

TUESDAY, JAN 22, 2008 11:48 AM UTC2008-01-22T11:48:00ZL, M J, Y G: I A T

# Roe, 35 years later

Salon asked leading feminists to talk about the court case that changed their lives, and why it matters more than ever.



Tuesday, Jan. 22, marks the 35th birthday of Roe v. Wade, the case in which the Supreme Court decided that any state or federal laws restricting or outlawing abortion were in violation of a constitutional right to privacy. Roe made it legal for women all over the United States to exercise the control over their bodies and their reproductive lives that they should have had all along.

I wish it were possible to raise a glass, give a birthday toast, and claim that Roe didn't look a day over 29, but alas, this is a bittersweet bash. A mere three and half decades after her birth, Roe shows her age: She's been weakened, knocked around, had big bites taken out of her. Beginning with the 1976 Hyde amendment that cut off Medicaid funding for abortions, which made it difficult for poor women to obtain the medical services to which they had every legal right, and continuing through this past spring, when a conservative Supreme Court banned late-term abortions with no

exception for the health of the mother, Roe's existence has been in constant jeopardy from the moment it came into law. And, of course, it's not just Roe that gets buffeted and bruised by these attacks; it's everything the ruling stands for — the fundamental premise that women are human beings, as valuable under the law as men, conscious, capable and responsible for making decisions about their bodies, their reproduction and their lives.

So no, this particular party is not, cannot be, a raucous celebration. It's tempting to wish, in fact, that we didn't have to mark this birthday at all, that these basic rights were so ingrained, so *not* up for further debate, that their being granted so late would now seem simply a chronological aberration in the course of enlightenment thinking, rather than a leap that we must still recognize as a surprising accomplishment.

Today, in honor of Roe v. Wade, Salon publishes the thoughts of some of those who remember life before Roe and some who were born into a post-Roe world, who have grown up to see what they should rightly have trusted was bedrock equality erode under their feet. All these women see a tempestuous future for Roe; yet they, and we, take a moment to pay tribute to the decision that changed all of their lives. — *Rebecca Traister*

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### Gloria Feldt: "It's time to establish reproductive rights in a human and civil rights framework"

On Jan. 22, 1973, I was oblivious to the Roe v. Wade decision. A young wife and mother of three, I was taking a bilingual teaching course in McAllen, Texas, near the Mexican border — a border frequently crossed then by desperate U.S. women seeking the illegal abortions that were readily available, though often dangerous, there. The big news that day was President Lyndon Johnson's death, which relegated Roe to a media footnote even in Texas, where the case originated, argued by 27-year-old Austin attorney Sarah Weddington (who had crossed that border herself while a struggling college student).

The following year, I decided to learn more about the fledgling local affiliate of Planned Parenthood. I quickly realized I'd had the good fortune to join the single most important social justice cause in human history — because the right to make one's own childbearing choices, and to have our bodily integrity protected, profoundly affects every human being.

Roe's outcome made so much sense. But after three and a half decades defending it, I'm convinced that Roe alone is important but clearly not sufficient. According to Jeffrey Toobin, author of "The Nine," the right to privacy was the best precedent the Supreme

Court had in those days before gender-equality law. Today, despite a ringing affirmation of Roe's privacy application to gay rights in *Lawrence v. Texas*, both the rhetoric and the laws on women's reproductive rights have been pushed so far backward by other high court decisions that Roe's fragile shell affords women but limited protection.

That's why the next phase of this long trajectory toward women's full civil rights requires us to build a movement from the ground up once again — state by state, vote by vote, until we pass federal laws such as the Freedom of Choice Act, laws that will be upheld by a Supreme Court reshaped by presidents who respect women's moral capacity and human right to make our own childbearing decisions.

Vote early and often, my friends.

