

Roe v. Wade Turns 40

The 40th anniversary of Roe v. Wade, the landmark Supreme Court ruling granting women the right to abort unwanted or dangerous pregnancies, will be observed by opponents and proponents alike. Among its backers will be NOW president Terry O'Neill, who was interviewed by Dennis J. Bernstein.

By Dennis J. Bernstein

On Tuesday, Terry O'Neill, president of the National Organization for Women, will lead a candlelight vigil to commemorate the 40th anniversary of Roe v. Wade, the landmark Supreme Court decision that recognized women's fundamental right to an abortion.

In a recent statement, O'Neill said: "NOW affirms that women's access to the full range of reproductive health services, including safe, legal, and affordable abortion is integral to a woman's ability to participate equally in this society."

I spoke with O'Neill about the history, importance and continuing fight to beat back the Right's continuing attempts to limit and undermine Roe v. Wade.

DB: I think we should take this moment to remember some of the history around this landmark legislation. Please set the scene: What was life like before Roe v. Wade, and where did this battle start.

TO: Back in the late 1960s in Chicago, there was a young woman who was a student at the University of Chicago. She became very concerned because of what she saw all around her. And what she was seeing was her friends terrified of becoming pregnant, and needing to terminate a pregnancy, and not being able to. So that's sort of a microcosmic description, I think, of what life was like.

That individual, her name was Heather Booth, and she in 1969, formed an organization called The Jane Network, which was an organization of women that procured illegal but safe abortions for women from about 1969 until about 1973. They performed something like 11,000 or 12,000 abortions that were safe and medically appropriate, albeit completely illegal. In 1973 the Supreme Court decided Roe versus Wade.

The reality is that, for decades, prior to the time that Roe was decided, women who wanted to terminate a pregnancy would eventually wind up either continuing the pregnancy against their will and being forced into childbirth against their will, or if they found someone to perform an abortion, very often, it was really just a predator.

You couldn't be sure whether you were going to a, someone with medical qualifications who could terminate your pregnancy, or someone who was simply, a sadistic or a sociopathic individual preying on women who were looking to terminate their pregnancies. It was just horrific.

DB: And, it was brutal, and bloody.

TO: And what happened is, it's terrifying. I remember when I was a child sort of having the impression that pregnancy was the punishment that women experienced for having sex. That there was this, all of this, there was not only judgment but bloody, and terrible, and terrifying punishments, if you had sex and then if you wanted to terminate the pregnancy resulting from sex. It was a ridiculous means of controlling women through terror. And that fundamentally is what Roe v. Wade was intended to change. And it fundamentally did change.

DB: And in this context, the suffering was immense, women were sent off to live with relatives, they were hidden, this was really a very easy way to demonize women, while men just sort of lived in the free world, if you will. So this was really a battle, a key aspect of the battle, for women's liberation.

TO: Absolutely. And upper-middle-class circles, a girl who was sent away, was universally understood that she was being sent away from home, so that she could go to an unwed mothers home, and be forced to bear a child, and then give that child up for adoption.

That actually is what sort of happened to the woman who was Jane Roe, in the Roe v Wade case. She was not able to terminate her pregnancy, and she had the baby, and she decided to give the baby up for adoption, and she simply wanted to hold the baby, have some kind of good-bye. And it was, "Oh, no..." They whisked it away from her. Women really were treated either like children, or certainly like, as if they were less than human. When they are not able to take control of their health care needs.

DB: Before we talk about the current status, and the battle that continues apace for so many women, and to have this opportunity. So Roe v Wade was passed? Tell us just a little bit about that battle. What was that like?

TO: Well, it was really interesting, because from the late 1960s until 1973 when the decision came down, and there was just enormous legislative work and advocacy around decriminalizing Roe v Wade. State after state after state had begun, even before decriminalizing abortion. Before Roe v. Wade was decided New York State passed a law decriminalizing abortion. A number of other states followed suit even before Roe.

And, in fact, one of the criticisms of the case, in later years, was "Hey, the

political process was already taken care of, decriminalizing abortion. The Supreme Court really overstepped its bounds or shouldn't have decided the case as a matter of fundamental constitutional rights." I mean, obviously, I disagree with that. I think the court did the right thing, in *Roe v. Wade*.

But there was just an enormous ground swell from the public, and it was not just women, you know. Men who care about their wives' and their girlfriends' health care were very supportive of decriminalizing abortion. They saw what happened. I've heard so many stories and read memoirs of women whose husbands or boyfriends were with them every step of the way, trying to find someone who would perform the pregnancy termination, terrified that they had gotten someone who was not going to perform a safe and medically appropriate procedure, and so men were with the women, in very large numbers, back then. And, by the way, it is still true today.

