

# ***Reevaluating the Constitutionality of Abortion: Can U.S. Jurisprudence Truly Protect Women's Interests in a Post-Roe America?***

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**Abstract:** This Article examines the U.S. Supreme Court's evolving constitutional frameworks for abortion rights. It traces the shift from *Roe v. Wade*'s privacy-based rationale to *Planned Parenthood v. Casey*'s undue burden standard. While *Roe* and *Casey* attempted to balance state interests with women's reproductive autonomy, they ultimately fell short of fully addressing the unique social, economic, and psychological burdens women face. *Dobbs v. Jackson Women's Health Organization* introduced a historical tradition approach, rejecting this balancing test and returning regulatory power to states. This decision undermines women's autonomy and complicates democratic access, particularly for marginalized groups. Recognizing the limitations of *Roe* and *Casey* in fully protecting women's equality and critiquing *Dobbs*' unbalanced historical focus, this Article proposes a new framework that prioritizes women's needs. Drawing on international perspectives, such as Japan's emphasis on family and societal welfare, it argues that centering women's lived experiences, including the often-overlooked burdens of motherhood, is essential for crafting a reproductive rights model that balances individual autonomy with social equity.

**Keywords:** Abortion Rights, Privacy Framework, Balance of Interests, Reproductive Justice, Constitutional Interpretation.

## **1. Introduction**

Abortion, long a contentious issue within the U.S. Supreme Court, raises profound legal and moral questions that resonate across the world. In the landmark cases of *Roe v. Wade* and *Planned Parenthood v. Casey*, the Court recognized abortion as a constitutionally protected right under the right to privacy, shaping the framework for reproductive autonomy in America. These decisions sought to balance a woman's liberty with the state's interest in protecting potential life, introducing complex layers of jurisprudence. However, with *Dobbs v. Jackson Women's Health Organization*, the Court shifted its stance, grounding its reasoning in history and tradition to overturn *Roe* and *Casey* and returning abortion rights to individual states. This departure sparked new debates, challenging the foundational principles on which prior rulings rested and inviting scrutiny of how state interests and personal liberties should be reconciled in such matters.

This paper delves into these three judgements *Roe*, *Casey*, and *Dobbs*—to examine their evolving constitutional interpretations, balancing approaches, and the shifting focus on women's rights. By comparing the privacy-based rationale in *Roe*, the “undue burden” standard in *Casey*, and the historical analysis in *Dobbs*, this paper explores the consequences of abandoning frameworks that considered a woman's right to autonomy. This paper is divided into five parts beginning with this Introduction. Part II presents a retroactive analysis of each case, detailing their main arguments and limitations. Part III assesses how each ruling addressed (or failed to address) the real-life impacts of pregnancy on women, especially socioeconomic and psychological burdens. Part IV offers a perspective on balancing state interests with women's rights in abortion policy, highlighting how global perspectives, including those from Japan, emphasize family welfare and societal stability over purely individual or state interests. Through this analysis, I argue for an approach that transcends rigid legal doctrines, advocating instead for one that better reflects the full complexity of reproductive rights and responsibilities. Finally, Part V brings together the results of my analysis.

## 2. A Retroactive Analysis of the Constitutionality of Abortion

Examining the right to privacy is a crucial step in determining the constitutional basis of abortion rights, as recognized in *Roe v. Wade* (1973) [1] and later overturned by *Dobbs v. Jackson Women's Health Organization* (2022) [2]. Starting with *Griswold v. Connecticut*, the U.S. Supreme Court broadened the interpretation of the right to privacy by recognizing a constitutional right to marital privacy, establishing that states could not prevent married couples from using contraceptives [3]. In *Eisenstadt v. Baird*, the Supreme Court further expanded the right to privacy to include unmarried individuals, respecting individual autonomy in reproductive matters. Since *Griswold*, the Court has formulated a group of privacy interests which are to be weighed against state interests in determining whether to offer protection, as shown in *Roe* [3].

### 2.1. Establishing Abortion Rights through the Protection of Privacy in *Roe v. Wade*

In *Roe v. Wade* [1], the U.S. Supreme Court expanded the privacy rights previously recognized in *Griswold v. Connecticut* [4] to cover a woman's right to abortion. Although the Constitution does not specifically refer to abortion, the Court determined that abortion was encompassed within the privacy rights as a fundamental right implied in the Fourteenth and Ninth Amendments. The holding rejected the idea of regarding a fetus as a “person” under the Fourteenth Amendment, clarifying that the term applies only postnatally, and legal abortion practices were more common during the drafting of the amendment. Accordingly, *Roe* recognized that decisions about whether to carry a pregnancy to term were fundamental to individual liberty, weighing this privacy interest against the state's interest in protecting potential life.

The Supreme Court established a framework for analyzing abortion regulations, applying a more stringent standard than the rational basis test usually used for legislations that are closely associated with civilians' social life. It determined that the state's interests in protecting the health of the mother and potential fetal life become compelling at certain stages of pregnancy. During the first trimester, the decision to terminate a pregnancy solely lies in the mother's will without state interference. However, in the second trimester, the state may only permit abortion to preserve maternal health. After fetal viability, states would prohibit abortion except when it is necessary to protect the mother's life or health.

