitutional right to preserve or terminate their pregnancies (Shimabukuro, 2018). The Georgia statute only allowed for abortions in situations where the fetus demonstrated a high probability of serious birth defects, when the pregnancy threatened the woman's health or life, or when the pregnancy was a consequence of rape (Espey et al., 2022). The statute also allowed abortion only at accredited hospitals following approval from two consulting doctors and the hospital committee. On the other hand, the Texas statute illegalized all forms of abortion to save the mother's life. The Supreme Court rulings prohibited states from categorially criminalizing abortion and making the process unattainable through limiting procedural guidelines, basing its decision on the Fourteenth Amendment (Espey et al., 2022). The Fourth Amendment emphasized the right to personal privacy and the need to respect a woman's decision to terminate or carry her pregnancy to full term. The court decision limited state interference in a woman's decision to terminate her pregnancy, enhancing the national adoption of safe abortion practices.

The nature of the case demanded the Supreme Court’s clarification of the impact of abortions on maternal death and its perception as killing an innocent person. In particular, the court held that until the end of the first trimester, the potential risks of abortion are similar to childbirth, which makes the state’s interest in the mother’s health unnecessary (Shimabukuro, 2018). Thus, the state’s interest in promoting maternal healthcare is only legitimate after the first trimester. In *Doe*, the Supreme Court nullified Georgia’s prerequisite that women can only access abortions in specified hospitals after approval from two physicians and a hospital committee. Most importantly, the court addressed State concerns, especially its perception of a fetus as a person (Moore et al., 2021). According to the Supreme Court, the Constitution does not offer a definite definition of the term ‘person’. However, the term is often applied in postnatal situations, and since legal abortion practices prevailed before the 19th century, then the term “person” as indicated in the Fourteenth Amendment does not entail the unborn. However, the Court failed to resolve the issue of when life begins, creating a series of divergent rulings post*-Roe v. Wade*.

Following *Roe v. Wade*, trial courts and the Supreme Court have examined diverse state and federal requirements addressing concerns about abortion. These issues include parental and spousal consent, reporting regulations, mandatory waiting periods, viability, and parental notice Whittum & Rapkin, 2022). For example, the Supreme Court maintained Missouri’s restrictions regarding public employees and facilities’ provision of abortion services in *Webster v. Reproductive Health Services* (Espey et al., 2022). While the decision did not overturn *Roe*, it supported state abortion regulations, emphasizing the state legislature's discretion in enforcing abortion regulations. According to the ruling, *Roe* undervalued the state’s interest in protecting potential life. However, *Planned Parenthood of Southeastern Pennsylvania v. Casey* reconciliation a woman’s right to pregnancy termination with the state’s interest in protecting potential life by upholding a woman’s right to abortion provided the fetus is unviable without state interference (Jaffe, 2021). However, the state has a right to illegalize abortion after viability provided the pregnancy does not endanger the woman's health and protects the woman and fetus' life. The case offered a new standard of review, allowing state regulation of abortion through policies that favor childbirth over abortion (Coen-Sanchez et al., 2022). While *Roe* perceived abortion as a fundamental right and a personal decision, *Casey* enhanced the degree of state involvement in the issue, resulting in stricter abortion regulations across several states.

**Legislative Decisions**

The Supreme Court’s decision in *Doe* and *Roe* prompted federal legislative initiatives restricting the application of federal money and insurance in paying for abortion. For example, Representative Henry Hyde proposed a revision of the Departments of Labor and Health, Education, and Welfare, Appropriation Act (1977), restricting the use of the Medicaid program to pay for abortions. The resulting Hyde amendment demanded the Supreme Court’s differentiation between elective and medically necessary abortions (Shimabukuro, 2018). In *Beal v. Doe* and *Maher v. Roe*, the Court upheld the state’s lack of constitutional or statutory obligation to fund elective and medically necessary abortions, declaring the Hyde amendment constitutional.

In conclusion, an evaluation of the history of abortion highlights state's intention to prohibit the act, undermining fundamental women's rights. The latest legislative and judicial issue on abortion was recorded in 2022 in *Dobbs v. Jackson Women’s Health Organization*, which overturned *Roe* despite its application as a precedent for almost 50 years. While Roe allowed abortion for up to 23 weeks, the High Court upheld a Mississippi law illegalizing abortion past 15 weeks of pregnancy, overturning *Roe* and *Casey*. Besides undermining women’s fundamental rights to abortion, the decision will encourage ban and criminalization across several states, forcing women to travel across counties or countries to procure the same as evidenced in the 19th century.

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