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**Literature and Civilization**

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**Abortion in America after Roe: An Examination of the Impact of the  
Supreme Court Decision of Dobbs v. Jackson Women's Health  
Organization within the United States**

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A thesis submitted as partial fulfillment for the Master degree  
Option: Literature and Civilization

Submitted by:  
**Guermouche Souhila**

Supervised by:  
**Mr. Chamouri Mourad**

## Board of Examiners

Mr. Chamouri Mourad	University of Biskra	Supervisor
Dr. Elhamel Lamdjed	University of Biskra	Examiner
Ms. Hamed Halima	University of Biskra	Examiner

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## **Dedication**

I am forever grateful to Allah for blessing me and giving me the strength to overcome my uncertainties. To my dear parents, family and friends I dedicate this work of mine. Thank you for your continuous love and support.

## **Acknowledgments**

First and foremost, I am deeply grateful to Allah, whose grace and guidance made this journey possible. I am thankful for the gift of patience and strength He granted me because without his blessings, none of this would have been achievable.

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## **Abstract**

The case of *Dobbs v. Jackson Women’s Health Organization* plays a crucial turning point in the abortion laws of the United States of America. The lawsuit has played a critical role in overturning the precedents established by the cases of *Roe v. Wade* and *Planned Parenthood v. Casey*. This dissertation provides a comprehensive analysis of the landmark Supreme Court case *Dobbs v. Jackson Women’s Health Organization* by examining the historical context and tracing the evolution of the abortion legislation in the United States. This study reveals the real reasons for overruling *Roe* and *Casey*’s restrictions and principles that protected the women’s right to abortion as a constitutional right, which according to the background of the final judgment in *Dobbs*, the Supreme Court returned to individual states the power to regulate any aspect of abortion not protected by federal statutory law.

**Keywords:** *Dobbs Case*, *Roe v. Wade*, *Planned Parenthood v. Casey*, abortion laws, reproductive right.

## المخلص

تمثل قضية دوبس ضد منظمة صحة المرأة في جاكسون نقطة تحول حاسمة في قوانين الإجهاض في الولايات المتحدة. الأمريكية لعبت الدعوى دورًا حاسمًا في قلب القوانين السابقة التي أنشأتها قضيّتا رو ضد وايد ومنظمة الأبوة المخططة ضد كيسي. تقدم هذه الأطروحة تحليلًا شاملاً لقضية المحكمة العليا التاريخية دوبس ضد منظمة صحة المرأة في جاكسون من خلال دراسة السياق التاريخي وتتبع تطور تشريعات الإجهاض في الولايات المتحدة. قضية تكشف هذه الدراسة الأسباب الحقيقية لتجاوز القيود والمبادئ التي وضعها رو وكيسي والتي تحمي حق المرأة في الإجهاض كحق دستوري، والذي، وفقًا لخلفية الحكم النهائي في قضية دوبس، قضت فيه المحكمة العليا الأمريكية بأن دستور الولايات المتحدة لا يمنح أي حق للإجهاض وبالتالي ألغى كل من قضية رو ضد وايد وقضية تنظيم الأسرة ضد كيسي .

الكلمات المفتاحية: قضية دوبس، رو ضد وايد، منظمة تنظيم الأسرة ضد كيسي، قوانين الإجهاض، الحق الإنجابي.

## **List of Acronyms**

AMA	American Medical Association
GOP	Grand Old Party known as the Republican Party
PRH	Physicians for Reproductive Health
NNU	National Nurses United
APhA	American Pharmacists Association
AHA	American Hospital Association

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## **Declaration**

I hereby declare that the content of this dissertation represents my own work which has been done after the registration for the Master's Degree at University of Mohamed Khider Biskra.

Guermouche Souhila



## **General Introduction**

### *Research Background*

The issue of abortion has always been a controversial topic in the United States with conflicting perspectives regarding human rights, individual freedom and the sanctity of human existence, in addition to the role of the state in regulating autonomy in reproductive decision making. As a result, it has left the nation divided due to the public opinion. Many people are against abortion because of political, religious, and moral views and opinions. Some people believe that abortions are necessary, while others argue that it should be illegal and not freely accessed. For almost five decades, the legal framework governing abortion in the United States has been shaped by key landmark cases, which were *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992). These decisions established a constitutional right to abortion and set standards for its regulation, respectively. In 1973, the Supreme Court ruling in *Roe v. Wade* in Texas established a constitutional right to abortion. This landmark decision recognized that a woman has a privacy interest in making choices regarding her own body. Later, in 1992, the Supreme Court reaffirmed this right in the case of *Planned Parenthood Southeastern Pennsylvania v. Casey* and introduced the "undue burden" standard. This standard imposed restrictions on state regulations that create significant obstacles to accessing abortion services. However, the recent case of *Dobbs v. Jackson Women's Health Organization* has emerged in Mississippi as debatable event that has reshaped the abortion landscape which poses significant legal and ethical implications that have far-reaching consequences for women's autonomy, healthcare, and the broader landscape of reproductive rights. In *Dobbs*, The Supreme Court faced the opportunity to reconsider the constitutional principles established by *Roe v. Wade* and *Planned Parenthood v. Casey*. The case revolved around a Mississippi law that banned most abortions after 15 weeks of pregnancy, directly challenging the viability

threshold set by the prior rulings. In a decision met with anticipation and terror, the Supreme Court issued a verdict that not only upheld the Mississippi law, but also effectively overturned the legal set forth by *Roe v. Wade* and *Planned Parenthood v. Casey*. The moment ‘*Roe v. Wade*’ was overturned, the *Dobbs* case marked a great shift in the American Constitution regarding abortion and reproductive rights. It effectively dismantled federal constitutional protections for abortion rights, allowing individual states to enact laws, both protecting and restricting abortion. As a result, abortion laws varied across the country with some states prohibiting abortion and others enshrining abortion rights; for instance, states like California and New York have passed legislation protecting physicians who perform abortions as well as patients who want one. On the other side, legislation in Oklahoma and Texas have been passed to make it more difficult for patients to obtain an abortion, even in cases where the fetus has died or the woman giving birth is in danger of dying. These differences are likely to exacerbate the healthcare access divided across the country, and it will increase the financial burden for those who can become pregnant. The growing disparities in healthcare accessibility and quality of care across the country may lead to an imbalance in the demand for maternity care; especially, in the states with the highest restrictions. This could result in higher rates of maternal and fetal morbidity and mortality, and exacerbate the physician shortage. The Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization* has sparked intense shockwaves through the country and raised serious concerns among proponents on both sides of the abortion debate. This decision will not only determine the fate of Mississippi's law but will also have profound implications for the future of abortion rights for women who want to practice abortion.

### *Statement of the Problem*

The *Dobbs v. Jackson Women's Health Organization* Supreme Court decision has sparked significant debate and controversy surrounding reproductive rights in the United States. This study aims to shed light on how the *Dobbs* ruling affects reproductive rights in

the country. Also, it will study how the decision impacts access to abortion services, legal rules, public health results, and wider social and political discussions. Finally, this study aims to look at the basic implications of the Dobbs case decisions on laws of the legal framework of abortion and reproductive rights.

### *Research Questions*

Considering the context provided in this research, the study will investigate the following research questions that were the main focus points to answer which are:

1. What are the impacts of the Supreme Court decision of Dobbs v. Jackson Woman's Health Organization within the United States?
2. How does Dobbs v. Jackson Women's Health Organization case align with or diverge from previous Supreme Court decisions on abortion including Roe v. Wade (1973) and Planned Parenthood v. Casey (1992)?
3. What are the basic implications of the Dobbs case decisions on laws of the legal framework of abortion and reproductive rights?

### *Rationale*

This research is conducted out of interest and curiosity towards the reasons that led the new Supreme Court decision Dobbs v. Jackson Women's Health Organization to overturn the previous decisions of Roe v. Wade and Planned Parenthood v. Casey and its impact within the United States. Dobbs v. Jackson Women's Health Organization was a landmark Supreme Court Case decided in 2022, which revolved around a Mississippi law that banned most abortion after 15 weeks of pregnancy. This new case challenged the precedents laws set by Roe v. Wade (1973) and Planned Parenthood v. Casey (1992); the ruling in those cases had established and affirmed a woman's constitutional right to choose to have an abortion before viability which is around 24 weeks. The new Supreme Court's decision in Dobbs overturned both Roe and Casey by ending the federal protection of abortion rights and allowing individual states to set their own abortion laws.

*Significance of the study*

This research on the impact of the *Dobbs v. Jackson Women's Health Organization* Supreme Court decision on abortion rights can be significant for student researchers worldwide focusing on constitutional law and reproductive rights. It represents an important study that can inspire future academic investigations into how judicial decisions influence policies related to reproductive health. By examining the legal and societal implications of this case, this study offers valuable insights that can guide further research on reproductive rights in different legal and cultural contexts.

*Methodology*

In order to answer the research questions of this thesis, this study will adopt the historical method to examine the impact of the Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* on abortion in the United States. This method involves studying past events and decisions to understand their reasons and context. The historical methodology allows us to analyze how the Supreme Court's ruling of *Dobbs v. Jackson Women's Health Organization* fits within the broader history of abortion laws and rights in the United States. Also, we will examine the impact of this new Supreme Court decision of *Dobbs* within the United States. In this dissertation, we will use articles, websites and books as our main sources of information and by analyzing these sources, we will identify the reasons behind overturning the past decision of *Roe* and *Casey* and establishing the new one. This analysis will help us uncover how past legal decisions and societal attitudes have shaped the current decision of abortion.

*Objectives*

This dissertation aims to analyze the legal precedents leading up to the Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* and to examine its immediate and long-term impacts on abortion laws, the healthcare system, and people's lives in the United States. This study will assess changes in state and federal legislation, evaluate the effects on

women's health services, and explore shifts in political and social dynamics. Additionally, it will investigate the implications for legal and ethical standards and provide a comparative analysis across different states. By looking at these different areas, this dissertation aims to provide a comprehensive understanding of the Dobbs decision's broad-ranging impacts.

### *Structure of the thesis*

This thesis is composed of two chapters, each one tries to serve the purpose of the research which is coming up with a clear answer to our research problem.

The first chapter, entitled “The History of Abortion Laws in the United States” discusses the history and development of abortion laws in the United States. It starts with the 19<sup>th</sup> century when abortion was mostly unregulated and then became increasingly criminalized due to influential figures like Madame Restell. It explains the social, legal, and political factors that have shaped abortion rights in America. Also, it covers important court cases before *Roe v. Wade*, such as *Griswold v. Connecticut*, *Eisenstadt v. Baird*, and *United States v. Vuitch*, which helped set the stage for the 1973 *Roe v. Wade* decision that recognized a woman's constitutional right to privacy in getting an abortion. The chapter also examines the 1992 *Planned Parenthood v. Casey* decision, which allowed more state regulation of abortion. Moreover, it adds with the 2022 *Dobbs v. Jackson Women's Health Organization* ruling, which overturned *Roe* and returned control over abortion laws to the states, significantly altering the legal landscape. Finally, this chapter concludes with the presidential debate on abortion.

The second chapters entitled “The Impact of *Dobbs v. Jackson Women’s Health Organization* starts by giving an overview on *Dobbs’* decision, it explores the broad effects of the *Dobbs* decision in the United States by providing a detailed analysis of its various impacts. It starts by reviewing the history of abortion laws and court decisions before *Dobbs* to show the major changes this ruling brought. The chapter then explores the effects on federalism, focusing on the changing power balance between state and federal governments regarding abortion laws. It also examines the impact on health care providers and the medical field,

including challenges in medical education and practices. Additionally, it discusses the specific consequences for abortion rights, such as increased surveillance, criminalization of pregnancy-related activities, and more second and third trimester abortions due to delays and denials. The chapter compares the Dobbs decision with other important abortion cases to highlight its unique place in legal history. Finally, it addresses the broader effects of Dobbs, including its economic impact on low-income women and its particular impact on women of color. Through this comprehensive analysis, the chapter aims to give a thorough understanding of the far-reaching influence of the Dobbs decision on American society and law.

