

Elsie Peters
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Roe v Wade

Roe v. Wade was a case of life v. death that was determined over a thing as trifling as a woman's right to privacy, or as Louis D. Brandeis described it in 1928, "the right to be let alone." (Stevens, 2) It was probably the most monumental decision made by the Supreme Court in the entire century, and it killed more people than the German holocaust. It became, essentially, the death warrant for millions, all because a woman claimed her right to privacy.

The mentality behind abortion has been an issue for centuries. Even the ancient Romans believed they had the right to claim the life of a new born child. They demonstrated this by leaving unwanted infants out on a hillside to die. Abortion, however, poses a different moral question: the baby is not yet born, so at what point does it become murder? Roe v. Wade told women not whether it was moral or not, but how long it was at least legal. Today a woman can get an abortion for practically any reason at any time during her pregnancy. Dr. Frank Beckwith wrote about it in his article about the current state of abortion, "Roe v. Wade, Abortion on Demand," saying, "It is safe to say, therefore, that in the first six months of pregnancy a woman can have an abortion for no reason, but in the last three months she can have it for any reason. This is abortion on demand." (Beckwith)

Biblically, abortion is wrong. The Bible speaks specifically against it. Psalm 106 speaks of the Jews by the waters of Meribah, saying that they sacrificed their sons and daughters to idols, shedding innocent blood, and that the land was desecrated because of them. Abortion is essentially the same thing: the sacrifice of a child to an idol. In

today's culture, that idol may be theoretical as opposed to the physical ones that the Jews were worshiping, but regardless, whether it is work, money or time, it is still an idol. The practice is strictly condemned in the Bible. Unfortunately, the court bases its decisions loosely on the Constitution, not the Bible.

The case of Roe v. Wade began in March of 1970 when a Texas woman using the name of Jane Roe went to the Federal Court to challenge the Texas law that prevented her from obtaining an abortion, and to determine whether or not the law was constitutional. With a woman by the name of Sarah Weddington representing her, she took her case to court, with Henry Wade as the respondent. Wade was a well-known elected official from Dallas, who had been responsible for enforcing the law in Texas that prohibited abortion (except to save the mother's life). Initially, Wade paid little attention to the complaints filed by Roe and Weddington. Being a public official, he was busy, supervising over a hundred attorneys. It was finally brought to his attention that Linda Coffee was involved in the Roe case, as well as the John and Mary Doe case, which was virtually identical to the Roe case. Coffee had earned a high reputation in the court, and it was her name that alerted Wade that the case required his attention. Experienced lawyers Jay Floyd and John Tolle represented Wade.

Weddington's main point of attack in the case was a woman's right to do what she wants with her own body, under the right to privacy. She claimed that the state only had the right to prohibit abortion once the fetus was no longer dependent upon its mother for survival. Up until that point, she claimed, abortion fell under a woman's right to privacy, and should not be subject to any interference from the state. Weddington had to argue her case twice, while Floyd and Flowers each argued the defense of the Texas abortion

law once. The first time the case was argued, Weddington could not find the location of her Constitutional reference, but she recovered her argument the second time she argued the case. Though the right to privacy is found nowhere in the Bill of Rights, it is protected under the 14th Amendment, due to the *Griswold v. Connecticut* case. Though the *Griswold* case was not in reference to abortion, the connection of the right to privacy was made. Section 1 of the 14th Amendment says:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; *nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.* (Bowen, Thompson, Lowman, Cochran, 251)

Also, the court believed that, based on the historical reasons the colonists came to America in the first place, "the right to be let alone" (Stevens, 2) was included in what the founding fathers had intended in writing the Bill of Rights. Weddington pointed out that the abortion laws were ambiguous, and what exactly was against the law was unclear. Finally she asked that Wade not be allowed to enforce the law against abortion.

Wade's attorneys, Tolle and Floyd, argued that Roe had no legal standing because her pregnancy had progressed too far for her to have an abortion. The judges' response was negative, saying that the case was now a class action case because it affected numerous women other than Roe. The judges did not respond well to Tolle and Floyd using technicality as a basis for their argument.

Tolle then argued that the unborn child's right to life was more important than the mother's right to privacy. The judges were uninfluenced by Tolle's case, being more

persuaded by the plaintiffs. They came to the conclusion that the abortion laws were unconstitutional, but they struggled with the decision over whether or not to allow Wade to enforce the abortion law. Two of the three judges feared that that decision would lead the state of Texas to take an appeal to the U.S. Supreme court, where the first decision of the abortion laws being unconstitutional could be effected.

The court ruled in Roe's favor, but Wade seemed unaffected. Though the court ruled in favor of Jane Roe that the law was unconstitutional, they had not given him any orders about enforcing the Texas abortion laws.

