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Roe V. Wade

Life is a series of choices. The choices that we make define who we are as a person and can possibly dictate the rest of our lives. The decision in Roe V. Wade goes far beyond a woman's right to get an abortion. This is one of the defining moments in the feminist movement in America, and one of the first times in history that we are able to see women attain control in a crucial decision that could impact the rest of their lives forever. The significance of this decision is the right for a woman to choose, which had been previously denied in many areas other than this specific one, as well as a right to privacy and this term being defined and extended.

The fight for women's rights has been a lengthy and ceaseless struggle that goes back for many centuries. The origins of the women's rights movement, however, can be traced back to the Seneca Falls Convention led by Elizabeth Cady Stanton and Lucretia Mott. At this time, the word "choice" was probably a word that was unheard of in a woman's vocabulary. Women were often thought of as inferior beings to men, and incapable of making decisions. After the American Revolution, women were in an uproar. They too had been fighting ceaselessly for freedom from the British, and once this particular freedom was attained, they still felt the bondages of control due to the fact that they had hardly any freedoms themselves under the rule of the men of their own country that they had been fighting alongside this entire time. In Stanton's Declaration of Sentiments, we are able to see exactly how little of a voice women had at this time. Some of the following ways with which women's rights were usurped from them during

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this time period were: women's legal "death" in the eyes of the law once married, the inability to vote, their forceful submission to laws that they did not have a say so in creating, no property rights, subjection to harsh punishment often in the form of beating by their husbands, minimal job opportunities and unequal pay, restraint from entering certain professions, inability to participate in church affairs, and forced dependence on men because the laws did not allow them to have independence for themselves. *Roe v. Wade* is one of the most important court cases in America because, even though abortion does not directly deal with many of the issues discussed above, the correlation between this specific right and the ones listed above lies in the right for a woman to choose and have a voice in something that was important to her, regardless of what that thing was.

Roe V. Wade was a case that originated in Texas when a woman named Jane Roe desired to have an abortion, but was prevented by a Texas law that made abortion illegal except in specific cases where the mother's life was in danger. Jane Roe filed a lawsuit not only on her own behalf but on behalf of the rest of the pregnant women in the same position. "The suit sought to have the Texas abortion law declared unconstitutional as an invasion of her right to privacy as guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments." ("*Roe v. Wade*" 2005). The woman's true name was Norma McCorvey, under the alias Jane Roe in order to maintain her anonymity, and her lawsuit was accompanied by a companion case filed by John and Mary Doe. "The Does claimed that Mary Doe's mental health made pregnancy and birth control pills an undesirable situation and that they wished to have the right to safely terminate a pregnancy if it occurred." (Goss). Hallford, a physician, also joined, claiming

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that he had the right to perform an abortion if one of his patients desired it. The court decision was in favor of McCorvey and the doctor, but not the Does because the court claimed that their lack of pregnancy did not suffice in filing a lawsuit regarding pregnancy and abortion. Originally held in a district court, this court concluded that banning abortion was indeed a violation of the Ninth and Fourteenth Amendments, and that the law was extremely vague, therefore it should be banned. However, they were unwilling to provide injunction relief to stop the enforcement of the laws, therefore the case was appealed to the Supreme Court. The Supreme Court ruled in favor of Roe, due to the correlation of the Ninth Amendment's right to privacy and the Fourteenth Amendment's Due Process Clause. The ruling was that the States could choose to ban or not ban abortions as they pleased after the point of viability. However, the Supreme Court overturned the District Court's decision, stating that Dr. Hallford was in the same situation as the Does, and that he did not have enough merit to file a case.

Two sides have formed out of the decision of this case: Pro-Life and Pro-Choice. Pro-Life Activists believe that no matter what, a human life should be protected. They advocate for the protection of unborn babies, because a fetus is technically considered alive while it is in the mother's womb. Many Pro-Life advocates are motivated by different religious aspects, the health risks involved for women, and the fetal development process. Particularly, the Roman Catholic Church is one of the main opposers of abortion, as it seems to be a direct violation of Christianity and what God has written in the Bible in regards to life and murder. Pro-Choice argues that "in pregnancies prior to the point of viability- a point at which the fetus cannot live outside the womb- the government does not have the right to impede a woman's decision to

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terminate the pregnancy.” (Goss). Many Pro-Choice Activists advocate a choice after pregnancy due to the fact that some women did not have a choice in whether or not they wanted to be impregnated, particularly in cases of rape. There also may be some people who do not agree with abortion but still support the decision made in *Roe v. Wade*. “70% of Americans don’t want to see *Roe v. Wade* overturned, according to surveys from Quinnipiac University and Pew Research.” (“*Roe v. Wade*” 2018). This is due in part to the fact that regardless if it was legal or not, abortions were occurring regardless, and many Americans believed in the importance of woman’s reproductive health and safety. Regardless of your stand on abortion and if it is ethical or not, this case was much more significant in several other ways that are often not seen because people are often blinded by their views on just abortion itself. This case was revolutionary in two areas: women’s rights and privacy. By focusing on these two areas, the importance of these aspects surpasses the importance of the facts of the case of “abortion” itself. The context surrounding the case and the long term impacts of the decision, in fact, have very little to do with abortion itself at all.