## **Chapter one**

### **Theoretical and Conceptual Framework: The History of Abortion Laws in the United States**

#### **1.1 Introduction**

This chapter explores the historical and legal evolution of abortion in the United States, beginning with 19<sup>th</sup> century when abortion was largely unregulated, also it was followed by increasing criminalization influenced by figures like Madame Rustell till the 21<sup>st</sup> century. First, this chapter is structured to provide a comprehensive understanding of the social, legal and political forces that have shaped abortion rights in America. This chapter also covers decisions that before Roe v. Wade case, including Griswold v. Connecticut, Eisenstadt v. Braid, and United States v. Milan Vuitch. These cases paved the way for the landmark Roe v. Wade decision in 1973, which established a woman's constitutional right to privacy in obtaining abortion. This chapter also looks at the 1992 decision in Planned Parenthood v. Casey, which changed Roe by permitting stronger state regulation. Furthermore, it follows with the 2022 Dobbs v. Jackson Women's Health Organization ruling, which reversed Roe by giving states again control over abortion regulations and drastically changing the legal environment surrounding this issue, which is the focus of this research by providing a brief yet clear definition of the case and its decision. Last but not least, this chapter concludes with the presidential debate on abortion.

#### **1.2 Historical Background of Abortion in the U.S.A**

##### **1.2.1 The 19<sup>th</sup> Century**

The concept of abortion has been widespread throughout recorded history, existing in various forms across all levels of societal structure. The techniques employed for abortion are exceptionally diverse, as are the circumstances under which it is carried out. Attitudes towards and the legal status of abortion in Western society have experienced considerable fluctuations (Shain). Although there are many different definitions of abortion, they all agree that it is the

untimely termination of a pregnancy. More than half of the pregnancies end in spontaneous abortions, often known as miscarriages (Hull and Hoffer 12). Induced abortions, whether through the use of herbal remedies to prompt the mother to expel the fetus or through mechanical methods to remove the fetus, have been documented since the earliest records of human society (Hull and Hoffer 12).

In his article Joffe stated that with the rise of the Christian era, public oversight of sexual practices increased, and condemnation of abortion intensified. This shift resulted in less open discussion about abortion methods and a decline in the direct involvement of physicians in abortion procedures (2). Consequently, up until the 18th century, abortion and contraception were largely managed within women's cultural practices. Midwives became the primary providers of abortion and family planning services, often facing persecution and accusations of witchcraft as a result (Joffe 2). Even though opinions on abortion were varying and the medical community was reluctant to address the matter, early monotheistic traditions did not hold the united, forceful opposition to abortion that is now connected to the contemporary Roman Catholic Church (Joffe 2). Although early Islamic beliefs forbade abortion once the soul entered the fetus, there was disagreement among scholars regarding the precise moment at which this occurred, with estimates ranging from 40 to 120 days after conception (Joffe 2). Similarly, early Christian thought was divided about whether terminating an early “unformed fetus” was murder. The Catholic Church initially allowed early abortions, and it did not strongly oppose abortion until the 19<sup>th</sup> century (Joffe 2).

Abortion in the United States has a complex history marked by evolving public opinion and political debate surrounding its legality and morality. The earliest judicial decision on abortion dates back to 1812, with the Massachusetts case *Commonwealth v. Isiah Bangs*. This case addressed the point at which a miscarriage could be classified as abortion under the British common law, which was applicable at the time (Murdock 19). Abortion regulations and laws have existed since the colonial era. In the British colonies, abortion was permitted



until the stage known as "quickening," which occurs when the pregnant individual begins to feel fetal movements, typically around the fourth or fifth month of pregnancy (U.S. Abortion History).

Prior to the 1800s, the only consideration given to abortion was dictated and governed by the English common law. According to this law, abortion was prohibited after the stage of quickening, which is defined as the point in pregnancy when a woman first perceives fetal movements in her womb (Čížková 3). Abortion is illegal as soon as the woman feels the first fetus's movements because the fetus's capacity to move shows that it is now a distinct human being. It was not regarded as a crime to destroy a fetus up until the point of quickening (Čížková 3). During this time period, doctors lacked access to technology like ultrasounds and other diagnostic tools, so they were unable to provide detailed information about pregnancies (Čížková 3). If a woman reported missing her period, the doctor would determine she was pregnant. The concept of "quickening" became part of the British common law, though medieval theologians debated whether the ovum possessed a soul (Čížková 3).

For numerous Americans, the abortion issue evokes strong emotions, often drawing comparison to the history of slavery and the abolitionist movement (Dyer xi). In 1803, the Parliament enacted a law declaring that abortion is considered a crime, thus making it illegal even if it occurred before quickening. However, the common law in the United States of America was more tolerant at the beginning of the 19th century (Čížková 3). In 1812, the Massachusetts Supreme Court noted the differing views on abortion between Great Britain and the United States. That year, a man named Isaiah Bangs was accused of preparing and administering an abortifacient potion, but he was acquitted because the charges did not specify that the woman was pregnant at the time (Čížková 3). The rulings from the Massachusetts case *Commonwealth v. Isaiah Bangs* applied to white American citizens but did not extend to the significant population of African Americans, who were affected by the transatlantic slave trade. For enslaved individuals, decisions regarding abortion were dictated by slave owners,

who typically forbade it due to the economic benefits associated with the birth of more enslaved persons (Murdock 19).

As mentioned in the abstract by Acevedo, the circumstances surrounding abortion for enslaved women were distinct from those of other women. Slave owners prohibited abortion among enslaved individuals, mainly to protect their economic interests. Indeed, slave owners enforced strict prohibitions on abortion because they considered enslaved people as property and a source of labor. Each new birth meant an increase in their wealth and their labor force, which was crucial for maintaining and expanding their plantations (Acevedo). More births also meant more potential workers and more people to sell for profit. Preventing abortions ensured a continuous supply of new enslaved individuals, which boosted the owner's wealth and productivity. This prohibition of abortion was driven by these financial motives rather than moral concerns, as slave owners were focused on increasing their economic gains through the reproduction of their enslaved population (Acevedo).

In the early 19th century, women who were thought to be pregnant believed that their fetus was not alive until the quickening period. As a result, many American women in the early 19th century performed abortions at home (Čížková 3). They could also seek medical treatment to assist with abortions. These procedures could address obstructed menses, and for later abortions, women would try methods like vigorous exercise, lifting heavy objects, jumping from heights, and receiving blows to the abdomen (Čížková 3). In addition to medical manuals, women had access to health guides and manuals with abortifacient information. Midwives, who often had a questionable reputation for procuring abortions in both England and America, provided much of this information (Čížková 3).

In the early 1800s, increasingly restrictive abortion laws were enacted across the United States, even though the procedure was commonly practiced and not widely discussed until the latter half of the century (Murdock 19–20). In Europe and the USA, the 17<sup>th</sup> and 19<sup>th</sup> centuries marked a significant period in the history of abortion. During this time, advancements in

gynecology, such as the rediscovery of dilators and curettes, allowed physicians to perform safer and more effective abortions (Joffe 2). However, the conservative stance of the medical profession on reproductive issues hindered open discussion and the widespread adoption of abortion techniques. It has been particularly evident in the field of abortion that the incorporation of medicine and anything related to sexual matters seems to have a particularly paralyzing effect on human resourcefulness, as noted by three scholars of abortion (Joffe 2). While the medical profession had mixed responses to patients seeking abortions, a widespread culture of abortion provision by others thrived. Healthcare professionals who perform abortions, such as homeopaths, midwives, and other self-trained healers, as well as certain physicians, openly promoted their assistance with women's health issues and offered potions and pills to bring on the menses (Joffe 2). This practice of commercial abortion was mostly unregulated up until the 19<sup>th</sup> century.

Joffe in his article noted that abortions performed before a fetus could move were not regulated, and there were few efforts to control later abortions (2). Also, it was during this period that abortion became a highly politicized issue, largely due to elite physicians who depicted it as a moral failing of unmarried women, in contrast to societal expectations that women should primarily be wives (Murdock 19-20). This heightened debate was also fueled by concerns over the declining birth rate among white Americans and the rising numbers of immigrants, along with the professional interests of elite white male physicians (Murdock 20). In England, it was only during Queen Victoria's reign that a law was passed in 1861 making surgical abortion at any stage illegal. In the USA, a strong anti-abortion movement started around 1850, and by the 1870s, all states had made abortion a crime (Joffe 2). Despite the involvement of Catholic and Protestant clergy, physicians were the primary force behind the campaign to criminalize abortion in the USA. The American Medical Association (AMA), established in 1847, stated that abortion was both immoral and risky due to the incompetence of many practitioners at the time (Joffe 2).

These physicians amplified public debate on abortion, and they succeeded in taking control of reproductive health away from midwives (Murdock 20). Physicians became involved in law enforcement, and they gave testimony in court cases against those providing abortions (Reagan xvi).

Due to widespread anti-abortion sentiments, many states implemented bans on abortion, leading to potential legal consequences for those involved in the procedure for both the providers and the recipients. The debate was heavily influenced by factors such as religious beliefs, demographic trends, moral perspectives, and racial considerations, in addition to the opinions of elite physicians (Murdock 20). Nevertheless, in response to these changes, a movement for increased reproductive freedom emerged during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries, aiming to expand access to contraception (Murdock 20). While this marked the onset of arguments centered on equality in reproductive rights, the debate was also shaped by radical factions advocating birth control specifically for targeted groups, including African Americans, indigenous populations, criminals, sex workers, and individuals suffering from mental health illness, to regulate reproduction (Murdock 20).

#### **1.2.1.1 Madame Restell**

The most significant woman in the nineteenth century of the United States was a British immigrant woman who resided in New York City by the name of Ann Trow, also known as “Madame Restell.” Ann Lohman provided abortions for women in the late 1830s (Knox 269). Despite being viewed by many as evil, she became increasingly popular and a millionaire through her practice and the abortifacients she sold according to (in today’s dollars) (Knox 269).

Madame Restell’s practice as a midwife and abortionist caused her many legal troubles. In 1845, while childbirth and reproductive care were becoming medicalized in the United States, giving abortions or the medicine to do so and having an abortion as an individual became illegal in New York (Knox 269) . The public only became aware of her activities in

the early 1840s. In 1841, she was arrested, revealing her occupation to the public. By the mid-1840s, she had established agencies in Philadelphia and Boston (Čížková 4).

In 1845, Madame Restell was arrested for the second time. The New York City press reported on the event and expressed concerns about the absence of abortion regulations in the United States (Čížková 5).

In the 1860s, abortion became prohibited in several states, with varying penalties like fines and prison sentences. By making abortion illegal in many states, this did not make it go away but led to a booming underground abortion industry (Knox 269).

### **1.2.2 The 20<sup>th</sup> Century**

All states believed abortion to be illegal in 1900. Some countries permit abortion in order to preserve a woman's life, but only in situations involving rape or incest. In order to empower women to take charge of their own fertility and encourage the opening of clinics, Margaret Sanger and other feminists created the American Birth Control League in 1921 (Čížková 5). By 1925 Margaret Sanger had solidified her position as leader of the birth-control movement, she also focused on women's issues and used her background as a nurse to advocate for contraception (Critchlow 31).

Despite the fact that abortion was illegal, some doctors performed them regardless, but getting one frequently depended on your location, income, and race. In the United States, wealthy women may occasionally find a physician who would do the surgery for a high price (U.S. Abortion History). By the middle of the 20th century, some women were going abroad to get abortions. People without money suffered disproportionately, particularly women of color. They were frequently compelled to undergo risky self-abortions or left in the hands of unskilled practitioners with questionable intentions (U.S. Abortion History).

In the late 1940s to an early 1950s, it was estimated that between 200,000 and 1.3 million illegal abortions were performed annually in the United States. During this period, hospital abortion boards were established to evaluate and decide on women's requests for legal

"therapeutic abortions (Solinger xl).

In 1960, the American Medical Association noted that existing laws prohibiting abortion were not ineffective and could not be practically enforced (Solinger xl). In 1964, Geraldine "Gerri" Santoro passed away as a result of an unlawful abortion. When she was 28 years old, she was discovered on the floor of a motel room in Connecticut. When she was six and a half months pregnant, she experienced a miscarriage. She intended to use surgical equipment and a book she had received from Mansfield School to perform a self-induced abortion (Čížková 5). When a maid discovered her body, she took a picture of Santoro and informed the police. The pro-choice movement adopted this image as a significant symbol. Various feminist activist groups advocated for women's rights (Čížková 5). They enhanced their own abilities and aimed to offer abortions to females who could not get abortions in another place. In Chicago; for instance, a group known as "Jane" ran a boat that was interested in providing abortions throughout the 1960s (Čížková 5).

In the 1960s and early 1970s, discussions about abortion became more heated, leading to the formation of the strongly divided abortion debate we see today. During this period, feminist activists increasingly participated in the issue as part of the emerging Women's Liberation movement, and rights-based language and issues of equality were influencing political and public debate (Murdock 20). Moreover, throughout this decade, the number of activist groups in the US supporting abortion rights has increased. This campaign helped pave the way for the 1973 constitutional ruling on abortion, which made the procedure legalized in one third of the American States (Murdock 20).

