



## **A Do-Over for Reproductive Justice**

*January 26, 2009*

*by Gloria Feldt*

---

Lars Larson is a conservative radio talk show host with a following of four million listeners. His producer assured me, when asking me to appear *for Roe v Wade's* 36th anniversary, that Lars is respectful, though he would take views opposite to mine. No problem, I said, as long as I can speak my piece.

My "piece" led me to talk about where I think the debate should be: squarely on women's human rights to make their own childbearing decisions, access to preventive family planning services, and economic justice, as well as abortion. It flipped Lars out. When he couldn't keep the conversation on pitting the innocent baby against the murderous woman who stupidly didn't use birth control, he started spinning. He lectured me during the commercial break—in stern-father tones—that I was speaking my piece a little too much for his comfort. Perhaps I wasn't being the desired foil.

Though he began by challenging me with the focus on the fetus, within seconds he shifted to peppering me with denigrating statements about women. What clearer example could there be of the sexism that puts all responsibility and blame for unintended pregnancy on women?

Lars is entitled to his view. But what so vexed him, I realized, was that we were looking at the world from diametrically different vantage points. Everything I said disturbed his very sense of who he was and where he fit into the universe. He was used to a world, for his entire life, where people who look like him have been in charge. What seems like simple justice to me was cognitive dissonance to him.

So I wondered: what if the world were turned upside down? What if women held the majority of power and leadership positions?

Would peacemaking be the primary subject of the evening news rather than wars? Would, as **Florynce Kennedy** said, abortion become **a sacrament** if men could get pregnant?

I wouldn't go that far. But as *Roe* hangs on by a thread and with the political world turned upside down by Barack Obama's election to the presidency, it is clearly time to examine the underpinnings of American laws and cultural norms concerning women's rights, health care access and justice related to childbearing decisions from a different vantage point than the Supreme Court did in 1973.

And it is way past time for pro-choice political leaders to elevate the debate to a higher, human rights and justice-based value set. We could start with the anti-choice usurping of the term "pro-life," a complete misnomer.

Jeffrey Toobin, author of *The Nine*, says that in 1965 when the Supreme Court decided the case of *Griswold v Connecticut* (which legalized birth control), the justices had no gender-based civil rights precedents on which to base their ruling. So they used the analysis that there is an unwritten but implied right of privacy in the Constitution. The concept of marital privacy does not effectively challenge the intellectual framework of those whose mission is to advance the patriarchal regulation of motherhood by stripping women of the right to make childbearing decisions.

That right of privacy then logically formed the basis of the *Roe v Wade* decision. The 14th Amendment's clause on equal protection, which forms the framework for other civil rights decisions, was given a nod, but it wasn't the central rationale. Justice Ruth Ginsburg has long held that was a big mistake, and she has been proven correct. *Roe* has been repeatedly subjected to successful attacks since the moment it was decided. At this point, it is a mere shell, *de facto* overturned. Any restriction that doesn't cause an "undue burden" is upheld by the court, which finds almost no burdens undue.

I believe we need to start over. In thinking **Beyond Roe**, I argued that we have to create a new movement for women's human and civil rights to make their own childbearing decisions.

*Roe* was a meaningful and necessary advance, but its grounding in privacy rights portended that it could not stand forever. There must be something more than privacy. And there is. A woman's right to her own life and body has to be elevated to the moral position that supports a human rights framework.

This framework must be translatable into civil rights-based legislation that gives access to relevant healthcare, education, supportive counseling and economic justice. It must be articulated in policies that will be upheld by courts, and those courts must be reshaped by presidents to speak without apology about the legitimacy of women's reproductive self-determination.

That's my challenge to the next generation of feminists.

President Obama said in his inaugural address: "The world has changed, and we must change with it." Nowhere is this more true than in the arena of women's rights, including reproductive justice.

Some, like Lars Larson, will think we're turning the world upside down. What we're really doing is setting the world aright.

---

### **ShareThis**

*Gloria Feldt is a women's rights activist, author of three books, and a media commentator, including on her own website, [GloriaFeldt.com](http://GloriaFeldt.com) and its [Heartfeldt Politics Blog](#). She is a former president of Planned Parenthood Federation of America.*

*Also see [Revolution Lite](#) by Merle Hoffman in this edition of On The Issues Magazine.*

*See [Women of Color Need Human Rights, Not Common Ground](#), by Loretta Ross in "Rejected by the Mainstream Media" in this edition of On The Issues Magazine.*

---