One of the major effects of *Roe v. Wade* was seen constitutionally through the aspect of a “right to privacy”. Reproductive choice meant more to women than just that itself: they viewed this as a privacy issue, and as a civil right that was entitled to them as a citizen in the constitution. Although it is not explicitly defined, the idea of privacy is seen throughout the following areas in the Constitution: “... Bill of Rights protections of free speech, assembly, and religious exercise (First Amendment), along with freedom from forced quartering of troops (Third), unreasonable searches and seizures (Fourth), and forced self-incrimination (Fifth)...” (*Roe v. Wade* [1973]). Previously, the right to

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privacy was recognized by the Supreme Court, but weakly defined. Roe v. Wade is a landmark case because it created the foundations of several different privacy rights, and can be used as a defining base for privacy rights to come in the future out of other cases. Direct results from the case in regards to privacy rights were seen in a woman's choice in: her physical health and wellbeing, contraception, her family and marriage, and similar aspects. But, the case has also been used in several different ways to advocate other controversial rights that are prevalent in our society today. There are many examples of a wide diversity of groups who are using Roe v. Wade to promote their claim on controversial topics that exist across America. In society today, the decision made in Roe v. Wade is being used to advocate for two very important and controversial topics: gay marriage and privacy protections for personal information with the rise in innovative technological developments. Both of these issues branch off of the definition of the "right to privacy" defined by Roe v. Wade, in the hopes that this definition will extend to protect even more civil rights as modern issues more prevalent to the time period arise. Regardless on whether or not your viewpoints in these particular topics is Liberal or Conservative, the importance of defining privacy rights and applying them in diverse ways is something that groups on opposite ends of the spectrum view as a necessity. Roe v. Wade is the first Court Case to attempt to do this, and it has been and will continue to be used as the base of the future debates in regards to privacy rights for many years to come.

This case also takes on a different role, particularly for feminist movement, empowering women to take control of their own lives and bodies, and giving them the freedom to choose. This decision has greater internal impacts on women than it may

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seem to appear just by looking at the external impacts. This decision may indeed represent the end of this particular struggle for women and allow them to take control of their own lives and bodies, and have a say so in how their family is run. Previously, men upheld this role, and women were subjected to whatever their husbands told them to do, even if it was entirely against their will. Now, women had the right to refuse and approve certain aspects of intimacy with their husbands, and they also had an impact on the size of their family and the ability to act in a way that is in accordance to what they believe. The decision in this case showed women that speaking out for what they believed in does not always result in harm, and that their voice could indeed be heard and that their opinion mattered and could make a difference in the world. It gave women a stronger sense of self awareness and allowed them to truly be free to become the women that they wanted to be.

The changes that the decision in *Roe v. Wade* have served to divide and unite groups of like-minded people. It has sparked a change in not only the way the Constitution is defined, but it has also changed the voices of women all across America. The most obvious way that it has changed the country is by defining how far the states could actually go when it came to deciding abortion laws. There was a need for a balance between the two extremes of Pro-Life and Pro-Choice. There are limits on how much a state can dictate, but there are also limits when it comes to how much a woman can dictate as well. After the first trimester, it is up to the states to decide whether or not they want to legalize abortion. This checks and balances system holds true to the original intent of the Founders when they drafted the Constitution. Not one group has too much power. The legal abortion rates in America also were affected by this decision.

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“Abortion rates climbed after the decision, a trend that started in the late 1960s, as states began literalizing abortion laws. The abortion rate has now been declining since the 1980s and hit an all-time low in 2010...” (Kliff). States also have begun to pass even more abortion restrictions. On either side of the spectrum, people have united together to tirelessly fight for the cause with which they believe in against those who have united together for the opposite beliefs, and protests occur regularly, particularly outside of Planned Parenthood facilities.

In summation, *Roe v. Wade* is much more than just a case ruling in favor of abortion. Whether you believe in abortion or not, you can not neglect to see the ways in which this case has drastically impacted the United States and its citizens. The Constitutional significance of this case has made it a landmark case with important historical and present significance in the area of privacy rights for American Citizens. It also serves as perhaps the most defining moment in the second wave of the feminist movement, as it gave women two things that they rarely got the privilege of having before: a choice and a voice.

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Works Cited

"Roe v. Wade." West's Encyclopedia of American Law. . Encyclopedia.com. 25 Mar. 2018 <<http://www.encyclopedia.com>>.

Goss, Jennifer L. "Why Is Roe v. Wade So Important?" ThoughtCo, 17 Mar. 2017, www.thoughtco.com/roe-v-wade-abortion-rights-1779383.

"Roe v. Wade." Planned Parenthood Action Fund, 2018, www.plannedparenthoodaction.org/issues/abortion/roe-v-wade.

"Roe v. Wade (1973)." Bill of Rights Institute, 2018, www.billofrightsinstitute.org/educate/educator-resources/lessons-plans/landmark-supreme-court-cases-elessons/roe-v-wade-1973/.

Kliff, Sarah. "Thirteen Charts That Explain How Roe v. Wade Changed Abortion Rights." The Washington Post, WP Company, 22 Jan. 2014, www.washingtonpost.com/news/wonk/wp/2014/01/22/thirteen-charts-that-explain-how-roe-v-wade-changed-abortion-rights/?utm_term=.1fd069ab6aa6.