### **1.2.2.1 Abortion in the Supreme Court: Pre-Roe Cases**

#### **1.2.2.1.1 Griswold v. Connecticut**

The Griswold decision is still considered an important law that has been refined by later court cases such as Roe v. Wade. It introduced the idea of a right to privacy, which was born completely mature in Griswold, and this right to privacy was not specifically stated in the

United States Constitution (Helscher 33). In 1965, the United States Supreme Court, in the case of *Griswold v. Connecticut*, established a constitutional right to privacy by banning a law that forbade the use of contraceptives (Perry and Jipping 8). The Supreme Court recognized that the government cannot interfere in certain personal matters, such as consensual marital relations. This source of privacy rights was found by the Supreme Court in both the Bill of Rights and the Ninth Amendment of the United States Constitution (Perry and Jipping 8). Justice Douglas wrote the majority opinion by disputing that the concept of privacy is implicitly embedded within the freedoms and restrictions on government action outlined in the Bill of Rights. Additionally, he identified a second source of privacy as an unenumerated right preserved by the people through the Ninth Amendment of the United States Constitution (Helscher 33).

The United States Constitution's Ninth Amendment states that "the enumeration of certain rights in the Constitution shall not be construed to deny or disparage other rights retained by the people." (Helscher 33). The Ninth Amendment to the United States Constitution states that the rights mentioned in the Constitution should not be seen as the only rights people have. There are other rights that people have that are not specifically listed in the Constitution (Helscher 33).

In the 1960s, two Connecticut laws posed the threat of criminal penalties for anyone providing information, instruction, or medical advice on contraceptives for preventing pregnancy. One law was Connecticut's general accessory statute, and the other explicitly prohibited the use of contraceptives (Lockhart 35). As a result, Estelle Griswold, the Executive Director of the Planned Parenthood League of Connecticut, and Dr. C. Lee Buxton, a Yale Medical School professor, were convicted on January 2<sup>nd</sup>, 1962, for helping distribute contraceptives, which were illegal in Connecticut at the time. They had been arrested in 1961 for giving contraceptive advice and devices to married couples (Helscher 34). These convictions were upheld by Connecticut's appellate courts, which said they could only

overturn the law if it was an unreasonable use of legislative power (Helscher 34). However, when the case was appealed to the United States Supreme Court, the appellants argued that their convictions violated the Fourteenth Amendment's due process clause because the statute banning contraceptive use was unconstitutional when applied to married individuals (Lockhart 35). As a result, the Supreme Court ultimately reversed the convictions, declaring the Connecticut law unconstitutional (Helscher 34).

According to Justice Goldberg's concurring opinion, the Constitution does not specifically mention all the rights that are guaranteed by the Ninth Amendment (Helscher 34). On the other hand, Justice Black strongly dissented by arguing that the Ninth Amendment had no textual foundation for a right to privacy, and it was solely intended to clarify the first eight amendments, not to create any new rights. Justice Black, however, sharply dissented from this decision (Helscher 35).

The constitutional right to privacy was not an invention of Justices Douglas or Goldberg. As previously mentioned, this right had been implied under the Ninth Amendment. Before the *Griswold* case, the right to privacy was rooted in common law torts, which allowed individuals to seek civil remedies for personal intrusions (Helscher 44). Early English and American common law cases developed a privacy concept based on property interests, like private letters, or on implied contracts or trusts, such as trade secrets or formulas (Helscher 44).

#### **1.2.2.1.2 Eisenstadt v. Baird**

The Massachusetts statute that forbade the distribution of contraceptives to single individuals was held unconstitutional in the case of *Eisenstadt v. Baird*. After breaking a Massachusetts statute that forbade the display and distribution of birth control but permitted married individuals to receive it from a doctor or pharmacy, it led to the arrest and detention of William Baird (Mims 775). William R. Baird, who was the respondent in this case, presented a lecture on contraception at Boston University on April 6, 1967. Within the context of this lecture, he showcased a variety of contraceptive tools, and following this presentation,



he extended an invitation to audience members to approach the platform and select items for themselves (Novak 853). Specifically, he personally provided a package of Emko vaginal foam to one female attendee. It was at this juncture that he was apprehended and subsequently found guilty in the Massachusetts Superior Court for the act of exhibiting and distributing contraceptives in violation of a statute in Massachusetts (Novak 853). The Court in this case increased the rights of individual women to abandon obsolete restrictions. This incident proved that the right to contraception was equal for married and single women (Čížková 5).

#### **1.2.2.1.3 United States v. Milan Vuitch**

In *United States v. Vuitch*, the Supreme Court addressed an abortion-related case before the landmark *Roe* decision. Abortions were illegal in Washington, DC, starting in the early 1900s, with the exception of those carried out to protect the pregnant woman's life or health (Higginbotham 1). In 1969, Milan Vuitch, a physician in Washington, DC, was found guilty of criminal abortion in 1969 for performing an abortion on a patient whose life was not in danger. In his defense, Vuitch claimed that the Washington abortion law was unconstitutionally vague because it did not define "health" broadly to mean "psychological as well as physical well-being" in a way that would have made it obvious to doctors what actions were violating the law (Higginbotham 1). Despite the fact that a lower district court upheld Vuitch's argument and declared the legislation unconstitutional, the Supreme Court ultimately disapproved of the ruling and reversed it (Perry and Jipping 8). *United V. Vuitch* was one of the earliest US Supreme Court cases to question the constitutionality of abortion-regulating legislation, and it set a precedent that paved the way for other abortion cases, such as *Roe v. Wade* in 1973 which made abortions more accessible and gave women more control over their bodies (Higginbotham 1).

#### **1.2.2.1.4 Other Abortion Laws before *Roe v. Wade***

In 1967, Colorado was the first state to allow abortions if a woman was a victim of rape, incest, or at risk of permanent physical disability. This legislation was soon adopted by North

Carolina, California, and Oregon (Čížková 5).

The first state to permit abortions upon a woman's request was Hawaii in 1970. Allowing abortions until the 24<sup>th</sup> week of pregnancy was another advancement for the state of New York. Both Alaska and Washington passed the same legislation (Čížková 6). In *United States v. Vuitch*, the Supreme Court heard arguments challenging the Washington, D.C. legislation permitting abortion as a means of preserving a woman's life and health. Because the court believed that both physical and psychological well-being are considered health concerns, they upheld the statute (Čížková 6). Essentially, it legalized abortion in Washington, D.C. thirteen states had advanced and passed laws similar to those as in Colorado. Mississippi permitted abortions in cases of rape and incest, but Massachusetts and Alabama only permitted abortions in situations where the woman's life or health was in jeopardy (Čížková 6). Traveling to a state where abortion was legal was the only option available to women in states where it was prohibited to obtain an abortion. Abortions were illegal in 30 states, while the remaining twenty only permitted them in specific situations. In *Roe v. Wade*, this legal position was presented to the Supreme Court (Čížková 6).

### **1.3 Roe v. Wade: The Case that Changed Democracy**

When the Supreme Court decided in *Brown v. the Board of Education* in 1954 that desegregation in American schools was required, most citizens of the country disapproved of the ruling. A year later, though, polls showed that most people had come around to supporting *Brown*, at least in theory, and most of the controversy surrounding the case had died down (Faux xv).

The same could hardly be said for *Roe v. Wade*, although ironically, most Americans supported the ruling when it was made by the Court in 1973. Although there was general agreement that abortion should be legalized, the decision was met with immediate controversy; this debate has not been settled for almost thirty years (Faux xv). *Roe v. Wade* is considered as one of the most controversial Supreme Court decisions ever handed down. No issue

has remained a deep-seated concern in the American psyche as much as abortion. For one thing, nobody anticipated that the ruling would be so broad, which led to a great deal of political engagement from both proponents and opponents of legalized abortion. Due to *Roe v. Wade* abortion became legal overnight in the United States (Faux xv). By legalizing abortion nationwide overnight, the ruling stunned anti-abortion activists, who quickly organized a campaign to overturn the decision (Faux xv). On the other hand, pro-choice activists who believed that the decision would settle the abortion controversy, were equally shocked that the ruling did not put an end to the abortion debate, having assumed that it would. Numerous battles have been waged over *Roe v. Wade*, and the conflict remains ongoing (Faux xv).

In the 1960s and early 1970s, the Republican Party (GOP) largely supported abortion rights, and public opinion polls indicated that Republican voters were more pro-abortion than their Democratic counterparts (Murdock 21). However, this stance shifted after 1976 when the GOP adopted an anti-abortion platform to attract Democratic Catholics and evangelicals. This shift marked the beginning of the GOP's transition to a more conservative political stance, a trend that continues to dominate the party's politics today (Murdock 21).

The 1973 *Roe v. Wade* decision, and the continuing backlash against it place the United States Supreme Court at the center of abortion debates. These days, the courts have tremendous influence over abortion laws, and people in the United States are used to waiting for judicial decisions on the matter ( Reagan xxii).

*Roe v. Wade* is a landmark Supreme Court case that focused on the legalization of abortion in the United States. Similarly, *Doe v. Bolton* addressed the issue of abortion rights, specifically in the state of Georgia. Both cases were reviewed by the Supreme Court on the same day and resulted in the same decision (Murdock 6). *Roe v. Wade* effectively legalized abortion across the United States by overturning nearly a century of anti-abortion laws. The Court concluded that a woman's right to an abortion was encompassed within the right to

privacy, which is protected by the Fourteenth Amendment to the Constitution (Ganjon 3).

Pregnant Jane Roe, who is single, filed a lawsuit against Texas's abortion restrictions on behalf of herself and others. Joining Roe's complaint, a Texas physician claimed that the state's abortion restrictions were too ambiguous for medical professionals to follow ("Roe v. Wade Case Summary"). For breaking the law, he had already been arrested once. Until the mother's life was in danger, abortion was not permitted in Texas at the time. Getting an abortion or trying to get one was illegal ("Roe v. Wade Case Summary").

Norma L. McCorvey, known as Jane Roe, her life was profoundly influenced by the same elements that make abortion a particularly difficult issue in America, namely sex and religion. She viewed these two aspects as fundamentally incompatible, which greatly impacted her worldview and experiences (Domonoske). Norma L. McCorvey married at 16 and quickly became pregnant. She later claimed her husband beat her, which might have been one of many lies. She often reimagined herself as a victim rather than a sinner, recounting horrific experiences she didn't actually endure (Domonoske). She begged her mother to take her child and later accused her of kidnapping the child, which was another lie, and placed the child for adoption. Despite the fact that she was being gay and having affairs with women, she also worked as a prostitute and occasionally slept with men (Domonoske). She sold drugs and became pregnant again, placing that child for adoption. When she became pregnant a third time, that child became known as the Roe baby.

In 1970, Norma L. McCorvey, known as Jane Roe, sought an abortion with the help of her lawyers, Linda Coffee and Sarah Weddington, claiming she had been raped. Basically, Norma did not want to become a plaintiff because she did not even know what the word "plaintiff" meant; she simply wanted an abortion. Furthermore, the issue arose from the outset since Linda Coffee and Sarah Weddington, the lawyers who required her to represent them in court, showed greater concern for her as a plaintiff than as a client (Domonoske). Nonetheless, Henry who was the District Attorney of Dallas County, Texas, from 1951 to 1987 opposed

her request. Although the District Court ruled in her favor, it did not overturn Texas' abortion law( Čížková 6). The case continued until it reached the United States Supreme Court, which ultimately ruled in Roe's favor. Linda Coffee and Sarah Weddington could have helped her to try to have an abortion. Despite Sarah Weddington's connections to abortion services because she was employed by an abortion referral network and had undergone an abortion herself, McCorvey's daughter was born before the Court's decision due to the lengthy legal process (Domonoske).

In the late of 1980s, when Norma stepped in the spotlight, she wanted a seat at the table because she wanted to become an advocate. Then she felt alienated by abortion right groups, who limited her involvement and dictated her words, leading to her understandable frustration. Later in 1995, she worked at Texas abortion clinic (Domonoske). Because she felt rejected by her former allies, Norma switched sides and joined the pro-life movement by becoming a prominent figure in Texas. However, she soon felt alienated again, this time by the pro-life community, who also exploited her. A significant source of distress arose when they insisted she renounce her homosexuality bu causing her a lot of pain and turmoil (Domonoske).

Abortions were prohibited in thirty states prior to Roe v. Wade. In 20 states, abortion was only permitted in cases of rape, incest, or threat to the health of the mother. In three states, including New York, abortion was allowed in all circumstances (Čížková 6-7).