So there was all of this political movement, and the challenge to the extremely harsh law in Texas came up through the courts, and eventually ended at the Supreme Court. And that was the *Roe v. Wade* case and Justice [Harry] Blackmun wrote, and what was really a brilliant decision, saying that women's health care includes abortion, period. And health care is a private matter, and sex is a private matter, and sexuality is a private matter. How the woman got pregnant, and what she does once she does get pregnant, the kinds of decisions that she needs to make once she's pregnant, those are only for her to decide, under our constitutional law. That was clearly the right ruling. And that's what happened.

Now almost immediately, right-wing lawmakers began trying to undo the *Roe versus Wade* decision. Henry Hyde, a Catholic lawmaker from Illinois, was able to push through what we now call the Hyde Amendment. It has to be passed every single year. It's an add-on to an appropriations measure. And the Hyde Amendment basically prohibits Medicaid from funding abortions for low-income women who are otherwise eligible for health care through Medicaid.

The Hyde Amendment has been expanded to include that the military cannot pay for women, for service women or women dependents of service members to have abortions that, even the Peace Corps is not allowed to make abortions available to Peace Corps volunteers. And that includes when they are in countries where safe, legal procedures are not available.

Henry Hyde, himself, was quoted as saying: Look, I would like to make abortion unavailable to rich women, and middle-class women, and poor women, alike, but unfortunately, the only women I can go after are the poor women. I think directly what he said was "Unfortunately, all I have available to me is Medicaid," to go after them. So he really pressed to prevent federal funding for abortion care.

And that has had two, I think, extremely harmful effects. First of all, you can't take one piece of health care, you can't pull out one piece of health care, and think that women will then have all of the other aspects of health care, that they need. We've seen in practice that that just doesn't work.

What's going on today is in the name of the Hyde Amendment right-wing lawmakers are trying to shut down family planning clinics. Because those clinics refer women to abortion clinics or they perform abortions themselves. So you're shutting down family planning clinics that give birth control, and STD screenings, and mammograms and cervical cancer screenings. So it's really simply not possible to isolate abortion, as the one piece of health care that you are going to deprive women of. The reality is, you go down that road, women start being blocked from reproductive health care, generally.

DB: And just to add on, as Henry Hyde was playing that role in the Congress, he was also collaborating with, really, call them border-line terrorists, like I believe his name was Joseph Scheidler [accused of] sort of inspiring the killings of abortion doctors. And Henry Hyde is making sort of campaign stops in the courtroom. They didn't only play it in Congress. When you mess with Scheidler, and I did, because I wrote a book about Henry Hyde, you, for instance, would end up maybe in the cross hairs of his Web site as a baby killer, as a mass murderer. So there was this extralegal operation going on that ultimately cost abortion doctors their lives. Right? This was a part of this struggle.

TO: Absolutely. It hasn't completely stopped but it has been enormously tamped down, and frankly, that's partly because my own organization, other women's organizations too. When, as you said, these over-zealous advocates against abortion rights,... their inflammatory language, their announcement that anyone who supports abortion rights is a baby killer, deserves to be killed themselves.

That kind of inflammatory language, as somebody once said, it falls on the ears of the hinged and the unhinged, alike. And it sets the stage for murdering abortion providers which absolutely happened in the 1980s and the 1990s. It was a terrible time. And the National Organization for Women brought a RICO, that's a racketeer influenced and corrupt organizations act, lawsuit against Joe Scheidler and Randall Terry and others in the violent anti-abortion movement. We set out to prove that they had a whole network, and in fact a corrupt organization that was designed to shut down legitimate health-care providing clinics and that that was against the law. And because they were conspiring together, to shut down legitimate health-care providers that that was a conspiracy under the RICO statutes.

Now, that lawsuit was fascinating and amazing, and the National Organization for Women went to the Supreme Court twice, and won, and the third time we didn't win. But that took 14 or 15 years, and in that 14 or 15 year time period, we were able to get a nationwide injunction against those men, and the level of violence against abortion clinics dropped like a stone. I mean it was dramatic. The violence has not completely gone away, but it is at a much, much lower level than it was at the height of the extremist activities of Joe Scheidler and Randall Terry.

DB: But, clearly, this still boils under the surface, we saw this in the recent presidential election with the extraordinary statements being made by politicians who are supposedly to be taken seriously. That represented a viciousness and, at best, a profound unbelievable ignorance that is ultimately, incredibly dangerous.

