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Abortionists Finally Admit the Truth–They Fear Democracy

The judicial imposition of the Culture of Death will forever remain one of the great tragedies of American history. Abortion on demand was not made legal in this nation by an act of the people through their elected representatives, nor was it forced by a referendum or popular vote. To the contrary, abortion was legalized in all fifty states only when the United States Supreme Court invented a constitutional right to abortion and imposed its will upon the people of the United States. This arrogant act, rightly defined as the judicial usurpation of the democratic process, is not only foreign to the intention of our Constitutional founders, it is also subversive of the very idea of democracy itself. Now, in a shocking development, the abortion rights movement has published an absolute admission of its anti-democratic ideology. "What If Roe Fell?" is a major report just released by the Center for Reproductive Rights. The report features a state-by-state analysis of how state governments would respond to an overturn of Roe v. Wade. The report offers a fascinating look into the world of state legislation, and an even more fascinating look into the mentality of the Culture of Death.

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Formerly known as the Center for Reproductive Law and Policy, the Center for Reproductive Rights claims to be "the leading legal advocacy organization dedicated to promoting and defending women's reproductive rights worldwide." The Center begins its report with this ominous warning: "There is perhaps no political issue more volatile in the United States than abortion, no Supreme Court ruling subject to such a well-organized and well-funded attack as Roe v. Wade. Since it was decided in 1973, Roe has been under constant attack. Since 1995 alone, state legislatures have enacted 380 measures restricting abortion, and in November 2003, Congress passed the first-ever federal ban on abortion procedures. Anti-choice forces are counting on new appointments to the Supreme Court in the next few years to totally overturn Roe." Having established that scenario, the Center then moved to consider how each state would respond to Roe's overturn.

Of course, a Supreme Court decision overturning Roe v. Wade would not in itself bring abortion to an end in all states. As the report indicates, "a reversal of Roe would remove federal constitutional protection for a woman's right to choose and give the states the power to set abortion policy." State-imposed limitations could run the gamut from mild measures dealing only with procedural matters to outright bans on abortion under most circumstances. The Center also warns that Congress might also move to ban abortions if Roe is overturned.

More likely, the Center suggests that the overturning of Roe "would result in a patchwork of rights in which women seeking abortions would be strongly protected in some states and completely denied the right in others, with different levels of protection in between."

Nancy Northup, the Center's president, told the Associated Press, "The building blocks are already in place to recriminalize abortion."

The report makes for fascinating reading. According to their analysis, "only 20 states would likely protect women against the enforcement of abortion bans." These states have adequate legal protections in place, without reference to Roe v. Wade. Beyond this, these states are also likely to have legislatures friendly to abortion rights and resistant to any curtailment of abortion access.

Of course, this leaves thirty states where, according to the Center's analysis, abortion rights are likely to be curtailed or eliminated. Some of these states have pre-Roe abortion bans that could be revived in the event Roe v. Wade is overturned. Beyond this, several of these states have legislatures or governors–or both–that are opposed to abortion and would be expected to act accordingly in the event the judicially-imposed right to abortion falls. As Northup stated in a press release released by the Center for Reproductive Rights, "Anyone who thinks abortion will still be legal in most states across this country after a Roe reversal hasn't been paying attention. This is a wake-up call to women and men who support the right to have an abortion–in a relatively short period of time, women in more than half the country are in jeopardy of losing their right to choose."

The Center identifies twenty-one states that are "high risk" for enacting laws against abortion. These states include Alabama, Arkansas, Colorado, Delaware, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, and Wisconsin. At "middle risk" are the states of Arizona, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, New Hampshire, and Pennsylvania. At lower risk, with abortion rights "likely protected," are Alaska, California, Connecticut, Florida, Hawaii, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Vermont, Washington, West Virginia, and Wyoming.