The Supreme Court disregarded all of these regulations on January 22<sup>nd</sup>, 1973, and determine rules for the availability of abortion. Roe argued that a woman ought to have the autonomy to choose whether or not to have an abortion. Additionally, he founded the term trimester, which means 12 weeks of pregnancy (Čížková 7). States were not allowed to forbid abortions early in pregnancy, but they were permitted to impose stricter restrictions or outright bans later on. The trimester is a "threshold of state interest in the life of the fetus corresponding to its increasing "viability" (likelihood of survival outside the uterus) over the course of a pregnancy (Čížková 7). Indeed, the concept of fetal viability has evolved significantly over

time. Fifty years ago, embryologists and neonatologists commonly agreed that a fetus could survive outside the womb at around thirty-four weeks of gestation (Solinger 2-3). This term was primarily used in the context of obstetric emergencies.

However, advancements in science have progressively reduced this threshold, making it possible for a fetus to be viable as early as twenty-seven or twenty-eight weeks in some cases. Consequently, these scientific developments have altered the traditional understanding and usage of the term (Solinger 2-3). Today, legislators who oppose abortion rights have taken the term "fetal viability" from its medical context and redefined it for legal and political purposes. For abortion rights opponents, the term now marks the start of a pregnancy stage where abortion is considered late and therefore seen as exceptionally immoral. Fetal viability has become a strategy for criticizing women and discrediting doctors (Solinger 3).

The Texas legislation that forbade abortions except in situations when a woman's life was in danger was challenged by the plaintiff which was declared unconstitutional by the Supreme Court in the *Roe v. Wade* case (Čížková 7). Texas claimed to have an interest in preserving unborn children's lives. The United States Constitution's Fourteenth Amendment safeguards a woman's right to abort a pregnancy before it reaches viability, which is around the first twenty-two weeks of pregnancy, the Court ruled in a 7-2 ruling (Lamparello and Swann 197).

However, what factors led the Court to reach this judgment? The Court conceded that "the Constitution does not explicitly mention any right of privacy," just as it did in *Griswold*. However, in "the penumbras of the Bill of Rights," the majority strangely found that "the Court has recognized that a right of personal privacy, or a guarantee of certain areas or zones of privacy, does exist under the Constitution." (Lamparello and Swann 197). And in "the idea of liberty protected by the Fourteenth Amendment's first section." The Court therefore deduced an abortion right from the implicit right to privacy, without providing a textual or historical foundation for its conclusions (Lamparello and Swann 198). The Constitution forbids states

from depriving people of their "life, liberty, or property without due process of law." How did the Court interpret this clause to imply an abortion? It did something quite unusual: it admitted that it was not depending only on the Constitution. Rather than interpreting the constitutional language, the Court created its own meaning by relying on Griswold's unseen penumbras (Lamparello and Swann 198).

The *Roe v. Wade* case changed democracy by establishing a woman's right to terminate a pregnancy before viability, approximately the first twenty-two weeks. The Court inferred this right from the implied right to privacy in the Constitution, allowing nearly unfettered abortion rights in the first trimester and state restrictions in later trimesters (Lamparello and Swann 198).

In addition, Lamparello and Swann in their article stated that the Court's decision in *Roe v. Wade* was based on the concept of "living constitutionalism," where the meaning of constitutional text changes over time to address unforeseen events. The Court manipulated the Constitution's text to create unwritten rights, leading to an outcome-based jurisprudence that allowed for the invention of fundamental constitutional rights (200).

Furthermore, Lamparello and Swann in their article stated *Roe v. Wade* politicized the judicial branch, upset the balance between state and federal governments, and disregarded the constitutional processes designed to check the Court's power. By focusing on the outcome rather than the constitutional processes, the Court set a precedent for unenumerated and outcome-based rights jurisprudence, challenging the principles of participatory democracy (205)

In *Roe v. Wade*, the Supreme Court decided two significant decisions the first one was that the United States Constitution provided a fundamental "right to privacy" that protects a person's right to choose whether to have an abortion. The second important thing was the abortion right was not absolute. It needs to be weighed against the government's goals of preserving fetal health and life ("*Roe v. Wade* Case Summary"). The Court also determined

that women ought to be able to choose their privacy when having an abortion. The Court concluded that women are entitled to an abortion up until the time of viability, which is decided by a physician. Women are only permitted to have abortions for health reasons after viability (Čížková 7).

The most important component in the case of Roe is that human life begins at conception, birth or somewhere between. Because there are so many qualified doctors in the medical, philosophical, and theological fields, and they are unable to identify this as a problem, the Supreme Court did not want to recognize it as a problem (Čížková 7).

Dyer stated that Since 1973, claims of similarities between abortion and slavery have dominated American public conversation. These comparisons are frequently made at the ethical or constitutional interpretation level (3). Young, scared, and alone, Pixie initially decided after the rape and resulting pregnancy that she did not want the fetus growing inside her body any longer. Unaware of the abortion procedure or her rights, she faced a daunting situation (I). Then Whelan argued that a Supreme Court decision overturning Roe v. Wade would mark only the second time in American history that the Court had grossly misinterpreted the Constitution to deny citizens' rights by comparing it to the notorious 1857 Dred Scott decision (Dyer 4). He warned that such a ruling would allow states to treat women as slaves were treated before the Civil War. Charo echoed this sentiment, expressing concern that a future Supreme Court case could deny women their constitutional rights to privacy and bodily integrity, similar to the Dred Scott case (Dyer 4).

Dred Scott v. Sandford is widely regarded as the most contentious decision in the history of the Supreme Court. Although its legal principles are now obsolete, its historical and cultural significance remains immense. Some have even exaggerated its influence by claiming it triggered the Civil War. While other factors contributed to the secession and conflict, Dred Scott did influence their timing (Finkelman 3). After the War, the Thirteenth and Fourteenth Amendments were in part designed to overturn its holding. In contemporary times, the case is



frequently cited by politicians, lawyers, and judges to express disapproval. Notably, during the 2004 presidential election, President George W. Bush mentioned Dred Scott when asked about a Supreme Court decision he disagreed with (Finkelman 3). Although President Bush's response may be a reflection of his general lack of knowledge of the Supreme Court, it also shows how Dred Scott has come to represent poor constitutional law reasoning, or even "evil." Even though Dred Scott is regarded as a "bad" ruling, it is one of the most important cases in American constitutional history (Finkelman 3).

In 1857, the Supreme Court made a significant decision in the case of Dred Scott, an enslaved man who was denied the right to sue for his freedom. This decision also declared the Missouri Compromise ban on slavery as unconstitutional, causing outrage in the North and deepening the divide between different regions of the United States (Dred Scott Decision 1). Taney argued that Congress did not have the authority under the Constitution to pass a law like the Missouri Compromise, which prohibited slavery in certain territories. Also, he emphasized that the powers of the government and the rights of citizens are clearly defined by the Constitution, and the government cannot exceed those powers (Dred Scott Decision 2). The Supreme Court concluded that Dred Scott was not a citizen of Missouri according to the Constitution, and therefore, the Circuit Court had no jurisdiction over his case. Additionally, the Supreme Court ruled that the Act of Congress (Missouri Compromise) prohibiting slavery in certain territories was not valid under the Constitution (Dred Scott Decision 3). This meant that Dred Scott and his family were not granted freedom by being taken into those territories, even if it was with the intention of residing there permanently (Dred Scott Decision 3).

Later than a decade after Roe, William Voegeli observed that various analogies often compared the wrong stance on abortion to the dehumanizing treatment of slaves, whether it is toward fetuses or pregnant women. Advocates for abortionrights argue that making abortion illegal equates to legal slavery. Ronald Dworkin stated in his ambitious 1993 book *Life's Dominion* that a woman who is obliged to deliver a kid she does not want is no longer in

control of her own body: the law has imposed a type of slavery on her (Dyer 4). Some, like Andrew Koppelman, a law professor at Northwestern University, have even gone so far as to claim that the denial of abortion rights is a form of involuntary servitude prohibited by the Thirteenth Amendment (Dyer 5). Abortion rights advocates see *Roe v. Wade* as the complete opposite of the *Dred Scott* case. For critics of constitutional abortion rights; however, the reverse is true. Abortion is portrayed as an evil parallel to that of slavery or worse. *Roe*, accordingly, is characterized as the *Dred Scott* of our age (Dyer 5).

The Court could overrule *Roe* by holding that the fourteenth amendment's due process clause did not provide any substantive protection for fundamental privacy rights (Dellinger 89). To conclude, Lamparello and Swann in their article stated that in many ways *Roe* is the father of the Court's contemporary outcome-based jurisprudence (199).

#### **1.4 Planned Parenthood v. Casey**

On January 22<sup>nd</sup>, 1973, the United States Supreme Court handed down the landmark abortion rights decision, *Roe v. Wade* laying the groundwork for what would turn out to be one of the most contentious legal political and ethical discussions in American history. One side of the debate are the pro-choice advocates arguing that *Roe* was the right ruling in terms of constitutional law (Horan 479). They argue that a woman should be able to exercise her fundamental right to liberty that grants her the right to terminate her pregnancy without any interference from the government. On the other side of the debate are the pro-life advocates argue that *Roe* was an incorrect constitutional interpretation. They claim that the right of an unborn child to live is so fundamental that states should be allowed to prevent women from aborting their fetuses or at the very least to impose stricter restrictions on the procedure (Horan 479). While the country has become deeply divided over the political and moral consequences of abortion, a similar phenomenon has occurred in relation to the decision made by the nation's the highest court about the abortion's constitutional implications (Horan 479). The percentage of the United States Supreme Court Justices who believe that the United States Constitution

guarantees a basic right to privacy, which includes the freedom to choose an abortion, has progressively declined in the nineteen years after Roe, leaving the Court severely divided on the matter (Horan 479). Many believed that the Court would use its certiorari to hear the case of Planned Parenthood v. Casey, which involved a Pennsylvania abortion statute, and utilize the occasion to overturn Roe and return the abortion question to state legislatures (Horan 479).

In 1992, the Supreme Court case Planned Parenthood v. Casey marked a significant shift in abortion law by moving away from Roe v. Wade's trimester framework. While Roe applied strict scrutiny to abortion regulations, Casey introduced the "undue burden" standard for evaluating state restrictions on abortion (Čížková 7). This case reaffirmed the right to abortion by emphasizing that the constitutional protection of a woman's decision to terminate her pregnancy comes from the Due Process Clause of the Fourteenth Amendment, which states that no state shall deprive any person of life, liberty, or property without due process of law (Čížková 7).

In the Supreme Court case Planned Parenthood of Southeastern Pennsylvania v. Casey, the Court reaffirmed the Roe v. Wade decision, which prohibits states from banning abortions before fetal viability. However, the Court overturned two aspects of Roe by eliminating the trimester framework and replaced the strict scrutiny standard for reviewing abortion regulations with an undue burden standard (Planned Parenthood v. Casey).

In 1982, the Pennsylvania Abortion Control Act introduced several requirements for women seeking abortions. Firstly, a mandatory 24 hour waiting period during which specific information had to be provided before the procedure could take place (Planned Parenthood v. Casey). Secondly, minors needed parental consent, though a judicial bypass option was available for those unable to obtain parental permission. Thirdly, married women were obligated to notify their husbands before proceeding with an abortion. However, these provisions were waived in cases of medical emergencies (Planned Parenthood v. Casey).

The Supreme Court, through a decision authored jointly by Justices O'Connor, Kennedy,

and Souter, upheld the 24 hour waiting period and informed consent requirements for minors in the Pennsylvania Abortion Control Act. However, they ruled against the provision that mandated spousal consent. The Court reframed the issue from a privacy standpoint to one of personal liberty, which allowed for a deeper examination of substantive due process (*Planned Parenthood v. Casey*). By referencing past cases such as *Griswold v. Connecticut* (1965), *Eisenstadt v. Baird* (1972), and *Carey v. Population Services International* (1977), the Court emphasized the importance of individual liberty and autonomy in decisions concerning abortion (*Planned Parenthood v. Casey*).

The Court utilized the principle of *stare decisis*, which involves respecting precedent and past decisions, to reassess *Roe v. Wade* (1973). They evaluated several factors; for instance, the practicality of *Roe*, the reliance people have placed on its continued application and how their freedom to make decisions would be affected, also the relevance of ideas from *Griswold* and *Roe* regarding personal autonomy and bodily integrity, and whether changes in maternal health care over time had altered the factual basis of *Roe* (*Planned Parenthood v. Casey*). Acknowledging the contentious nature of abortion in society, the Court argued that upholding precedent was crucial to avoid politicizing the judiciary. They emphasized that overturning *Roe's* core principles without compelling reasons would undermine the Court's legitimacy and the nation's commitment to the rule of law unnecessarily (*Planned Parenthood v. Casey*).