*Gloria Feldt is the author of "The War on Choice: The Right-Wing Attack on Women's Rights and How to Fight Back."*

**Lynn M. Paltrow: "If Roe is overturned, these laws mean women who have abortions would be charged with murder"**

While Roe is vulnerable, few recognize there are already laws in place that, in effect, declare that women, upon becoming pregnant, lose their civil and human rights. More than 30 states and the federal government have "unborn victims of violence" acts, fetal homicide, and other laws that treat fetuses as separate persons in some circumstances. This year, Colorado and several other states may have ballot measures designed to grant the status of legal personhood to the unborn under their state constitutions. Fetal-rights laws generally claim to protect pregnant women from third-party attacks, yet are primarily used to justify actions that deprive women of the right to informed consent, bodily integrity and life itself. In the name of fetal rights and protection, pregnant women have been forced to have unnecessary C-sections (in one case both the woman and fetus died), been civilly committed to mental hospitals and drug treatment programs, been arrested as child abusers for using marijuana to cope with morning sickness, and been charged and, in some cases, convicted of murder for suffering an unintentional stillbirth. These fetal-rights laws do not make abortion itself illegal. But make no mistake: If Roe is overturned, these laws mean women who have abortions will be charged with murder, not illegal abortion. Moreover, if the unborn are legal persons, then states already have the means, through their civil commitment and child protection laws, to police and imprison women to ensure that they do not have abortions. It should be clear, then, that those who defend the right to choose an abortion and those who defend a woman's right to mother-friendly childbirth must unite to defend women's human rights — not just Roe or reproductive rights.

*Lynn M. Paltrow is the executive director of the National Advocates for Pregnant Women.*

**Cristina Page: "This has become white noise for the average American"**

I wish young women knew this whole conflict isn't even about abortion. We've repeated the same debate, redrawing the battle along the same lines, for so long that its real sense has gotten lost. If the debate here were actually about abortion, there would be at least one "antiabortion" group in the United States that supports contraception, the only proven way to prevent abortion. Instead, we have the "right to life" movement investing its talents, immense resources and time in efforts to scale back Americans' access to pregnancy prevention. If this debate were actually about abortion, self-described "antiabortion" activists would be interested in investigating the policies that have succeeded in making abortion less necessary. Why doesn't National Right to Life lead pilgrimages for its policy staff to the places on earth that have achieved the lowest abortion rates in the world? The reason so-called antiabortion groups won't employ any proven strategies is because preventing abortion is simply not their goal.

I wish young women knew how deeply their way of life offends the right-to-life establishment and how set this establishment is on changing our lifestyle, either by criminalizing the things that make it possible (the most common forms of family planning) or filling our heads with fears and lies (abstinence-only curriculum). Today, 95 percent of us have sex before marriage, 85 percent of couples have sex once a week (decidedly not for baby making), 90 percent use some form of artificial birth control. The "right to life" movement is dedicated to stopping this.

What surprises me about the current state of reproductive rights is how much it has all become white noise for the average American. The abortion debate has become the political equivalent of living next to the train tracks — after a while, you no longer feel the shake as the train powers by. As long as the pictures aren't falling off the walls, Americans don't pay much attention to which direction the train is heading — or what rights it is carrying away with it. It's all political white noise until the pharmacist won't fill your prescription, or until you need the now-banned partial birth abortion because your very-much-wanted pregnancy is

gravely deformed and now threatens your ability to get pregnant ever again, or your 16-year-old daughter just missed her period. It's then that the white noise can become the soundtrack for your personal nightmare.

*Cristina Page is the author of "How the Pro-Choice Movement Saved America" and a spokesperson for Birth Control Watch.*

### **Frances Kissling: "You made your choice, now pay for it"**

On Jan. 22, 1973, as Roe was announced, I was working in an abortion clinic in New York City. One of my tasks was to decide which women got free or reduced-fee abortions. The clinic standard was 10 percent free. A first-trimester abortion cost \$150, and an abortion between 16 and 24 weeks, including a hospital stay, was \$350.

Five years later I was writing about Rosie Jimenez, a Mexican-American college student and single mother who died from a back-alley abortion in Texas. Medicaid funds for abortion had just been cut off. Her best friend, Paulina, who was with her in the hospital, told this story: The doctor treating her was at her bedside trying to determine the cause of the massive infection that had turned her skin a dark greenish brown and caused blood to seep from her eyes. "Did you or didn't you?" he asked. "You are very sick. You may not pull through. It would be easier to treat you if you told us the truth. Just squeeze once if you did and twice if you didn't." Rosie didn't pull through. While she is the only known fatality from the cutoff of federal Medicaid funding for abortions, hundreds of thousands of women have used the rent money or had a baby they couldn't care for because they couldn't pay the price.

