

Roe v Wade: where do we go from here?

Thomas Britt, MD, MPH, ACSM-CEP

Many of us emotionally exclaimed shock, anger, disbelief! How could the Supreme Court of the United States (SCOTUS) take back a “*constitutional right*?” We have uttered again, and again, “this ain’t America!” Are you sure? The founders of this nation, promulgated, “*all men are created equal*.” Was this declaration truthful? All men did not include all white men. It did not include white women. That rhetoric, albeit heartfelt, did not include slaves, here since 1619, nor Blacks who were here before Columbus. Furthermore, it did not include the indigenous people or Native Americans. One therefore, could surmise, without difficulty, that the founding of this nation was undergirded by hypocrisy. Continued failure to acknowledge the actual historical facts and gainfully address the fallacy(s) that has plagued this nation, has also led to a recent novel occurrence ... *the leakage of a draft SCOTUS decision that would overturn a basic human right* ... the right of a female to voluntarily interrupt an unwanted pregnancy. This “right” has existed more than 49 years, beginning with the passage of **Roe v Wade, 22 Jan 1973**. This 7:2 decision supported by a majority of republican appointed justices, *held that the U.S. Constitution protects pregnant female’s liberty to choose to have an abortion without excessive government restriction*. So what has happened to the bedrock and historical legal practice of *stare decisis*? *This principle is a legal doctrine that obligates courts to follow historical cases when deciding on a ruling of a similar case. Stare decisis invokes the notion that “settled law... is settled law,” therefore a precedent for future decisions*. What happened?

2 May 2022, a leak was reported by Politico, that a draft indicated that the SCOTUS would be overturning the Roe v Wade decision, late June or July 2022. The leaked draft has since been authenticated. Polls indicate that 60 -70% or more of our citizenry support the Roe v Wade decision. However the republican talking points, center around the leakage ... not the wishes of the American people. So why and why now, has the newly appointed republican justices prepared to over-turn a long-standing right? Please recall that the past president did state that he would nominate justices to the high court, that would over-turn Roe v Wade. Currently however, abortions remain legal as is allowed by each State, until the finalized SCOTUS decision.

At this time, 13 States have promulgated so-called “*trigger laws*” to be implemented (almost) immediately after SCOTUS renders their summer anti-abortion decision. It should be mentioned that many anti-abortion states do not have an exemption clause for rape or incest victims. This is despicable and beyond unconscionable that a female, especially a teenager, a child if you will, can be forced by the government, to become a mother. More shocking and quite hypocritical, is the pervasive lack of governmental support to that unwanted child and mother, post-forced delivery. Will the U.S. become a nation where only the privilege can obtain a legal and safe abortion? Will the less fortunate run the risk of septic abortions that existed many years prior to the Roe v Wade decision? Note ... Bills are now being drafted to make abortion illegal throughout our nation. If successful ... will females seeking abortion, as well as their physician providers and staff be treated as criminals? How extensive will the criminal statues be? Who will enforce these draconian statues?

Potential “rights” that may be reviewed, altered or reversed:

- **17 May 1954, Brown v Board of Education**
 - SCOTUS in a unanimous decision, ruled that State laws establishing racial segregation in public schools were unconstitutional
 - Chief Justice Earl Warren stated that this decision should be implemented, “with all deliberate speed.” That said, 3 years passed before desegregation, gainfully proceeded in Little Rock, AR

- **2 July 1964, Civil Rights Act**
 - Outlaws discrimination based on race, color, religion, sex and national origin

- **6 August 1965, Voting Rights Act**
 - Prohibits racial discrimination in voting
 - Why was the 1965 Voting Rights Act necessary ... since the 15th Amendment ensured voting rights for citizens in 1870?
 - In 2013, SCOTUS “gutted” the protections provided by the Voting Rights Act of 1965
 - The John Lewis Voting Rights Advancement Act of 2021, seeks to repair and strengthen voting has passed the House of Representatives but stalled by the U.S. Senate

- **Interracial Marriage**
 - **12 June 1967, Loving v Virginia** ... SCOTUS in a unanimous decision, stated that the Virginia’s anti-miscegenation laws violated the 14th Amendment. Note, Alabama was the last State to remove their anti-miscegenation laws from its State Constitution in 2000

- **Same Sex Marriage**
 - **26 June 2015, Obergefell v Hodges** ... SCOTUS ruled that States that banned same-sex marriage were unconstitutional

- **Contraception also known as Birth Control**
 - Birth control includes a varied list methodologies, with Birth Control Pills (BCP) and Intrauterine Devices (IUD) being quite popular, therefore at risk of a frontal assault
 - The biological activity of BCP can *interrupt ovulation, fertilization and ultimately implantation of the fertilized egg (zygote) into the uterine lining*

- **Ob/Gyn Training**
 - Will training of Residents in the voluntary interruption of pregnancy be “out-lawed?”
 - Will Ob/Gyn Residents be taught how to evacuate ectopic pregnancies? Or will they and their supervisors, as well as the patient, be charged for criminal activity?

The actual and impending demise of our rights, indeed our democracy, is a clarion call that must be answered. Now is the time to finally acknowledge self-evident truths of our nation. *We the people are not yet impotent.* Physicians and public health practitioners must collaborate and articulate select strategies to course-correct our nation.