Therefore, the Court decided to affirm the central principles of *Roe* concerning limitations on abortions before fetal viability. The Court acknowledged that while the concept of "viability" remained relevant, advancements in medical technology had shifted the point of viability to earlier stages of pregnancy (*Planned Parenthood v. Casey*). It recognized the state's interests in both potential fetal life and maternal health. After viability, the state's interest in potential life becomes compelling; allowing regulations on abortions except when necessary to protect the mother's life or health. Before viability, the Court upheld a woman's right to choose abortion, but it departed from *Roe's* strict trimester framework (*Planned Parenthood v.*

Casey).

Instead, states were prohibited from imposing obstacles that constituted an "undue burden" on individuals seeking abortion before fetal viability. An "undue burden" was defined as any state restriction on abortion that either intended or effectively created a significant obstacle for individuals seeking to terminate a pregnancy before the fetus could survive outside the womb (Planned Parenthood v. Casey).

By applying the recently established undue burden standard to the case, the Court determined that the requirement for spousal notification constituted an excessive obstacle that infringed upon a pregnant person's freedom to make decisions about their pregnancy (Planned Parenthood v. Casey). Consequently, the Court ruled this aspect of the Pennsylvania law unconstitutional on its face. However, the Court recognized the state's legitimate interest in ensuring informed consent by upholding the 24 hour waiting period, which aimed to provide necessary information to individuals seeking abortions. Additionally, the Court upheld the requirement for parental consent at that time (Planned Parenthood v. Casey).

### **1.5 The 21<sup>st</sup> Century**

On April 18<sup>th</sup>, 2007, the Court made a decision in the case of *Gonzales v. Carhart*. This case was about the Partial Birth Abortion Ban Act of 2003. The law banned a type of abortion called partial birth abortion, which could be done from the time of conception until the birth of the baby (Čížková 8). Bush signed this law, making it illegal to have an abortion after three months of pregnancy. Doctors who performed this type of abortion could face up to 2.5 years in prison, but women who had the abortion would not be punished (Čížková 8).

The current situation in the United States is that abortion is legal, but different states can have their own rules about it. Some states have passed laws that ban abortions later in pregnancy, and some require minors to get permission from their parents before having an abortion (Čížková 8). The fight against abortion was a major part of George Bush's election campaign, and many of his supporters, especially Catholics, are against abortion. The United

States Constitution is an important part of the discussion about abortion laws (Čížková 8). The Fourteenth Amendment states that all people born or naturalized in the United States are citizens and have certain rights. It also says that no state can make a law that takes away a person's life, freedom, or property without following the proper legal process. This amendment ensures that everyone in the United States is treated equally under the law (Čížková 8).

### **1.5.1 Dobbs v. Jackson Women's Health Organization**

A Mississippi clinic and abortion facility called Jackson Women's Health Organization filed a constitutional lawsuit against the "Gestational Age Act" in a federal court in 2018. The legislation, which went into effect on March 19<sup>th</sup>, 2018, outlawed abortions beyond the fifteenth week of pregnancy unless there were fetal abnormalities or medical emergency (Dobbs). To illustrate, the statute of "Gestational Age Act" set down specifications for medical professionals who perform. To be more precise, an abortion could not be carried out until a physician first determined and documented a fetus's probable gestational age (Dobbs). The Mississippi legislature enacted the Gestational Age Act, which prohibits the intentional or knowing performance or induction of abortions on unborn fetuses with a probable gestational age exceeding fifteen (15) weeks, except in cases of medical emergencies or severe fetal abnormalities (Romanis 72). On the other hand, the petitioner, Thomas Dobbs, worked as a Mississippi State Health officer. Dobbs submitted a certiorari petition, which was approved. In order to determine whether all pre-viability restrictions on elective abortions are unconstitutional, the Supreme Court granted a writ, which allows an appellate court to decide to reconsider a case at its discretion (Dobbs 2022).

On June 24<sup>th</sup>, 2022, during the court's October 2021–2022 term, the case of Dobbs v. Jackson Women's Health Organization was decided by the United States Supreme Court. On December 1<sup>st</sup>, 2021, the matter was argued (Dobbs). The statute's enforcement was permanently stopped when the United States district court handed summary judgment in favor of the plaintiffs, declaring the law to be unconstitutional. The 5<sup>th</sup> Circuit upheld the trial court's

decision after an appeal (Dobbs).

The Jackson Women's Health Organization sued the Federal District Court on the day the Gestational Age Act was passed in an attempt to prevent its implementation by requesting an emergency temporary restraining order to block the law's enforcement (Dobbs). The request of the injunction was granted by Judge Reeves who works at the U.S. District Court for the Southern District of Mississippi, which came to the conclusion that states could not outlaw abortions prior to the 24 week point at which a fetus becomes viable due to the United States Supreme Court precedent (Dobbs). Because "viability marks the earliest point at which the State's interest in fetal life is constitutionally adequate to justify a legislative ban on nontherapeutic abortions," the Southern District of Mississippi granted summary judgment in favor of the Clinic, ruling that the law was unconstitutional (Dobbs). On December 13<sup>th</sup>, 2019, the Southern District of Mississippi's decision that the legislation was unconstitutional since it prohibited abortions was upheld by the circuit court. On June 15<sup>th</sup>, 2020, Dobbs filed an appeal with the United States Supreme Court, which granted review in the matter (Dobbs).

The Act went against long-standing legal practice by outlawing abortions after 15 weeks, or before the acknowledged viability threshold (Romanis 72). The Fifth Circuit Court upheld this decision. Mississippi then filed a petition with the Supreme Court, raising concerns whether all pre-viability prohibitions on elective abortions are unconstitutional. Mississippi argued that the Court should overturn *Roe* and *Planned Parenthood v. Casey*, allowing states to regulate abortion through their own democratic processes (Romanis 72).

In *Roe v. Wade*, the Supreme Court ruled that the decision to have an abortion is a constitutionally protected liberty under the due process clause of the Fourteenth Amendment, falling under the broader right to personal privacy (Romanis 72). However, Justice Blackmun stated that this right could be limited by the state's "important and legitimate interest in potential life," which could restrict abortion "at viability." After viability, states could prohibit abortions except when necessary to preserve the life or health of the pregnant person (Romanis

72-73). This established a negative right, such as individuals could choose abortion before viability, but states were not required to facilitate it. Twenty years later, *Planned Parenthood v. Casey* reaffirmed *Roe's* core principle that pre-viability abortions could not be criminally prohibited. *Casey* introduced a significant change by allowing states to regulate abortions throughout pregnancy as long as such laws did not impose a "substantial obstacle" to a woman seeking a pre-viability abortion (Romanis 73). This "undue burden" test became the standard for assessing the constitutionality of pre-viability abortion restrictions. While *Casey* permitted states to be more restrictive, it maintained that outright bans on pre-viability abortions were unconstitutional. The Mississippi Gestational Age Act challenged this fundamental point (Romanis 72).

In the majority opinion delivered by Justice Alito, the Court held that the Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision (Romanis 73). While the due process clause of the Fourteenth Amendment may safeguard components of "liberty" not explicitly mentioned in the Constitution, the judgment requires that any claimed implicit right must be "deeply rooted" in the nation's history and tradition and essential to its scheme of ordered liberty (Romanis 73). The term "liberty" alone offers little clarity, so the Court turns to historical context to prevent personal biases from influencing constitutional interpretation and to ensure that authority remains with the elected representatives of the people (Romanis 73 74).

Regarding the significance of departing from established precedents, the majority opinion underscores the importance of *stare decisis*, but also highlights the necessity of reconsidering previous decisions when five conditions are met. First, an erroneous constitutional interpretation (Romanis 74). Secondly, inferior reasoning. Third, a lack of clarity or inconsistency in established rules. Fourth, a disruptive impact on other legal areas. Finally, an absence of concrete reliance by Americans. In applying these criteria, the majority found that *Roe v. Wade* was fundamentally flawed from the day it was decided, and



that *Planned Parenthood v. Casey* continued its mistakes. In addition, they criticized the decisions for lacking a foundation in text, history, or precedent, and effectively constituting judicial legislation (Romanis 74). The undue burden test was deemed unclear and inconsistently applicable. *Roe* and *Casey* were also considered disruptive for weakening the strict standard for facial constitutional challenges (Romanis 74). Finally, The majority concluded there are no concrete reliance interests frustrated by overturning *Roe* and *Casey* since abortion is often an unplanned activity, and they declined to address broader, intangible reliance interests, leaving such considerations to state legislatures (Romanis 74).

### **1.6 Presidential Debate on Abortion**

The abortion debate in the United States stirs strong emotions due to disagreements about sexual morality and women's rights. It has become more intense over the years. Initially, conservatives and liberals were divided on the issue, but by the late 1990s, conservatives leaned towards a pro-life stance while liberals supported choice (Hout 3). Abortion became a significant political issue in the 1970s, influencing voters' choices based on candidates' abortion stances. Over time, pro-choice became a credible counter issue, leading to candidates emphasizing their abortion records during elections (Hout 4). The political landscape shifted as candidates aligned their views with abortion stances, reflecting a trend towards greater linkage between abortion attitudes and broader political views (Hout 4).

The 2024 election is likely to be influenced by the ongoing debate on abortion. President Joe Biden and former President Donald Trump clashed over abortion during the first presidential debate for the 2024 election. Early in the discussion, when CNN moderator Dana Bash questioned the candidates about their positions on abortion, the two candidates scolded one another (Lee). In 1973, the Supreme Court upheld the right to an abortion in the United States; this decision was reversed in 2022, and Biden pledged to bring *Roe v. Wade* back. Trump; on the other hand, supported overturning *Roe* and allowing states to regulate abortions, with exceptions for cases like rape, incest, and the mother's life (Lee). Also, Trump has stated

that he would not sign a federal abortion ban but that he would let states monitor women's pregnancies and prosecute people who violate their restrictive laws (Lee).

During the debate, Biden criticized Trump for appointing justices who favored overturning *Roe v. Wade*. Trump, in turn, accused Biden of wanting to allow abortions up to the ninth month and even after birth, which is not accurate. Biden condemned Trump's role in restricting abortion access, particularly in states like Georgia, where abortion is banned after six weeks of pregnancy (Lee). "Everybody, without exception, Democrats, Republicans, liberals, and conservatives," according to Trump, wanted *Roe* to be overturned so that each state could enact its own abortion legislation (Lee). Claiming that "the vast majority of constitutional scholars" backed *Roe* when it was initially decided, Biden referred to that allegation as "just ridiculous". Trump's stance has caused disappointment among religious conservatives and sparked internal conflict within the GOP (Lee). Trump's critics, both within the GOP and Democrats, have voiced their disagreement with his position. Despite the backlash, Trump's team believes his evangelical base will remain loyal, as seen in past elections. According to numerous surveys, the majority of Americans now favor legal abortion (Lee).

## **1.7 Conclusion**

This chapter introduced the main decisions of abortion laws that we need to conduct this research, starting by discussing the evolution of abortion laws in the United States from the 19<sup>th</sup> till the 21<sup>st</sup> century. This chapter shows the ongoing conflicts and changes in abortion laws by emphasizing the continuous fight for women's reproductive rights. In this chapter, we introduced important cases like *Griswold v. Connecticut*, *Eisenstadt v. Baird*, and *United States v. Milan Vuitch* that set the stage for the *Roe v. Wade* decision in 1973, which gave women the right to have an abortion. This part of the research also discussed the case of *Planned Parenthood v. Casey* in 1992, which modified *Roe* by allowing more state regulation. Furthermore, the 2022 *Dobbs v. Jackson Women's Health Organization* decision overturned

Roe by giving states the power to regulate abortion again and sparking new debates. To conclude, this chapter concludes with the presidential debate on abortion. The case of Dobbs is our focus in this research and will be discussed in details in the next chapter.

## **Chapter Two:**

### **The Impact of Dobbs v. Jackson Women's Health Organization within the United States**

#### **2.1 Introduction**

Due to the Supreme Court's decision in Dobbs v. Jackson Women's Health Organization, which overturned Roe v. Wade and Planned Parenthood v. Casey and gave the states the authority to regulate abortion, women are no longer protected against abortion under the Constitution. This chapter examines the extensive effects of the Supreme Court's decision in Dobbs v. Jackson Women's Health Organization within the United States by offering an in-depth analysis of its diverse impacts. Initially, it reviews the history of abortion policy and judicial oversight before the Dobbs ruling to contextualize the significant changes brought by this decision. The following section investigates the implications for federalism by focusing on the evolving dynamics of power between state and federal governments regarding abortion laws. Further sections analyze the effects on health care providers and the broader medical field by including challenges in medical education and practices. Additionally, this chapter scrutinizes the specific consequences for abortion rights by highlighting issues like increased surveillance, criminalization of pregnancy-related activities, abortion denials, and delays leading to more second and third trimester abortions. The chapter also compares the Dobbs decision with other key abortion cases to understand its unique position in legal history. Finally, the chapter addresses the broader implications of Dobbs by discussing its economic impact on low-income women and its specific effects on women of color. Through this thorough examination, the chapter aims to provide a detailed understanding of the wide-ranging influence of the Dobbs v. Jackson Women's Health Organization on American society

and law.