The National Organization for Women is going to be celebrating, commemorating, whatever you want to call it a fortieth anniversary of Roe versus Wade. A candlelight vigil is going to take place next Tuesday in Washington, D.C.

T0: Right in front of the Supreme Court building in Washington, D.C. at five o'clock.

DB: Now let's talk about where Roe v. Wade is, the rights of women in terms of getting an abortion and having a safe, legal, affordable abortion, and the other rights that go along with it. This is still the law but it's also getting, and is incredibly difficult particularly for poor and working-class women to exercise this right, right?

T0: You know, it is. It is much more difficult for poor women, for younger women, for obviously military women, for employees of the federal government, for women who live in rural areas outside of a city to obtain, safe, legal, medically appropriate abortion. But it's also much harder today, for low-income women, these are women who are working two jobs, sometimes three jobs and barely making it in supporting their families.

It's really very difficult to say with a straight face that even if there was an abortion clinic in their neighborhood that was not being attacked by radicals, it's very difficult to suggest that there's real choice going on. I mean, what kind of a choice is it if you have to decide between terminating a pregnancy because you can't afford it, because you and your partner are struggling to get by, because wages have been pressed down so far in the past 30 years. So your decision is to terminate the pregnancy, which you might want if you could only afford it. And going forward and having the child, which you can't afford and will drag the entire family down.

So the concept that Roe v. Wade opened up choices is wonderful, it's excellent and it's good. But we need to be mindful of the economic situation today, with the wealthiest people in this country sucking off the vast majority of the increase in the gross domestic product that we've produced in the past 30 years, meaning that [for] more and more and more families, to say that they have choice is a little bit of an exaggeration.

I'm trying to bend my own brain around how to make that point to the legislators, especially our friends on the Hill. And try to see, the economic implications of what's really going on for ordinary families, and increasingly middle-class families, don't seriously feel like it's giving them that kind of choice. Just from an economic point of view.

But beyond that, on the one hand you have families struggling and the economics are making their choices unpalatable. On the other hand, you've got Catholic bishops and truly, truly radical, irrational legislators like Todd Aiken and Richard Murdock, all claiming that women routinely lie about being raped just so that they can go out and have an abortion. Just absolutely rabid to control women's sexuality and stop women from accessing, not only abortions, but birth control. And, as I said earlier, STD screenings and mammograms and cervical cancer [screenings]. In 2011, alone, 94 anti-abortion measures were passed into law at the state level. The previous record was only 34 in 2005.

And that's an astonishing. It's an astonishing spike in anti-abortion legislation. Now in 2012, we pushed through, the women's movement and the pro-choice movement pushed those numbers down at the state level to only 43, again, the second highest in the history of this country. Vicious, anti-abortion legislation. And that's not letting up. In 2013, we've got legislation coming out of Michigan and Ohio and even New Jersey, where Governor Chris Christy has zeroed funded the family planning clinics. This war on women's access to reproductive health care is continuing and is just jaw-dropping with its ferocity, really.

DB: Well, you know, it's the end of Obama's first term, he's getting ready for term two. He's going to be taking the oath. Why don't you give us the good news and the bad news about the first administration and maybe then, where you think, if they really want to jump in and do something, where they should? What the administration should be doing next in this context.

T0: The bad news about the first four years of President Obama's administration with respect to abortion rights is that, in the health care debate, in order to get the Affordable Care Act passed the administration gave up on abortion rights for women and the way the Affordable Care Act works, insurance companies will not be required to cover abortion care as part of the health care that women

ordinarily get. And in addition, it opens the door to legislatively prohibit insurance companies from making it easy for women to access insurance coverage for abortion care. So it was a real betrayal, frankly, of women's rights.

The Obama administration then redeemed itself somewhat, by standing very strong against the Catholic bishops, when the bishops wanted him to make birth control unavailable in insurance policies, and the Obama administration was quite good. My organization takes the position that the Obama administration's carving out of an exception for churches, for actual religious institutions, like churches, and synagogues, and mosques, and so forth. We don't agree with that. We think that that's illegitimate.

But the bishops were insisting on no insurance coverage whatsoever for birth control. And the Obama administration absolutely stood up to them, and said "No." That's wonderful news, frankly, for women because we are now beginning to see studies that show that if cost is not an issue for women, and they have access to birth control, that's the one that's best for them, then the general health of women improves over time. And not to mention that the cost for insurance companies goes down because women's health is better and obviously pregnancy and childbirth is actually quite expensive for insurance companies.

So covering birth control was a real win and the White House took a leadership role and they did a very good job with that. My hope for Obama's second term is that they'll correct the mistakes that they made, that he made, with abortion rights in the Affordable Care Act. I'm not holding my breath, but I think that's what he should do.

