

ELLE

The Incredible Shrinking Woman

ELLE writers on Justice Anthony Kennedy's *Gonzales v. Carhart*

You Don't Choose—You Lose

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Many of our readers wondered, after seeing our piece on the recent Supreme Court decision known as *Gonzales v. Carhart* ("The Incredible Shrinking Woman," August ELLE)—which upheld a federal law allowing Congress and state legislatures to criminalize a form of abortion without regard for the woman's health—what the ruling could mean for the future of abortion rights. We asked Gloria Feldt, author of *The War on Choice* and the former president and CEO of Planned Parenthood Federation of America, to lay out a couple of scenarios:

ELLE: What might the reproductive landscape look like in a decade?

GLORIA FELDT: That depends on who's president, who's in control of Congress, who's on the Supreme Court, and who's in charge of state legislatures and sitting in the governor's seat. Because the Bush administration will have had eight years to fill the federal courts with antichoice judges, it's unlikely that the courts will protect what is left of *Roe*. This makes the electoral process more important than ever. What happens from here depends on each of us as citizens and voters.

ELLE: What if the Democrats sweep in 2008—what could that mean for reproductive rights?

GF: If the current political climate that favors Democrats prevails, the Congressional leadership may try to pass the Freedom of Choice Act, sponsored by Barbara Boxer (D-CA) in the Senate and Jerry Nadler (D-NY) in the House, which would codify reproductive freedom as a civil right, rather than as primarily a right of privacy as *Roe* (for now) guarantees. This would give women the protection of federal law. But its passage is not guaranteed even in a Democratic Congress because not all Democrats are pro-choice.

ELLE: What do you mean by reproductive freedom being a civil right?

GF: I mean individuals—in this case women—have the right to equal protection under the law when it comes to decisions about the number and spacing of their children. But reproductive rights are not just dry legal theory; they are rooted in fundamental human rights: those "inalienable" rights every individual is born with. Think of the classic line we all know from the Declaration of Independence: "life, liberty, and the pursuit of happiness." The human right to make our own childbearing decisions

without government interference is increasingly recognized in international law. It's the philosophical basis for all reproductive justice, including legal rights (nondiscrimination, access to health care, freedom from sexual assault and coercion, privacy), the moral framework (bodily integrity, freedom of religion and conscience, reproductive self-determination), and practical access to birth control, sex education, and equality of economic opportunity. Together, these allow women to make our decisions freely and responsibly about whether, when, and with whom to beget or bear a child—you might say, to have the right to our own lives.

ELLE: And how about if the right wing continues to dominate the balance of power?

GF: If the right-wing court and lawmakers continue to hold the key positions at all levels of government, *Roe* is likely to be chipped away till it's gone—or toothless. To the extent that fetal life continues to be privileged by law over women's health, the right to make our own childbearing choices is increasingly vulnerable. Antichoice groups will work to ban other abortion techniques, as well as pass additional restrictions to make abortion inaccessible even if it isn't illegal. For example, 87 percent of U.S. counties have no abortion provider today as a result of existing laws and antichoice harassment. At the state level, you already see the introduction of more restrictive abortion laws—in South Dakota, for instance, which defeated its strict abortion ban last year by ballot initiative, the state legislature is starting over and proposing a new and slightly less restrictive ban. Also, some states are looking to pass "trigger laws," meaning that as soon as *Roe* is overturned, their abortion bans would take effect.

ELLE: So much of this process feels inevitable. Is there anything that those of us on the sidelines can do?

GF: I always say that abortion isn't just about abortion; it's about whether women will have an equal place in society. The most important step towards guaranteeing this is to use your voice. If you can see reproductive rights as a human right, then demand that Congress and states pass the Prevention First Act and the Freedom of Choice Act, for starters. Join activist networks and attend your representatives' town hall meetings, where you can hold them accountable by asking how they voted or will vote on the issues. And it's crucial to grasp just how much elections matter to your daily life. Check your voter registration now so you know it's up to date and remind 10 of your friends to do the same. Be sure to vote in your state's primaries as well as general elections, since many elections are effectively decided at the primary level. These are the basics, but if you want to multiply your influence tenfold, volunteer to help a candidate. If you can give a few hours a week, just call up the local campaign office—they always need people to monitor websites, help with mailings and phone calls, and organize events. It's fun and you'll meet the most interesting people. And consider running for office yourself! Women's leadership has never been more needed—or welcomed.