## **2.2 The Impact of Dobbs v. Jackson Women's Health Organization within The U.S.A**

On June 24, 2022, the Supreme Court overturned *Roe v. Wade*, removing women's constitutional right to abortion. The consequences of this choice on women's health were almost immediate. Republican legislatures across the country have enacted new and highly restrictive abortion bans or allowed pre-*Roe* bans to remain in place (Warren et al. 3). As of this publication, thirteen states have outright banned abortion, one has prohibited abortions after six weeks, and several other states have temporary abortion bans that are being blocked by judges (Warren et al. 3). Most harsh prohibitions do not make exceptions for rape or incest-related pregnancies. In September 2022, Senate Republicans introduced legislation to outlaw abortion nationwide, affecting women in all 50 states of their reproductive freedom. *Dobbs* affected the federal state relationship by returning abortion policy decisions to the states (Warren et al. 4).

### **2.2.1 Abortion Policy and Judicial Review Pre-Dobbs**

Before the 1973 *Roe v. Wade* ruling, abortion laws were decided by the states. The Due Process Clause of the Fourteenth Amendment, which restricted state authority to ban abortion, the Supreme Court ruled in the *Roe* case that the Constitution guaranteed a right to privacy. The decision invalidated state laws that conflicted with the rules laid out in the court's opinion, which generally prohibited states from banning abortion through the second trimester (*Dobbs*).

In addition, *Roe* established the strict scrutiny standard of review as the appropriate foundation for judicial review for examining state limits on abortion (*Dobbs*). A legislation banning abortion had to be narrowly crafted using what the court considered the least restrictive methods available to achieve a court-defined compelling government interest, according to the strict scrutiny standard (*Dobbs*).

In the 1992 case of *Planned Parenthood v. Casey*, a Pennsylvania state legislation was claimed to have violated the rights to an abortion guaranteed by the *Roe* decision (*Dobbs*).

Despite dissent on the court, the plurality decided to overturn Roe's trimester framework and permit states to restrict abortion before viability and outlaw it beyond viability which is the point at which fetal life could develop outside of the womb (Dobbs).

Additionally, the court in Casey determined that the appropriate framework for examining state abortion limitations prior to viability was the undue burden standard of review, as opposed to Roe's strict scrutiny standard of review (Dobbs). As long as state interests were rationally related and did not put an undue barrier on abortion access, the court held that the undue burden standard, which was less stringent than strict scrutiny, permitted state governments to regulate abortion (Dobbs).

### **2.2.2 Impact on Federalism**

The Dobbs ruling completely overturned Roe and Casey and gave state governments back control over abortion laws. The court ruled that the "undue-burden standard was 'not built to last'" and substituted the rational basis standard of review for the undue burden requirement (Dobbs). The rational basis standard was less stringent than the undue burden and strict scrutiny standards, requiring state laws to have "a rational basis on which the legislature could have thought that a law would serve legitimate state interests" (emphasis added) before being considered constitutional (Dobbs). The court determined that legitimate state interests included respect for and preservation of prenatal life at all stages of development; the protection of maternal health and safety; the elimination of particularly gruesome or barbaric medical procedures; the preservation of the integrity of the medical profession; the alleviation of fetal pain; and the prevention of discrimination based on race, gender, or disability (Dobbs).

### **2.2.3 Impact on Health Care Provider**

State-imposed restrictions on abortion care create challenges for health care providers by threatening their lives and interfering with the doctor-patient relationship (Warren et al. 4). The five major organizations representing health care providers which are the AMA, Physicians for Reproductive Health (PRH), National Nurses United (NNU), the American

Pharmacists Association (APhA), and the American Hospital Association (AHA) described that health care providers face a challenge in balancing their ethical obligations to prioritize patient health and well-being with complex state laws that interfere with medical practice and endanger patient health (Warren et al. 4).

According to the American Medical Association, state abortion laws have put physicians in a difficult position of trying to accommodate their patients' needs with their ethical duties to place the patient health and well-being first, while attempting to comply with vague, restrictive, complex, and conflicting state laws that interfere in the practice of medicine and jeopardize the health of patients (Warren et al. 4).

In addition, the NNU expressed similar concerns, noting that in states with abortion restrictions, nurses are obliged to deny services that patients want or need. They are also being forced to choose between fulfilling their duty as nurses and putting themselves at risk of criminalization for assisting or abetting in an abortion (Warren et al. 4).

#### **2.2.4 Impact on Medical Care and Education**

State-imposed restrictions on abortion care result in broader restrictions on medical care and medical education. Beyond reproductive healthcare, individuals with autoimmune disorders, those in chronic pain, and many others are already being impacted by the Supreme Court's decision to overturn Roe, adding to the already burdened health care systems (Warren et al. 4). The unexpected effects that state abortion prohibitions have on patients who were not seeking abortions, were not pregnant, and in many cases, were not even seeking reproductive health care, were detailed by medical professionals (Warren et al. 4-5). In their article, PRH listed a number of additional medical specialties that abortion prohibitions will affect. They stated that abortion bans have a chilling effect on providers seeking to give care that should not be implicated by an abortion ban because they fear liability and criminalization under the state's abortion restrictions (Warren et al 5).

In some cases, certain people have found it challenging to receive care for conditions

unrelated to pregnancy due to their fear of being criminalized. For example, they may find it difficult to receive treatment for cancers or autoimmune disorders for fear that the medications may affect pregnancy and cause the patient to lose their pregnancy or need an abortion (Warren et al. 5).

Furthermore, state bans on abortion are preventing medical students from receiving an adequate medical education, preventing them from pursuing a career in obstetrics and gynecology entirely, or leaving them with an insufficient education, endangering the health of women for generations to come (Warren et al. 5)

### **2.2.5 Impact of Dobbs Decision on Birth Control**

Access to contraception, including birth control and emergency contraception like Plan B, will be impacted by numerous legislation that restrict abortion rights. This is not to suggest that all conservative lawmakers are unaware of the consequences, as a number of them have made it quite evident that their continued opposition to reproductive rights includes a ban on contraception (Caffrey 41). Legislators have a history of confusing different methods of birth control and classifying them as abortifacients when; in fact, they are not. Women in Missouri have already experienced difficulties getting emergency contraception, according to Jessica Valenti of the New York Times, after a chain of hospitals ceased offering it out of concern for recently passed legislation that might result in criminal charges for those who deliver it (Caffrey 41-24). Not unexpectedly, those without access to contraception will be disproportionately affected, especially those of color and those living in remote areas where access to abortion is already restricted. Taking the Dobbs verdict a step further, conservative state legislators and courts are now threatening access to birth contraception next (Caffrey 42). For instance, in December 2022, a federal court in Texas declared that the Title X family planning program a long-running government initiative that provides cheap birth control and other essentials for sexual and reproductive health was illegal. This program has helped millions of young low-income Americans gain access to contraceptives and prevent pregnancy (Caffrey



42). This ruling is just the beginning, and most definitely not the last, of organized attempts by pro-life activists to limit birth contraception in the same manner that they have restricted abortion (Caffrey 42). Though many were comforted by the Dobbs ruling that access to contraception would not be compromised, conservative state legislators have made it obvious that they intend to undermine the next essential component of reproductive freedom (Caffrey 42).

Numerous pro-life groups characterize birth control and emergency contraceptives as having the same effects as abortifacients in order to ban their use. Medication for an abortion and birth control are two entirely separate medications by definition (Caffrey 42). While abortion medicines terminate a pregnancy after fertilization, birth control prevents pregnancy before fertilization. On the other hand, legislators who hold the same views as abortion rights can deliberately decide to impede birth control availability by labeling it as an abortifacient (Caffrey 42).

However, the issue here goes beyond places where the Dobbs ruling led to the creation of stringent abortion laws. The issue is also involved at the federal level. Since Roe was deemed moot, Justice Thomas subtly alluded to other rulings that might be reversed in his concurring opinion on the Supreme Court in the Dobbs case (Caffrey 43). He brings up the famous landmark case of *Griswold v. Connecticut* (1965), which protected married couples' right to seek birth control free from the government interference by stating that a privacy right protected by the First, Third, Fourth, and Ninth Amendments (Caffrey 43). The foundation for birth control and emergency contraception for everybody was established by reproductive rights advocates as a result of this lawsuit. Because of Justice Thomas's ruling in the Dobbs case, opponents of abortion are hoping that the Court would overturn important rulings in other areas of sexual and reproductive rights, such as *Griswold*, *Eisenstadt*, and other cases (Caffrey 43).

Legislators at the federal level have discussed banning contraception in similar ways.

Numerous lawmakers have stated publicly that they think abortion and contraception are interchangeable, and some of them have even suggested amending legislation to further confuse the two (Caffrey 43). For instance, Representative Rosendale opposed a bill that would have allowed veterans to receive free birth control by claiming in the House of Representatives in 2021 that medications like Plan B and Ella are not contraception, they are abortifacients (Caffrey 43).

Similar remarks on Plan B being an abortion pill have been made by Marjorie Taylor Greene, another well-known anti-abortion Georgian representative. In addition to being blatantly incorrect in what they say, these lawmakers endanger a critical component of reproductive health that has gained even greater importance after the Dobbs decision (Caffrey 43). They are using the ignorance of their voters about reproductive health as a weapon to impose limitations on contraception by confusing abortion with birth control. Unfortunately, women are preparing themselves for the worst-case situation because this is not an impossible possibility (Caffrey 43).

Following the Dobbs ruling, there was a 300% rise in demand for emergency contraceptives and three to four times more requests for birth control, according to Nurx, an online pharmacy that prescribes both birth control and emergency contraception (Caffrey 43). The number of emergency contraceptives that could be purchased at once had to be limited since pharmacists were receiving so many questions about them from major retailers like Walgreens and Amazon. It is evident that women decided to stockpile contraceptives in case things got worse after realizing their reproductive freedoms were taken away (Caffrey 43). Not only did women stockpile emergency contraception, but within months of Dobbs' passing, Planned Parenthood recorded a 21% rise in birth control appointments and a 41% increase in the of intrauterine device appointments (Caffrey 43). Due to the possibility that birth control pills would be the first type of birth control to be banned if conservative lawmakers pursued this path, many women are eager to switch from birth control options, typically from the pill to an

intrauterine device. Since Dobbs, some people have resorted to even more drastic measures, such as sterilization, to avoid getting pregnant unintentionally (Caffrey 43).

### **2.2.6 Impact of Dobbs Decision on Abortion Rights**

In June 2022, the U.S Supreme Court overturned the constitutional right to abortion in *Dobbs v. Jackson Women’s Health Organization*. This decision has led to laws banning abortion going into effect in nearly one-quarter of states, with abortion expected to become broadly illegal in about half of U.S states (Kimport 1). The ruling has resulted in three near certain effects, such as increased surveillance and criminalization of activities during pregnancy, more people being denied abortion care, and delays in obtaining abortion care (Kimport 1).

#### **2.2.6.1. Surveilling and criminalizing Activity during Pregnancy**

Following Dobbs, we should expect a significant increase in the surveillance and criminalization of pregnancy-related actions, as well as inequity in how this occurs. In states that prohibit abortion, people whose pregnancies do not result in a live birth (including miscarriages, stillbirths, and abortions) are considered suspect and face both civil and criminal penalties (Kimport 1). Laws prohibiting abortion will not simply harm those seeking abortion; increased surveillance and criminalization will affect all pregnant people (Kimport 1).

In the years preceding *Roe*, abortion seekers had to rely on someone else to offer abortion care. Most commonly, trained physicians offered safe, if unlawful, abortion care. In contrast, modern abortion seekers can safely and privately use medications to terminate their pregnancy in a secure and private setting (Kimport 1). The medications, which are identical to those approved by the US Food and Drug Administration for clinician-supervised medication abortion, are available outside of the health-care system, including through internet advocacy groups such as AidAccess. This is known as self-managed abortion. Evidence from its use in other nation’s shows that the drugs can safely stop a pregnancy during the second trimester (Kimport 1).