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Founders' Secular Vision for America

The dispute over requiring church-run hospitals and schools to cover birth control for female employees has stirred up longstanding confusion over what the First Amendment does and doesn't do. Some on the Christian Right insist that it means religious doctrine can trump secular law, but Rev. Howard Bess says that's a misunderstanding.

By the Rev. Howard Bess

I begin with a statement that I have written over and over again: *The United States is a secular nation in which religion is practiced freely.* Our nation was perceived and molded by men of differing religious opinions. In their wisdom they wrote founding documents that both preserved and excluded religion. The U.S. Constitution is as thoroughly secular as a document can be.

No religious document was given authority by our founding documents. Not the Bible, not the Koran, not the Book of Mormon is allowed into our courtrooms as documents with authority over our public affairs. The Ten Commandments have no more authority over the laws of our nation than "Mary Had a Little Lamb."

Indeed, in U.S. history, the rights of people often have been established over the protests of religious leaders. For instance, during those horrible years that ended with the abolition of slavery, preachers across the South were pounding their pulpits and quoting the Bible in support of slavery.

In the end, it was a secular nation that ended slavery in America. Though many Abolitionists also were motivated by strong religious beliefs about the evils of slavery, the final word on slavery was an amendment to the U.S. Constitution.

During the struggles for equal rights for women, once again the opposition often was led by religious authorities quoting the Bible. Ultimately, the struggle was won by a secular nation that established equality for women through legislation and through court rulings that applied constitutional requirements for equal protection under the law to women.

In my years as a minister, two additional human rights issues have been dominant in the public square. The first is the civil rights of gay, lesbian, bisexual and transgendered persons. For nearly 40 years, I have been involved in the struggle for full acceptance of gay persons in our churches and full rights of gay persons in the affairs of our nation.

Because of my involvement in the struggle for gay acceptance, I was shunned by a local ministerial fellowship, the church that I pastored was "disfellowshipped" by the American Baptist Churches of Alaska, and I was forced into early retirement. Again, religious leaders, citing the Bible, objected to full legal rights for gays.

Nevertheless, the struggle for gay rights has moved slowly but surely forward in the courts and in the nation's political process. The recent repeal of Don't Ask, Don't Tell, allowing gay persons to serve in the U.S. military is a milestone almost as significant as the Stonewall Riot in 1969, which marked the start of the modern gay rights movement.

Just as with the issues of slavery and equality for women, opposition to the

rights for gay persons has centered in churches. Ministers have pounded their pulpits and made their pronouncements against gay rights by quoting irrelevant passages from the Bible. Once again, churches are being dragged toward the moral standard of fair treatment for all by a secular nation. It is the secular U.S. Constitution that will bring justice to our gay citizens.

The second human rights issue of my ministerial years is the right to end a flawed or unwanted pregnancy. Does a woman have the legal right to choose to end a pregnancy or does that decision lie with government and governmental agencies?

Catholic and conservative Protestant churches have insisted that unborn life is sacred from the moment of conception and that a woman's desires should have no bearing on the matter. However, under the secular Constitution, the government has no power to declare anything "sacred," including an unborn child.

Instead, in the 1973 Roe v. Wade decision, the U.S. Supreme Court balanced two competing rights, the privacy rights of a woman to control her own body against the viability of a fetus with the state's authority to protect unborn life growing in the later trimesters of a pregnancy as viability increased. The court's reasoning was secular weighing competing rights not religious.

Yet, many politicians and institutions have sought to deny this constitutionally protected right to women. Fifteen years ago, I and others filed suit against our local hospital when the hospital refused an abortion to a woman who requested those services. We quickly were able to obtain a temporary injunction against the hospital, which was forced to offer abortion services. Eventually the case ended up before the Alaska Supreme Court, which affirmed the lower court's ruling.

The local hospital still operates under a permanent injunction that forces them to offer abortion services. But the process was not easy. There were protest marches and pickets. The local newspaper carried an abundance of stories and opinion columns.

Once again in a civil rights issue the opposition centered on people of deep religious convictions. The air was full of Bible quotes and theological pronouncements. The majority of the community's religious leaders were part of the anti-abortion protests. A smaller number were discreetly quiet.

But we again learned that we were dealing with a human rights issue in a thoroughly secular setting. The religious rhetoric was loud but had no legal standing. The issues in the abortion case were argued in civil courts, not in religious tribunals.

Over and over again, political candidates run on platforms of opposition to

abortion. In many cases, it is a vote-getter among strongly religious believers. In reality, however, candidates who run on an anti-abortion platform should know that under the laws of our nation the abortion issue is secular. We are regularly reminded by political candidates that the U.S. Constitution is the law of the land, but they often leave out the fact that it is a secular document.