Three years ago I spoke at the annual fundraiser of the Jane Fund, one of a few dozen kitchen-table groups that scrounge around trying to find money to pay for abortions for women who can't afford them. One of the members told the story of a woman who needed an abortion and was 26 weeks pregnant. They needed to find \$10,000 for the abortion and plane fare to Kansas for the woman and her mother. Sending a 16-year-old to Kansas by herself to have a 24-week abortion would be inhumane. Last week, I asked a clinic director what abortions cost these days. About \$400 on average if you are 10 weeks or less pregnant. The cost then goes up by the week, about \$100 a week till you hit 16 to 18 weeks. Then the sky's the limit and supply and demand take over. When I e-mailed her she was at a providers' meeting. She had just gotten a quote from one of them. For an abortion at 24 weeks — \$10,000.

I am worried about many things related to abortion — will it be legal? How can we reduce the need? Will it always be stigmatizing? But more than anything I am worried about how much it costs and how little we are doing about that. I want to see those of us who are pro-choice match the personal commitment anti-choice people make to help women continue their pregnancies with equal help for women who can't afford abortion. In the short term, I will be happy when every reproductive rights and women's rights organization pays for a few abortions a month or a year. When every foundation funding advocacy or research spends 5 percent of its grant-making budget on those groups who sit around their kitchen table and really help the most marginal and desperate women pay the far too costly price(s) they pay for abortions.

*Frances Kissling is a 2007-8 fellow at the Radcliffe Institute of Advanced Study, Harvard University.*

### **Amanda Marcotte: "It's not much of a right if you can't use it"**

The 35th anniversary of Roe v. Wade has a shadow hanging over it, which is the impending possibility that the increasingly conservative Supreme Court may overturn the landmark decision. If that happens, we'll see a separation of states into "free" states with legal abortion and "panty sniffing" states without it. Unfortunately, my home state of Texas — where Roe was conceived by some uppity Texas broads at an Austin garage sale — will be firmly in the panty-sniffing category. But the overturning of Roe would be, pragmatically speaking, just an extension of the already successful movement to strip most women of access to a legal, safe abortion. The organized intimidation and legal harassment of abortion providers has left us with a country where 87 percent of counties have no abortion provider, and many women who need the service desperately can't afford to get it. It's not much of a right if you can't use it.

Still, I find reason to celebrate the anniversary of Roe, even in light of this deprivation. Because Roe was a cultural landmark that was about a lot more than abortion rights; it was about women's right to autonomy and dignity. Anti-choicers might want to roll the clock back to 1972, but that will take a lot more than simply outlawing abortion.

*Amanda Marcotte is the executive editor of Pandagon.net and a columnist and podcaster for RH Reality Check.*

**Jennifer Baumgardner: “We start by telling the truth about what has happened to us”**

To me, the most surprising thing 35 years after Roe is the shame and isolation both women and men still feel while going through common (though complex and often life-changing) reproductive experiences. Whether deciding to end a pregnancy, having difficulty getting pregnant, suffering a miscarriage, or being a birth mother who places a child in adoption, the things that happen to us in that sphere are hotly debated as issues but too rarely heard about as personal stories. That’s why I’m so impressed by films like Penny Lane’s “Abortion Diaries” or Faith Pennick’s “Silent Choices,” Ann Fessler’s book “The Girls Who Went Away,” and the spate of after-abortion resources activists are creating, like the talk line Exhale.

I’m happy that current work by many feminists is loosening up the way we can approach abortion. We can admit it, for instance, if our abortion was an easy decision with no moral quandaries, and we can admit if the abortion we chose still makes us cry. I hope and believe that 35 years from now, reproductive rights and justice will not be reduced to whether abortion is legal (though it will be legal) but will encompass all of the issues identified in the late-’60s by pro-woman activists and the issues spearheaded by the young activists today. Thus, the movement of the future will secure access to contraceptives and abortion, sex education, patient empowerment, birth practices that view the well-being of the mother as interdependent with the well-being of the baby, to name a few! And this movement will also support the rights of gay, bisexual and trans-people to adopt, create and raise children.

How are we going to get from here to there? We’ll start by telling the truth about what has happened to us — which, to be honest, is where feminist revolutions usually start.