A person who self-manages an abortion is breaking the law in states where abortion is prohibited. It's challenging to establish the case against someone who is allegedly self-managing an abortion, though. Clinically, spontaneous miscarriage and pill-induced abortion are indistinguishable from one another. Research results from nations where abortion is largely prohibited provide us with information on how American authorities may react to this issue (Kimport 1). First, if pregnancy loss of any kind becomes more common, we should anticipate growing mistrust and inquiry. Miscarriage is indistinguishable from self-managed abortion, just as self-managed abortion cannot be distinguished from miscarriage. Those who lose a pregnancy may need to demonstrate that they were not the cause of the loss on purpose, which is the same as establishing a negative (Kimport 1). The likelihood of success in this case is lower for those with less money, and the challenge of defending oneself is increased by presumptions that those with less money would wish to terminate a pregnancy. Therefore, those with fewer resources are more likely to face criminal charges for unexpected pregnancy loss (Kimport 1). Secondly, medical professionals should be forced to look for and report any indications of unlawful abortion in their patients. In spite of the fact that real drug and alcohol usage is not influenced by a person's race or class, this practice will be built upon the history of health care professionals in the United States reporting impoverished and women of color for indicators of drug and alcohol use during pregnancy (Kimport 1). When determining which pregnancy losses to report, healthcare professionals who try to differentiate between self-managed abortion and miscarriage are likely to rely on social assumptions and biases, including notions about who might seek an abortion (Kimport 1).

#### **2.2.6.2 Abortion Denials**

A second result of the Dobbs decision is an increase in the number of people who are denied abortion services. Even before Dobbs, when Roe was the law, approximately 4000 pregnant women were denied abortion services each year due to gestational limitations. As Dobbs allows states to prohibit abortion at earlier gestations, including the point of fertilization

(i.e., all abortions), the number of persons refused abortions would rise (Kimport 1).

These denials will have the greatest impact on socially marginalized groups, such as low-income individuals and Black and brown people. Prior to the Dobbs decision, three-quarters of abortion patients lived within 200% of the federal poverty line. Black and Hispanic women were overrepresented among abortion patients (Kimport 1). Indeed, Abortion bans and restrictions will also impact pregnant peoples' ability to access the full range of reproductive healthcare, regardless of their desired pregnancy outcome (Kimport 1). This includes fertility care, care for miscarriage management, and care needed for pregnancy complications. This, too, will disproportionately impact Black, indigenous, and other people of color, who face the greatest health risks in pregnancy and childbirth due to structural racism, inadequate access to services, and underinvestment in overall care, and who often experience discrimination, ill-treatment, abuse, and coercion in maternal health care settings (Kimport 1).

The Dobbs ruling also establishes a new category of people who are denied abortion services. Prior to Dobbs, hospital-based physicians routinely provided third-trimester abortions to select patients. Typically, these abortions were conducted for patients with fetal or maternal health diagnoses, even in severely restrictive legal environments. These abortions fall within the restricted exceptions to those rules (Kimport 1-2).

Most of the exceptions in states that have banned abortion since Dobbs have been removed, and abortions are currently prohibited. Dobbs will bring heretofore private treatments into the public eye. Because they will now be denials, researchers will obtain new information about how much privilege previously existed in these hospital-based abortions, offering significant light on potential historical disparities (Kimport 2).

Like what Kimport noted, abortion seekers may choose to travel if they are denied access to abortion services. However, not everyone can take advantage of this option; not everyone seeking an abortion can travel. Individuals who belong to groups whose movements are restricted, such as minors, those in prison, and those without legal status, may find it especially

difficult to travel for abortion services (2). Additionally, those who cannot afford the additional expenses associated with abortion travel will also face difficulties. In fact, a lot of people will not be able to go and would have to carry on with their pregnancies (2).

The largest study of women's experiences with abortion in the U.S. found that women who wanted an abortion and were denied one were more likely to experience serious pregnancy complications, poor longer-term health, chronic pain, and even death. In addition, the study found that they were more likely to experience household poverty and stay tethered to an abusive partner (Kimport 2).

### **2.2.6.3. Delays and an Increase in Second and Third Trimester Abortions**

Finally, the Dobbs decision will result in an increase in abortions performed after the first trimester of pregnancy. While most patients will seek abortion care during the first trimester of pregnancy, an increasing percentage will not be able to carry out their decision until the second or third trimester (Kimport 2).

There are various causes for the delay. First, state-level abortion bans result in clinic closures, forcing more people seeking abortion care to travel longer average distances. Travel for abortion treatment is time-consuming and expensive, extending the time between when patients first want an abortion and when they may get one (Kimport 2).

Second, in order for abortion clinics to stay in business, they will need to take in more clients, including those who travel from states where abortion is illegal. Patients will have to wait longer during pregnancy to receive care due to appointment wait times that will increase from days to weeks as a result of the increasing demand (Kimport 2).

Significantly, both residents of states where abortion is legal and residents of states where it is not have an impact on the lengthening wait times for appointments. Simply put, everyone's access to abortion is impacted by state-level abortion prohibitions. Those in the United States who require abortions would ultimately have to carry their pregnancy far longer than they would like to because of these state-level prohibitions (Kimport 2).

### 2.3. Alignment and Divergence of the Dobbs Case with Other Abortion Cases

The United States of America is a country that supports the freedoms and rights of women, and in the case of abortion in general, America was against the decision, considering it a waste of lives and a shameful imprint on the medical profession, and thus abortion was considered illegal although laws differ in different states. However, access to the procedure was permitted and allowed when the life of a pregnant woman was in danger (U.S. Abortion History). In 1973, after the *Roe v. Wade* case abortion, under the Due Process Clause of the Fourteenth Amendment, the Court's ruling established a framework that balanced the woman's right to privacy with the state's interest in protecting potential life, the woman was granted the right to abortion after 15 weeks of pregnancy, in three stages (Čížková 7). The first trimester 12 weeks abortion cannot be banned and still a personal choice between woman and her doctor, at the second trimester (12 to 24 weeks) state could regulate abortion regarding women's and fetus's life, and without imposing an undue burden on a woman's access to abortion. During the third trimester, abortion might be prohibited due to the danger that may threaten the health of the mother (Čížková 7).

Subsequently, the Supreme Court cases, such as *Planned Parenthood v. Casey* in 1992, changed some aspects and reaffirmed other aspects of the *Roe v. Wade* framework. State enacted certain restrictions; parental consent, waiting periods (*Planned Parenthood v. Casey*). Thus, the case of *Casey* reaffirmed the fundamental principles of *Roe's* case but, maintained the right to abortion under the Undue Burden restrictions (*Planned Parenthood v. Casey*). The current issue of abortion regulations in the U.S. is still a complicated and divisive topic as the *Dobbs v. Jackson Women's Health Organization Decision's* legal and moral ramifications and potential influence on reproductive rights. With ongoing discussions over the breadth of reproductive rights and how to strike a balance between individual autonomy and state interests, state-level limits, legal disputes, and public opinion continue to change the landscape (*Planned Parenthood v. Casey*).

A notable abortion case which was *Dobbs v. Jackson Women's Health Organization* was decided by the Supreme Court of the United States on June 24th, 2022, during the court's October 2021-2022 term. The case was argued on December 1st, 2021 which includes a Mississippi law that prohibits the majority of abortions after 15 weeks of pregnancy (*Dobbs*). The Court's ruling in this case has the potential to shift the legal environment and have an impact on abortion rights in the United States. The court reversed the decision of the United States Court of Appeals for the 5th Circuit and remanded the case for further proceedings (*Dobbs*).

The court upheld the controversial abortion law in Mississippi in a 6-3 decision. In a 5-4 decision, the court rejected *Roe v. Wade* (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) and determined that there is no constitutional right to an abortion (*Dobbs*). The majority opinion of the court was given by Justice Samuel Alito. Justices Brett Kavanaugh and Clarence Thomas both submitted concurring views, and Chief Justice John Roberts also submitted a concurring opinion. A dissenting opinion was submitted by Justices Stephen Breyer, Sonia Sotomayor, and Elena Kagan (*Dobbs*)

Jackson's Women Health Organization claimed that the law in Mississippi violated the *Roe's* case in 1973 and constitutional right to consent to abortion within the criteria of privacy and the undue burden was unconditional as the Mississippi decision could impose an undue burden on women seeking to get rid of pregnancy (*Dobbs*). It reflects the standards of the Supreme Court in *Planned Parenthood v. Casey*, 1992, where women's reproductive rights advocates emphasized the freedom of reproductive autonomy and privacy of women's bodies and that Mississippi law violated women's freedom, healthcare and well-being (*Dobbs 2022*).

On the other side, the defending party and the State of Mississippi and the law's supporters maintained that the Mississippi law was constitutional. They argued that the viability criterion established by *Roe v. Wade* should be reevaluated and that states have a legitimate interest in safeguarding embryonic life (*Dobbs 2022*). They argued that the viability



framework should be abandoned and urged the Supreme Court to provide states more freedom to enact abortion laws. The defendants argued that the state's citizens' views and desires, as stated by their elected officials were represented in Mississippi law. They made the case that the Court should give state legislators the power in shaping and determining abortion policy (Dobbs 2022).

On June 24, 2022, the United States Supreme Court rendered its decision in *Dobbs v. Jackson Women's Health*. The Court concluded that the landmark *Roe v. Wade* decision was incorrectly decided and that the United States Constitution does not include a right to abortion. Consequently, the ruling allowed states to enact abortion laws without significant restrictions (Dobbs). The Court officially announced its judgment in this case on July 26, 2022. This judgment, overturning *Roe v. Wade*, aligns with one of the triggers outlined in Texas's trigger law. As per Texas Attorney General Ken Paxton, this indicates that the Texas laws prohibiting most abortions will become effective on August 25, 2022 (Dobbs)

#### **2.4 The Implications of *Dobbs v. Jackson Woman's Health Organization***

Some of these limitations include decreased access to reproductive healthcare, shutting down of abortion-providing facilities, criminal penalties, and several lawsuits from both pro-choice and pro-life advocates (Caffrey 29). While it is important to understand the legal evolution of these limitations, it is even more vital to understand their consequences, specifically how these will impact certain groups of women. In this part we will attempt to address the known consequences of these limitations and restrictive laws, and the impact on Black women, poor women, and women living in conservative states (Caffrey 29). While some outcomes are predictable, others remain unpredictable. These could include potential effects on IVF, drug access, birth control and contraception, and other issues (Caffrey 29). Lastly, it is important to note that *Dobbs* affects all pregnant or reproductive-aged women, not just those seeking abortions. Indeed, Experts predict a significant influence on reproductive healthcare, medical procedures, and maternity care deserts (Caffrey 29).

### **2.4.1 Economic Implications for Poor Women**

The decision in Dobbs' case could significantly affect access to abortion services, especially in the Mississippi and possibly other states as well. By making the Mississippi's law constitutional, this opens the door for other states to tighten or further restrict abortion laws (Warren et al. 4). This emphasis on the availability of abortion services can increase the challenges faced by individuals seeking abortion, especially those already experiencing difficulties such as financial constraints, difficulty in accessing transportation, or living in rural areas where access to health care is limited (Warren et al. 4).

When states begin to implement restriction on abortion access, the barriers to obtain an abortion become more difficult. Abortion facilities that were once working are no longer available in many states, leaving women without access to necessary care they need (Caffrey 29). For women who are financially unable to travel face significant challenges in accessing abortion services. Women in restrictive states must plan for not only the abortion procedure, but also the travel, time, and the expenses associated with the procedure (Caffrey 29).

Prior to Dobbs, a 2014 study by Jerman et al, found that 7% of women were compelled to get an abortion outside of their native state and that 90% of US counties lacked access to abortion clinics. Patients had to travel more than thirty miles on average to get care, and six percent traveled more than one hundred miles (Caffrey 30). Finally, people with low incomes made up 75% of abortion patients in 2014. According to the Guttmacher Institute, more than 49% of women who had abortions in 2014 were below of the federal poverty level. When these statistics are combined, they show how difficult it is for low-income women to have an abortion when there is an additional barrier to travel (Caffrey 30).

