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Chapter 1: Legalizing Abortion

Case Overview: Roe v. Wade (1973) 22

1. Majority Opinion: The Fourteenth Amendment Protects a Woman’s Right to Abortion

Harry Blackmun

In Roe v. Wade (1973), the Supreme Court ruled that although the right of a woman seeking an abortion must be balanced with the state’s interest in protecting maternal health and the potential life of the fetus, the right to privacy in the U.S. Constitution includes the right of women to decide whether to have children.

2. Dissenting Opinion: The Life of the Woman Should Not Be More Valued than the Life of the Fetus

Byron White

In his dissenting opinion Justice White argues that the Court has valued the convenience of the pregnant mother more than the existence and development of the life or potential life that she carries, and this decision creates a constitutional barrier to state efforts to protect human life.

3. Abortion Before Roe v. Wade Was Dangerous

Rachel Benson Gold

A writer describes life before Roe v. Wade, when abortions were illegal in most states, and abortion itself was dangerous. She argues that the high death rate of 1930 is one way to see the prevalence of illegal abortions.
Chapter 2: Requiring Parental Notification for Minors Seeking Abortion

Case Overview: Ohio v. Akron Center for Reproductive Health (1990)

1. Majority Opinion: State Laws May Require Parental Notification for Minors Seeking Abortion
   Anthony Kennedy
   The Supreme Court held in Ohio v. Akron Center that Ohio’s state law making it illegal for a physician to perform an abortion on an unmarried, unemancipated, minor woman without timely notice to at least one of the minor’s parents is constitutional.

2. Dissenting Opinion: Parental Notification Laws Are an Unjustified Intrusion into a Private Decision
   Harry Blackmun
   The author of the majority opinion in Roe v. Wade argues that by placing obstacles in the path of a minor seeking to terminate a pregnancy, the state of Ohio is infringing on her constitutional right to do so.
3. The Results of Parental Notification Laws Have Been Mixed
   Kathleen Sylvester
   An expert in social policy notes that it is difficult to enforce state laws designed to force families to talk about abortion, and it is unclear whether these laws reduce teenage abortion; in addition, such legislation does not address the rights of minors.

4. Teens Are Adversely Affected by Parental Notification Laws
   Le Anne Schreiber
   A journalist describes how the Supreme Court has changed the lives of many young women. By upholding the constitutionality of state laws that require minors seeking an abortion to notify (or in some cases gain the consent of) one or both parents, the Court has made it impossible for some young women to get an abortion.

5. Parental Notification Laws Do Little to Curb Teen Abortion
   David Whitman
   A journalist maintains that, contrary to the arguments of both pro-life and pro-choice advocates, evidence suggests that parental notification laws do not significantly reduce the number of teenage abortions.

Chapter 3: Implementing the “Undue Burden” Standard


1. Plurality Opinion: State Laws That Restrict Abortion Are Not Unconstitutional
   Sandra Day O’Connor
   The Supreme Court ruled that state laws banning abortion are unconstitutional, but states are allowed to put restrictions on access to abortion so long as those restrictions do not present an undue burden to the woman seeking an abortion.
2. Dissenting Opinion: Roe v. Wade Should Be Overturned

William Rehnquist

Chief Justice Rehnquist asserts that although the plurality opinion retains the decision of Roe v. Wade, it abandons the logic by which Roe v. Wade was justified; furthermore, Roe was wrongly decided and should be overruled.

3. The Casey Decision Is the Result of an Activist Court

Neil Munro

Conservative groups view the Casey ruling as evidence that an activist Court is promoting a dangerously broad definition of personal rights beyond abortion.

4. In Devaluing the Life of the Fetus, Casey Paves the Way for Euthanasia

Charles Colson

The founder of a Christian prison ministry suggests that the Casey decision, which bases the right to abortion on the right of liberty as expressed in the Fourteenth Amendment, may open the door to euthanasia.

Chapter 4: Affirming Exceptions for Women’s Health as Necessary


1. Majority Opinion: Physicians and Women Should Make Health Decisions

Stephen Breyer

The Supreme Court determined in Stenberg v. Carhart that any restrictions on abortions during the first twenty-four weeks—before the fetus is viable, or likely to survive on its own—must provide protections for the women’s health.
2. Dissenting Opinion: The State Has a Legitimate Interest in Protecting Fetal Life

Clarence Thomas

A dissenting justice argues that the Court’s previous rulings acknowledge that state laws are allowed to protect prenatal life and that state laws banning second-trimester abortions are not in violation of these precedents.

3. Stenberg Provides an Important Step Toward the Future of States’ Rights

Michael S. Greve

A legal scholar claims that Stenberg is a small but politically important step toward the decentralized and competitive politics of states’ rights. Consequently, Stenberg is key not only to the abortion issue but also to the future of conservative politics.

4. Stenberg Disregards the Life of the Fetus

Michael Scaperlanda and John Breen

Two law professors criticize the Court for not addressing the humanity of, or extending the protection of the law to, the unborn fetus.

5. Nebraska’s Ban on Partial-Birth Abortion Aims to Limit Access to Abortion

Simon Heller et al.

A reproductive-rights attorney argues that a vaguely worded Nebraska law banning a specific previability abortion procedure that could apply to all second-term abortions is unconstitutional.

Chapter 5: Upholding the Partial-Birth Abortion Ban Act of 2003

Case Overview: Gonzales v. Carhart (Carhart II) (2007)


Anthony Kennedy
In *Gonzales v. Carhart*, the Supreme Court ruled that Congress has the right to ban specific abortion procedures and that the state’s interest in promoting respect for human life at all stages of the pregnancy can outweigh the woman’s interest in protecting her own health and life.

2. Dissenting Opinion: As Equal Citizens, Women Must Control Their Reproductive Lives
*Ruth Bader Ginsburg*
In her dissenting opinion Ginsburg finds that the Partial-Birth Abortion Ban Act of 2003, which lacks a health exception for women requiring the intact dilation and extraction abortion procedure, is nothing more than an effort to chip away at abortion rights.

3. The Importance of Dilation and Extraction to Women’s Health
*Stephen Chasen et al.*
Seven practicing obstetrician-gynecologists/professors testify that contrary to Congress’s findings, there is no medical consensus against intact dilation and extraction.

4. *Gonzales v. Carhart* Suggests a Strategy for Overturning *Roe v. Wade*
*Steven G. Calabresi*
A constitutional law professor strategizes a way for the pro-life movement to erode the precedential value of *Roe* based on moral grounds and appealing to public opinion, eventually paving the way for its overruling and the outlawing of abortion once again.

5. The Pro-choice Movement Should Adopt a Social Justice Platform
*Rebecca Tuhus-Dubrow*
A journalist suggests that by incorporating concerns about the abuse of reproductive technologies into a pro-choice platform, the movement can shift away from an individual-liberties paradigm toward a social justice orientation in order to keep abortion safe and legal.

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