

Roe v. Wade, 410 U.S. 113 (1973)

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Facts

- Ms Jane Roe, a pregnant woman, brought a class action challenging the constitutionality of (at the time) Texas' criminal abortion laws.
- These laws criminalised the procuring or attempting an abortion except on medical advice for the purpose of saving the mother's life.
- Mr James Halford, a physician, was permitted to intervene in the action, as were the Does - a childless couple who alleged injury on the future possibilities of contraceptive failure, pregnancy, unpreparedness for parenthood and impairment of the wife's health.
- Roe et al alleged that the Texan abortion laws were unconstitutional as the Constitution envisioned a woman's right to terminate her pregnancy by abortion as part of the Fourth Amendment.

Issues

- Did the Constitution provide women with the right to terminate a pregnancy by abortion?

Held

- The Supreme Court held that a woman's right to an abortion fell within the right to privacy protected by the Fourteenth Amendment. Justice Blackmun wrote the majority opinion.
- The Court centred its decision around the notion of a constitutional "right to privacy" that was intimated in earlier cases involving family relationships and reproductive autonomy.
- After reviewing these cases, the Court proceeded, "*with virtually no further explanation of the privacy value*", to rule that regardless of exactly which provisions were involved, the US Constitution's guarantees of liberty covered a right to privacy that generally protected a pregnant woman's decision whether or not to abort a pregnancy.
- This right was not absolute; the right was to be balanced against other considerations such as the state's interest in protecting "prenatal life."
- The decision of *Roe v. Wade* gave a woman total autonomy over the pregnancy during the first trimester and defined different levels of state interest for the second and third trimesters.
- As a result, the laws of 46 states were affected by the Court's ruling.

Quotes

"This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or ...in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her

pregnancy."

(Justice Blackmun at 153)

Significance

- *Roe v. Wade* is a controversial opinion. Critics argue that the Supreme Court's legal reasoning was perfunctory and was an example of extreme judicial activism. Feminists and liberal legal scholars, on the other hand, have argued that the decision is a necessary step towards equal rights between genders, despite any deficiencies in the legal argument itself.
- The decision has caused significant public and political argument, arguably contributed to the rapid political partisanship of future Supreme Court appointees by Congress - for example, Ronald Reagan was questioned about whether there was a "litmus test" for potential Supreme Court nominees over whether they would overturn *Roe v. Wade*.

Full Text

The full text is available here: <http://cdn.loc.gov/service/ll/usrep/usrep410/usrep410113/usrep410113.pdf>

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