Dobbs has simply made the problem of travel worse because the majority of conservative states have entirely closed their abortion services. Sixty six clinics in 15 states in the South have closed. Of the 79 clinics that were first opened, just 13 are still operating in Georgia (Caffrey 30). Meanwhile, North Carolina has emerged as a new safe haven for abortions up to

20 weeks, with a 37 percent increase in abortions in the eight months following Dobbs. Although North Carolina and Georgia have become popular places for abortions, travel is a necessary cost for women living in surrounding conservative states looking for an abortion (Caffrey 30). Even when able to afford the travel for the procedure, a lot of women encounter criticism and potential dismissal from their employers. Taking time off work is an added burden, and the recovery time or mental health services that might be needed afterwards must factor into this equation (Caffrey 30). Furthermore, states opposed to abortion rights, such as Texas and Louisiana, have threatened to ban the procedure completely and to punish employers that support or enable their workers to seek an abortion (Caffrey 30). For example, only because a lady is from Texas, Texas may try to extradite her if she had an abortion in Massachusetts. Some pro-choice activists fear that states with severe laws may also use private health databases to track out women who have had abortions by threatening to sue healthcare providers for disclosing patient information under criminal penalties (Caffrey 30-31). One excellent example of how traveling has already become essential to getting an abortion is the manner in which states are actively searching for women to arrest under their new anti-abortion laws (Caffrey 31). Despite the increased danger of extradition, women have migrated to liberal states in search of safety. Poor women, however, often find it more difficult to afford the travel-related expenses, which discourages them from getting the necessary reproductive healthcare (Caffrey 31).

The announcement of trigger restrictions and new rules following Dobbs had a significant impact on women who were considering abortions at the time of the ruling. Legal abortions decreased by about 6% almost immediately after the ruling was made, according to the New York Times (Caffrey 31). There are a variety of possible causes for this, but the most plausible ones include doctors' reluctance to conduct abortions and women's confusion about what the new rules actually forbid (Caffrey 31).

Unquestionably, the cost of traveling to the Northeast or Northwest for an abortion is a

contributing factor for women in the South. Nevertheless, the number of jurisdictions where abortion is still legal has expanded (Caffrey 31-32). These states have seen a surge in patients who are in need of assistance but whose facilities are understaffed and lack the resources to meet the demand. For instance, when Planned Parenthood in Wisconsin closed, its clients had to go to Illinois to get assistance (Caffrey 32). Due to a lack of equipment, the Illinois Planned Parenthood was unable to handle a large number of patients, which resulted in lengthy wait times and delays for procedures. Planned Parenthood of Illinois's chief strategy officer, Kristen Schultz, claims that the number of Wisconsin patients crossing the border has increased by more than ten times (Caffrey 32). Nonetheless, Illinois has made an effort to lessen the spike in travel by hiring Wisconsin-based providers who have licenses to operate in Illinois and are in need of work. While it is still early, the United States will likely continue to see a migration of Southern and Midwestern providers moving to states where their practice remains legal (Caffrey 32). Like women needing abortions, abortion providers have experienced a feeling of displacement now that their practice is illegal in many states (Caffrey 32).

The categories of women most likely to be impacted by Dobbs have been expected by researchers. Women who seek abortions tend to be younger in general; 60% of abortions are reportedly performed on women in their twenties (Caffrey 32). Furthermore, most women who have abortions already have one or more children. The Guttmacher Institute estimates that travel obstacles will keep between 93,500 and 143,500 women from accessing abortion treatment, despite the fact that specific data on the issue is still pending (Caffrey 32).

When everything is taken into account, this information exacerbates the difficulties involved in having an abortion. Consider a twenty-four-year-old single mother from Texas who has a part-time job at a nearby grocery shop and has already raised two children (Caffrey 33). When she learns she is expecting, she realizes she can't afford to raise another child. She understands she needs to travel out of state possibly far north, but she decides she wants an abortion. Depending on transportation, this can take some time. In addition to finding childcare

and requesting time off from work, she would also need to be able to pay for the necessary supplies and procedures (Caffrey 33). Perhaps her children are in school and should not be missing learning and she does not have childcare provided for her. When these issues are presented in a clear and understandable manner, even people who are not experiencing the same issues can relate to them (Caffrey 33). The unfortunate truth is that Dobbs will compel underprivileged women in the Midwest and South to experience this. If these ladies can even afford to fly in the first place, they will be compelled to do so. But for others who are unable to, they will be compelled to live in a reality against their choice (Caffrey 33).

#### **2.4.2 Implications for Women of Color**

A financial burden associated with abortion operations affects many people, but it disproportionately affects poor women and those who fall below the federal poverty limit (Caffrey 33). In fact, travel simply makes things worse for these women by adding another obstacle to getting an abortion, which prevents many of them from getting any care at all. However, racial issues also intersect with these outcomes. Women of color, including black women, are most likely to require access to abortions (Caffrey 33). The Kaiser Family Foundation found that in 2019, Black women made up almost 4 in 10 (38%) of total abortions in the U.S, higher than any other race or ethnicity (Caffrey 33-34). There are a number of possible reasons why Black women and women of color require abortions more frequently, some of which include access to birth control and inadequate reproductive healthcare. Contraception use is actually higher among white women in the United States (69%), than among black women (61%) (Caffrey 34). The institutional discrimination against people of color in general and the evident lack of resources in impoverished, rural areas populated by people of color are the reasons for this disparity. The United States has a dark past of using Black women for sexual experimentation, including forced sterilization, pregnancy experimentation, and the decline of midwifery (Caffrey 34). Black people have historically faced institutional racism in medical settings, and this practice continues today. For example,

black women are already affected more by pregnancy-related complications than their white counterparts (Caffrey 34). Axios reports that the risk of dying from a pregnancy-related complication is two to three times higher for Black and Native American women. Compared to white women, black women have a 3.5 times higher risk of dying from a late maternal death (Caffrey 34). Pregnant Black women are more likely to die than pregnant White women for a variety of reasons, such as institutional racism in healthcare and lack of medical care. Medical professionals too frequently do not trust or pay attention to Black women who speak up for themselves when they are in pain (Caffrey 34). Many medical professionals have the deeply discriminatory belief that Black people can tolerate pain better than White people, and they frequently tell lies to doctors in order to obtain medications for illegal use (Caffrey 34). As a result of these stereotypes, many women die because they are not provided the necessary medical care. Black women generally receive inadequate treatment, which exacerbates the need for greater access to abortion services for them, both during and after pregnancy (Caffrey 34-35).

Since race and economics are inextricably linked, it stands to reason that Black, low incomes women are more likely to be impacted by these access barriers. Axios reports that women of color are more likely to work in part-time or unstable professions that do not pay well or are beneficial to one's physical well-being (Caffrey 35). These women find themselves in an impossible situation as a result of a lack of focus on access to high-quality healthcare, the protection of abortion, and equitable economic conditions. The problem is made worse for many women who live in jurisdictions that restrict access to abortion because these states tend to be poorer than those that support the practice (Caffrey 35).

Researchers have predicted that race will be an additional barrier for Black women and other women of color, even if it is too early to establish clear statistics regarding post-Dobbs abortion availability based on historical data. Researchers have projected that the number of maternal and pregnancy-related deaths will increase in states without access to abortion

(Caffrey 35). A study of maternal mortality in the United States from 1995 to 2017 was conducted using data from the Global Health Data Exchange and CDC Wonder. State-level maternal mortality ratios are considerably higher in restrictive states than in protective states, according to the study (Caffrey 35). Furthermore, compared to their white counterparts, Black and Native American women were disproportionately disadvantaged when residing in jurisdictions with restrictions. The study discovered a clear link between racial and ethnic differences and geography (Caffrey 35). Women who reside in less wealthy, often conservative states are more likely to suffer from limited access to abortion care. For Black women who reside in places with restrictions, this problem is much more common. Furthermore, it is unlikely that a poor Black woman will be able to access abortion care (Caffrey 35-36).

## **2.5. Conclusion**

In conclusion, the *Dobbs v. Jackson Women's Health Organization* decision marked a major shift in U.S. history by transforming abortion rights and policies across the country. This chapter has detailed the profound shift in judicial review and abortion policy from pre-*Dobbs* standards, illustrating the significant changes in federalism and the balance of power between state and federal authorities. It has also examined the impact on health care providers and medical education by revealing the complexities and challenges faced by professionals in delivering care. In addition, the analysis of specific consequences for abortion rights, such as increased surveillance, criminalization of pregnancy-related activities, and procedural delays, have added a significant obstacles for women in the United States. By comparing *Dobbs* with other key abortion cases, the chapter has shown its unique legal importance. Furthermore, the economic and social effects on low-income women and women of color underscore its broader consequences. All in all, the *Dobbs* decision has set off a series of legal, medical, and social dynamics that will significantly influence the future of reproductive rights and health care in the United States.

## General Conclusion

The primary goal of this research was to describe the main points in the legalization of abortion in the United States from the 19<sup>th</sup> century till the 21<sup>st</sup> century and to describe the current situation. Another goal, was to shed light on the significant impact of the decision of *Dobbs v. Jackson Women's Health Organization* within the USA for the women who want to practice abortion; as well as, its effects on reproductive rights and healthcare policy. Through a careful examination of the historical context, previous Supreme Court decisions, the current landscape, and the implications of the *Dobbs* case. By opening the door for other states to pass more restrictive abortion laws, this decision has reignited the national debate surrounding abortion rights. The Court's ruling, which upheld Mississippi's ban on most abortions after 15 weeks of pregnancy, marks a significant departure from the legal framework established by previous landmark cases, such as *Roe v. Wade* and *Planned Parenthood v. Casey*. The current landmark decision of *Dobbs* overruled *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*, two landmark cases that established the constitutional right to an abortion by returning to individual states the power to regulate any aspect of abortion not protected by federal statutory. The United States Supreme Court's ruling in the case of *Dobbs v. Jackson Women's Health* has far-reaching practical and legal ramifications. The decision has intensified the political and legal struggles surrounding reproductive rights, making it a crucial moment in the ongoing dialogue and controversy over abortion in the United States.

In the first chapter, we trace the evolution of the legislations of abortion throughout the centuries. Initially, from colonial times until the early 19<sup>th</sup> century, abortion was commonly practiced and legal before "quickening," or when a pregnant woman could first feel the movements of the fetus. During the 19<sup>th</sup> century, states began passing laws that criminalized abortion, viewing it as a threat to morality and public health. However, with the advent of



stricter laws and the rise of the medical profession, attitudes towards abortion began to change. However the 20<sup>th</sup> century brought significant legal challenges and changes that set the stage for the current abortion debate. In the early 20th century, the American Medical Association led campaigns to outlaw abortion completely. These campaigns were successful, and by the mid-20th century, abortion was illegal in most states except to save the life of the woman. However, women still sought out abortions, often resorting to dangerous and unsafe methods in the absence of legal options. This continued until the landmark Supreme Court case of *Roe v. Wade* in 1973, which legalized abortion nationwide and recognized a woman's constitutional right to reproductive autonomy. In 1973, the Supreme Court's ruling in *Roe v. Wade* legalized abortion nationwide and provided women with the constitutional right to make decisions about their own bodies, including the choice to have an abortion. In 1992, *Planned Parenthood v. Casey* reaffirmed the core holding of *Roe's* lawsuit but modified its framework. In this case the Supreme Court introduced the 'undue burden' standard, which prohibited laws that placed substantial obstacles in the path of a women who wants to obtain an abortion before fetal viability. In addition, this case allowed for more state regulation of abortion but maintained the right to access abortion services. To conclude, those lawsuits paved the way for the current landmark case of *Dobbs* that challenged a Mississippi law banning most abortions after 15 weeks of pregnancy.

The second chapter of this thesis examined the diverse impact of the current landmark decision of *Dobbs v. Jackson Women's Health Organization*. The *Dobbs* decision reshaped reproductive rights and weakened constitutional protection of abortion rights. It also impacted healthcare policy and the balance of power between the federal government and states in regulating reproductive healthcare, raising questions about federal protections and state regulations on abortion. Furthermore, by narrowing down and overturning the precedents set by *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992), the law weakened the constitutional protection of abortion rights, that resulted in shifting the power from the

Supreme Court to the state to enact more restrictions on abortion or any other decision, additionally, the decision threatened the power and the balance of authority between the federal government and states in regulating reproductive healthcare. Furthermore, the law led to greater social, financial, and medical difficulties by affecting poor women, women of color, and women living in states hostile to abortion. Indeed, low-income women, women of color, particularly Black women, will face greater challenges in obtaining abortions compared to their white counterparts. Historically, Black women often face discrimination in the medical system, and they are also the least likely to have adequate access to medical and reproductive care. Many of these women live in areas without proper healthcare facilities, so they have to travel to other states where abortion is permitted and this will affect the abortion providers and their clinics. There will be a rising rate in patients travelling to pro-choice states for abortion care, overwhelming clinics and leading to longer waiting times for women seeking abortions, also making it difficult to meet the increasing demand for abortions services.

This thesis can be useful for people who want to be more educated about the evolution of the history of legalization of abortion in the United States, also for researchers who want to delve deep in the reasons behind enacting those rules. This study can inspire future academic investigations into how judicial decisions influence policies related to reproductive health.

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