Going beyond a state-by-state analysis, the report suggests possible scenarios for the curtailment of abortion rights in various states. "Imagine that your sister is living in Alabama and has an appointment to obtain a first trimester abortion. Would she be able to get it? No. State officials could begin immediately to enforce Alabama's pre-Roe abortion ban that remains on the books and has never been enjoined by a court. If you live in a state such as Mississippi, Michigan, or Rhode Island, "where pre-Roe abortion bans have been blocked since shortly after the Roe decision," you are likely to find that state officials will "rush to court to lift the injunctions and begin enforcing the laws." The report goes on to suggest that these state officials would probably succeed in their efforts.

The report also contemplated a post-Roe scenario in the state of Nebraska. If your daughter lives in Nebraska, and the legislature is in session, she had better hurry to get an abortion, the report urges. "Nebraska has no ban on the books, but the legislature has never met an abortion restriction it didn't like." Nebraska has already adopted a statute deploring the destruction of unborn human life in Nebraska, "and is poised to enact a new ban on abortion if Roe is overturned."

"What If Roe Fell?" offers abortion supporters a comforting analysis when looking at states like California, which has enacted both constitutional and statutory protections for abortion. But the report reflects absolute panic in dealing with states like Kentucky, Indiana, and Ohio. Ohio, for example, has elected both a pro-life legislative majority and a pro-life governor. Therefore, Ohio "is likely to ban abortion if Roe is overturned."

In the press materials released by the Center for Reproductive Rights, several legislative strategies are targeted for opposition. These include outright bans on abortion procedures, such as the Partial Birth Abortion Ban Act of 2003. Other laws intended to restrict abortion include parental notification laws that would, according to the Center, "restrict a minor's access to abortion." Beyond this, some states have adopted legislation requiring mandatory delays and counseling for women seeking abortions. Other measures, known as "TRAP laws," seek to impose "targeted regulations on abortion providers." These laws cover matters ranging from medical safety statutes to reporting requirements. According to the Center, "TRAP laws are designed to effectively put the abortion facility out of business."

The Center for Reproductive Rights spends most of its time combating these legislative strategies and contesting such laws in court. This new report is further proof that it is the Roe v. Wade decision that provides abortion-rights advocates with cover and protection.

This report is nothing less than an unconditional admission that abortion rights exist in this country by mere judicial fiat and not by the will of the people. This conclusion–forced by the evidence and now formalized in this report–calls into question the very viability of the American experiment. Over thirty years after the U.S. Supreme Court handed down the Roe v. Wade decision, the people of this nation are still not trusted to settle the question of abortion by democratic means.

Why? Because, as this report makes transparently clear, the American people would–at least in a majority of states–move to limit a woman's "right" to an abortion.

Hadley Arkes, Edward Ney Professor of American Institutions at Amherst College, insists that, in the founders' constitutional vision, "the restraint of judges was bound up in the morality of a democratic regime."

Without this restraint, judges would be turned into "legislators in robes," exercising a trumping power. These robed "legislators" would not be elected to office, and they would not "have to suffer the torments of running for reelection."

With this in mind, Professor Arkes, one of America's leading experts on constitutional law, provides an eloquent warning of an overly-ambitious and unrestrained judiciary. "This kind of power, exercised by unelected judges, had been understood from the beginning as a power that was deeply problematic in a republic, in a government that rested on the consent of the governed. The sense of propriety, arising from the character of the regime, was that judges in a democracy should be obliged then to work under a distinct discipline that would confine their judgments and the reach of their power. "

Arkes points to the "new jurisprudence" represented now in our federal courts. This new jurisprudence "reaches its completion by detaching itself from every premise necessary to the notion of lawfulness. It rejects the logic of natural rights; it denies that any of us has rights of intrinsic dignity because it denies that there is any such intrinsic dignity attaching to any human being, as the subject and object of the law."

The Center for Reproductive Rights has provided us with an analysis that damns their own cause and reveals their own weakness. The only important question left remaining is this: How long will Americans accept the undemocratic judicial imposition of abortion on demand?

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