

# Primary Source

## *Dobbs v. Jackson Women's Health Organization (2022) Majority and Dissenting Opinions*

### **Justice Samuel Alito's Majority Opinion**

“Abortion presents a profound moral issue on which Americans hold sharply conflicting views. Some believe fervently that a human person comes into being at conception and that abortion ends an innocent life. Others feel just as strongly that any regulation of abortion invades a woman’s right to control her own body and prevents women from achieving full equality. Still others in a third group think that abortion should be allowed under some but not all circumstances, and those within this group hold a variety of views about the particular restrictions that should be imposed. For the first 185 years after the adoption of the Constitution, each State was permitted to address this issue in accordance with the views of its citizens. Then, in 1973, this Court decided *Roe v. Wade*. Even though the Constitution makes no mention of abortion, the Court held that it confers a broad right to obtain one. It did not claim that American law or the common law had ever recognized such a right, and its survey of history ranged from the constitutionally irrelevant (e.g., its discussion of abortion in antiquity) to the plainly incorrect (e.g., its assertion that abortion was probably never a crime under the common law). After cataloging a wealth of other information having no bearing on the meaning of the Constitution, the opinion concluded with a numbered set of rules much like those that might be found in a statute enacted by a legislature...

We hold that *Roe*...must be overruled. The Constitution makes no reference to abortion, and no such right is implicitly protected by any constitutional provision, including the one on which the defenders of *Roe*...now chiefly rely—the Due Process Clause of the Fourteenth Amendment. That provision has been held to guarantee some rights that are not mentioned in the Constitution, but any such right must be “deeply rooted in this Nation’s history and tradition” and “implicit in the concept of ordered liberty.” The right to abortion does not fall within this category.”

## Justice Stephen Breyer, Justice Sonia Sotomayor, and Justice Elena Kagan's Dissenting Opinion

“For half a century, *Roe v. Wade*...protected the liberty and equality of women. *Roe* held...that the Constitution safeguards a woman's right to decide for herself whether to bear a child. *Roe* held...that in the first stages of pregnancy, the government could not make that choice for women. The government could not control a woman's body or the course of a woman's life: It could not determine what the woman's future would be...Respecting a woman as an autonomous being, and granting her full equality, meant giving her substantial choice over this most personal and most consequential of all life decisions...

Today, the Court...says that from the very moment of fertilization, a woman has no rights to speak of. A State can force her to bring a pregnancy to term, even at the steepest personal and familial costs. An abortion restriction, the majority holds, is permissible whenever rational, the lowest level of scrutiny known to the law. And because, as the Court has often stated, protecting fetal life is rational, States will feel free to enact all manner of restrictions...

Whatever the exact scope of the coming laws, one result of today's decision is certain: the curtailment of women's rights, and of their status as free and equal citizens. Yesterday, the Constitution guaranteed that a woman confronted with an unplanned pregnancy could (within reasonable limits) make her own decision about whether to bear a child, with all the life-transforming consequences that act involves...As of today, this Court holds, a State can always force a woman to give birth, prohibiting even the earliest abortions...The Constitution will, today's majority holds, provide no shield, despite its guarantees of liberty and equality for all.”