Weddington had been handling Roe's case pro bono publico (for the public good without pay), and began to have financial problems because of all the time she had spent on the Roe v. Wade case. She began to focus more of her attention on work that had backed up in her law firm. She also encouraged Texas women to attempt to continue the case, should Roe v. Wade fail to go to the Supreme Court. Over this time, however, Weddington began to worry about recent changes in the high court, and wondered how the new philosophy would influence the case. On May 21, 1971, the Supreme Court announced that they would hear the Roe v. Wade case the following December 13.

When the case finally made it to the Supreme Court, Weddington began her argument with the important impact of the Texas law, and made a policy argument against it. The Judges were unimpressed. They asked for a Constitutional reference. Wade held that the 9th Amendment granted a woman the right to an abortion, as did the 14th Amendment with the right to "life, liberty, and property." One of the judges questioned her for basing much of her argument on the due process clause in the 14th

Amendment. Weddington pointed out that "One of the purposes of the Constitution was to guarantee to individuals the right to determine the course of their own lives."

(Stevens, 115) She made reference to the Griswold case and also pointed out that, if a woman could not legally obtain an abortion, she was likely to have an illegal self-abortion which endangered the mother. She also brought up the fact that the state had neither granted an unborn fetus legal rights, nor viewed it as a living human being.

Next, Floyd got up to speak. He immediately got off to a poor start when he opened with a joke. The judges saw his timing as inappropriate, and left Floyd with much ground to regain during his remaining thirty minutes. He began his argument by making the point that the Roe case had been a "moot case" since Roe's pregnancy had ended. The argument was cut short by a reminder from the judges that Roe v. Wade was a class action case, and Roe's pregnancy no longer influenced its validity. He went on to say that he believed that the case of abortion should not be handled by the court, but by the state legislature. One of the judges then asked whether or not a woman pregnant because of a rape should be granted the right to an abortion. Floyd attempted to answer the question, but his allotted thirty minutes ran out.

The case was to be heard again on November 7, 1972. Wade replaced Floyd with another lawyer by the name of Robert Flowers. When the case was retried, Weddington's argument relied heavily on the point that a fetus was not granted any legal rights until its birth. The Furman v. Georgia case had just come to a close. It deemed capital punishment unconstitutional. Weddington knew that if the unborn child were deemed a human being, she could lose her case. One of the judges asked her whether or not the Furman v. Georgia case in any way influenced her standing on

abortion. She said no, and that Texas laws did not grant a fetus legal rights until its birth.

Flowers disagreed with Weddington about when a fetus was considered a human being. He claimed that a fetus was a human being from at conception. When a judge asked him whether that decision was based on medicine, religion, the Constitution, philosophy, or law, Flowers responded that he believed it was for a legislature to decide, and that from a constitutional stand point, it was not a medical question.

Weddington got up to make a rebuttal. She said that she was not asking the court to deem abortion good or desirable, but to base their decision on the Constitution, and whether or not a woman should have the right to privacy that would allow her an abortion.

The Supreme Court finally ruled in favor of Weddington and Roe. In their summary of the case and of their decision, it was stated that, during the first trimester of pregnancy, the decision of abortion would be left up to the mother and her attending physician. During the time following the first trimester, an abortion may be obtained for reasons based upon the mother's health. The decision appalled Christians, and especially Catholics who supported the laws against abortion, while it satisfied others who said it would eliminate the dangerous self-inflicted abortions. Many people believed that abortion was humane in the first trimester because they saw the baby not as a human being, but as a mass of tissue. Science says differently. A baby's heart begins to beat eighteen days after conception, and the baby can feel pain only eight weeks after conception. Brain waves can be detected forty days after conception.

A person is declared legally dead when he or she no longer has any detectable brain waves. If the absence of brain waves constitutes death, the existence of brain waves should constitute life. If a baby's brain waves can be detected only forty days after conception, it should be illegal at least after that point to abort the child. The baby is no mass of tissue, but a living, learning human being. It is considered murder to kill a baby after its birth. The same standard should apply to the baby before its birth. The only difference is a matter of time.

From the time abortion was legalized in 1973 until 1996, there were approximately 36.5 million abortions. In 1973, there were 744,600 abortions. In 1996, there were an estimated 1,200,000 abortions. (Guttmacher) William Brennan said in Medical Holocaust (Nordland Publishing, 1980), "The cultural environment for a human holocaust is present whenever any society can be misled into defining individuals as less than a human and therefore devoid of value and respect." (Gravity Teen) It is an environment often related to the German holocaust, but not as often to abortion. It is, essentially, the same thing. Compare the statistics of the German holocaust to abortion statistics: The German holocaust killed six million people in eight years; abortion killed twelve million people in eight years. In 1936, Jews had no legal rights; in 1973, unborn babies had no legal rights. Webster's New Universal Unabridged Dictionary defines a holocaust as "great or widespread destruction" (Dorset & Baber). Abortion is nothing less than a modern day holocaust.

Though many rejoiced at the victory of Roe in the Roe v. Wade case and in the consequent legalization of abortion, it was nothing but a national tragedy. Whether the

decision is based on religion, medicine, the Constitution, philosophy or the law, abortion is murder, and in 1973, America made murder legal.

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