Yet, while insisting that the U.S. government remain neutral on issues of religion, the secular U.S. Constitution also guarantees religious freedom for everyone. Baptists, Roman Catholics, Pentecostals, Muslims, Jews, Lutherans and every other religious group are free to believe and practice their Faith.

All are free to express their opinions about abortion (or slavery or the role of women or gay rights), but none of their religious opinions have legal standing in our uniquely secular nation. The rule of law, not religion, is at the heart of our nation.

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The GOP's Unmasked 'Religious' Questions

In the Republican race, the hottest "religious issue" is the Mormonism of Mitt Romney and Jon Huntsman, which many commentators have ruled out of bounds. But there are broader issues of religion and politics that should be part of the presidential debate, says Rev. Howard Bess.

By the Rev. Howard Bess

Listening to the current series of Republican presidential candidate debates, I have wearied hearing about policy prescriptions regarding jobs and economic recovery. Granted those issues are important, but there is a long line of subjects that are waiting in the wings, including many where a candidate's religious principles are central.

Yet, the debate moderators have shied away from these subjects. They also have avoided probing how a candidate's religious views might influence his or her behavior as president. Possibly the people asking the questions are uncomfortable with issues that religion raises or perhaps they are reticent

to put the competing candidates' views in a r



However, because of the absence of questions about how a candidate's religion connects to policy, the American public is being poorly served. While the issues of jobs and economics carry religious implications, other issues do so even more. Let's look at the list of neglected topics:

WAR AND PEACE: All religions of which I am aware address the path to peace. Yet, war has never achieved its promised goal of establishing peace. War has only cultivated the seed bed for the next war.

So, I'd like to hear the questions, "What does your religion say about the path to peace? As president, would you pursue the teachings of your religion regarding peace?" I want some answers.

POPULATION CONTROL, BIRTH CONTROL AND ABORTION SERVICES: Hunger and poverty in the world are concentrated where population is expanding by birthrate. The world is speeding toward the limit of the earth's ability to sustain the needs of the population. Yet, some religions are promoting population expansion, not family planning.

So, "How does your religion speak to the coming crisis? Will religion inform your actions regarding these pressures on meeting human needs? Will you act in defiance of your religious teachings if population control is needed to avert mass starvation?" As a voter, I want to know.

FULL RIGHTS FOR GAY, LESBIAN, TRANSGENDERED AND BISEXUAL PERSONS: Major American religions have actively opposed equal rights for gay people. Without religious opposition in America, gay rights likely would have been embraced long ago.

"As U.S. president, would you actively oppose or support gay rights. Would you support equal rights even if that conflicts with the tenets of your religion?" American voters need to know.

PRESERVATION OF THE INTEGRITY OF THE WORLD'S ENVIRONMENT: Some religious leaders have led the way in denying the scientific evidence that our industrialized

societies are responsible for degrading the water, the air and the planet's survivability. The stakes are very high for the world's population and there is not much time to lose.

"What is your response when scientific evidence comes in serious conflict with your religion? Would you put your religion or empirical facts first?" American voters have a right to know where religion will take their candidates.

PUBLIC SCHOOL EDUCATION: There has long been tension between public school education and parochial education. One of the byproducts of American religious freedom has been the establishment and maintenance of very large parochial education systems.

Today about one in every five young people receives his or her entire education without ever attending a public school. Yet, whether by intent or not, parochial education in America often has become segregated by race and economics. Public schools are mandated to accept every student. Parochial schools generally do not.

Meanwhile, many religious people and their organizations have not supported the financing of public schools. Thus, adequate support of public schools has become a religious issue in America. So, I'd ask the candidates, "Are you committed to public school education and how do your religious views affect your position?"

PROVISION FOR PEOPLE WHO ARE LESS FORTUNATE: One of the most important issues in Western religions is encapsulated in the question, "Am I my brother's keeper?"

Today, the attack on that standard is coming in the form of "entitlement reform," which translates into reducing assistance to the poor, the sick, the old and the vulnerable. This discussion is, in reality, an attack on the ethical standard of responsibility for our neighbor/brother/sister. Affordability is the smoke screen.

The presidential candidates should be asked how their religious views regarding being "my brother's keeper" fit with their policy prescriptions. They should be pinned to the wall on this issue in the context of religion.

The First Amendment prohibits the intrusion of government into the world of religion. But the First Amendment DOES NOT bar religion from being part of the nation's discussions in the public square and from helping to shape government policies in general.

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