*Jennifer Baumgardner is the creator of the I Had an Abortion project and the author of “Look Both Ways: Bisexual Politics.”*

**Kate Michelman: “There is no shame in being responsible. Roe offered a spark of hope”**

I remember vividly the day, 35 years ago, that Roe v. Wade was handed down. I was a mother of three. Just four years before, I had been abandoned by my husband and forced onto welfare. I had made the agonizing decision to terminate an unplanned pregnancy, which in 1969 involved convincing a hospital review board that I would be an unfit mother to a fourth child. That degrading experience — on top of the humiliation of losing my husband, my economic security and my social status — had felt like society’s final message to me that I was not a person of worth and value.

Seeing the headline that morning validated for me that there is no shame in being responsible. Roe offered a spark of hope, took me another step along my own personal journey to a greater sense of self, and sharpened my determination to dedicate my life to women’s reproductive rights. That was my personal experience. But, writ large, that was the experience of a generation of women. Roe offered a tantalizing and galvanizing signal that attitudes about women could change, and that the sense of shame that society imposed on women could lift.

Looking back, we can remember and honor that moment as consequential. But today’s movement needs to understand that the post-Roe generations have a different life experience. They believe that women have an assured place, and assured rights, and expect society to reflect that back to them. To be sure, sexism is still alive and with us — but today’s women expect to overcome it. As a movement, we need to harness that energy and experience.

Yet millions of women are still marginalized. For them, the gains of the women’s and reproductive rights movements remain a distant reality. We need to see reproductive rights in the broader context of achieving, at last, a full complement of women’s rights for all women. These include a commitment to paid family and medical leave; a revocation of those aspects of welfare reform that penalize women with children and those who become pregnant while on public assistance; inclusion of abortion, family planning and emergency contraception for all women in all national healthcare schemes and for women on Medicaid; and comprehensive, confidential high-quality sexuality education and reproductive healthcare for adolescents.

*Kate Michelman is the former president of NARAL Pro-Choice America and the author of “Protecting the Right to Choose.” She currently serves as a senior advisor to Sen. John Edwards.*

**Shelby Knox: “This isn’t the legacy the women who fought for reproductive rights had in mind”**

It’s a perilous time to be a young woman: Your abstinence teacher says you aren’t responsible enough to take the pill, emergency contraception is available only if your pharmacist deems you morally fit, and even if you are lucky enough to live in one of the 13 percent of counties that have an abortion provider, you may still have to take a letter home to daddy and ask him to sign off on

your choice.

This isn't the legacy the women who fought for reproductive rights had in mind. In fact, the vanguard of this movement supported the repeal of *any and all laws* regarding abortion. They were fighting to have this medical procedure treated like any other — without the interference of the law, the state, and most importantly, family members. Roe v. Wade was supposed to be the first step to a more generalized change of consciousness, one that saw women as completely equal.

Celebrating the anniversary of that momentous decision should be a time to think about the steps we can take to build upon the legacy of the women before us.

*Shelby Knox is a speaker, activist and organizer working with progressive organizations to promote sex education, women's rights and youth empowerment. She is the subject of the documentary "The Education of Shelby Knox."*

### **Pamela Merritt (aka Shark-Fu): "What would a world united by choice look like?"**

I was born one month after Roe and have lived my entire life in a nation at war with itself. As an activist in my local community, I can see that the battle is not academic but alive and hot and hard-fought on all sides. So today, on the 35th anniversary of Roe v. Wade, I'm trying to imagine what it would be like to live in a nation united in support of choice.

I imagine young people being taught comprehensive sex education and growing up empowered to make decisions about their sexual health. I see a reduction in the infection rates for sexually transmitted diseases and an increase in the understanding of risk and the demonstration of responsibility. I envision my fellow women of color talking openly about HIV/AIDS prevention, testing and treatment within our communities. I see women and men embracing the philosophy of family planning, and I see children, families and communities benefiting from that.

In the pro-choice world of my imagining I see positive outcomes and healthy communities, but in the world of my reality I see the ramifications of anti-knowledge policies, misinformation and legalized dogma: medical treatment denied, communities limited by fear and lives at risk.

So the struggle continues even as I pause to imagine what I'm fighting for, which is the world that will result from a commitment to choice. Until that dream is realized, may we all find inspiration in the spirit of Roe.

*Pamela Merritt publishes as Shark-Fu at [AngryBlackBitch.com](http://AngryBlackBitch.com); she is also a contributing member of [Shakespeare's Sister](#) (an award-winning group blog) and a regular contributor to NPR's "Tell Me More" with Michel Martin.*