

# Roe v. Wade Turns 40

The 40<sup>th</sup> 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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