The Supreme Court chose to avoid determining when life begins as a matter of law, given no agreement could be reached among medical, philosophical, and theological experts. Instead, it regards viability—the stage at which the fetus can survive outside the womb—as the key point for allowing state intervention. The ruling also underscored that abortion decisions were primarily medical and

should be guided by physicians' professional judgment. The Court's decision sought to balance plural interests among the regulating state's interest in potential life, women's rights to privacy, individual autonomy, and women's health, taking into account legal, medical, and historical contexts.

The Supreme Court's decision in *Roe v. Wade* to ground the right to abortion in the concept of privacy, as implied by the Due Process Clause, was a strategic and historically reasonable choice given the contentious nature of abortion in American society. During the 1970s, abortion was already a highly polarized issue. Privacy rights had already garnered legal legitimacy in personal decision-making contexts, such as marriage and contraception, which made expanding this interpretation to include abortion less contentious than attempting to base the decision on gender equality or the Equal Protection Clause at a time when gender equality was still a heavily debated subject.

However, the right to abortion in *Roe v. Wade* has been widely criticized for not fitting within the traditional logic of the right to privacy. The right to privacy, as articulated in *Griswold v. Connecticut* and *Eisenstadt v. Baird*, focuses on personal, intimate decisions such as contraception or marital privacy, which do not involve the termination of existing pregnancies through third party personnel and the moral opposition of protecting the life of the fetus [5]. Abortion, however, is a medical procedure involving healthcare providers and the potential life of a fetus, which complicates the idea of privacy in the way *Roe* applied it. Despite the purposes to prevent childbirth behind the right to contraceptives and the right to abortion being similar, the two are fundamentally different. Abortion involves the termination of an existing pregnancy, whereas contraceptives prevent pregnancy from occurring. In *Griswold v. Connecticut*, Justice Harlan, in his concurring opinion, explained that the use of contraceptives is protected by the right to privacy because it pertains to "conduct of the most intimate concerns of an individual's personal life" [4].

Professor Jeannie Suk of Harvard Law School highlights that *Griswold* drew upon a common law concept: the private nature of the marital relationship should not be subject to state interference [6]. This principle has served as the foundation for the constitutional right to privacy, regarding marriage as the focal point. However, the notion that privacy rights were grounded in the marital relationship was overturned in *Eisenstadt*, where the Court ruled that the right to privacy "inheres in the individual, not the marital couple" [7]. As Justice Brennan observed, "If the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child". This statement suggests a significant shift: it frames the decision of whether to bear or beget a child as an individual right, which is not necessarily related to sexual behavior or marital privacy. As a result, it introduces the potential involvement of a fetus or child into the discussion, extending reproductive rights beyond the logic of sexual privacy and into the realm of reproductive justice. This shift marks a critical expansion in how the right to privacy is understood, emphasizing the individual's autonomy in decisions about reproduction, which carries profound legal and ethical implications.

The lack of clarification of how the right to privacy could be extended to include abortion, makes it an unsuitable foundation for resolving the deeply debatable issue of abortion. Privacy, as Justice Rehnquist pointed out in his *Roe* dissent, is not explicitly defined in the Constitution and its application to abortion is a significant stretch. The *Roe* decision relied heavily on the penumbras of the Constitution, which critics argue are vague and difficult to interpret consistently. The Supreme Court itself has struggled with the limits of the right to privacy, as seen in *Bowers v. Hardwick* (1986) [8], where it refused to extend privacy protections to homosexual acts, only to overturn that decision years later in *Lawrence v. Texas* (2003) [9]. This inconsistency highlights how the scope of the right to privacy can be too vague and contested to effectively protect abortion rights, leaving room for legal challenges and potential overturning. However, it is important to note that, given the historical circumstance of *Roe*, its ruling might be reasonable to its time, considering the prevailing social movements around women's rights, evolving views on reproductive autonomy, and the legal

precedent of privacy established by cases such as *Griswold v. Connecticut* and *Eisenstadt v. Baird*. The Court sought to balance individual liberty with state interests, reflecting the broader legal and cultural shifts of the 1970s.

## **2.2. Modifying the Standard: The Undue Burden Test in *Planned Parenthood v. Casey***

In *Planned Parenthood v. Casey* (1992) [10], the Supreme Court reaffirmed the core holding of *Roe v. Wade* while modifying the standard for evaluating abortion regulations. Instead of the "viability" test, the Court adopted the "undue burden" standard. The case arose from Pennsylvania amended abortion laws, which included informed consent, a 24-hour waiting period, parental consent for minors (with judicial bypass), spousal notification, and reporting requirements. The Court upheld most of these provisions except spousal notification, which was deemed an undue burden. The decision allowed states to regulate abortions pre-viability as long as the regulations did not impose substantial obstacles to a woman's right to choose.

In *Roe v. Wade*, the Court balanced the state's interest in protecting maternal health and potential life using the trimester framework. Pre-viability abortion restrictions were subject to strict scrutiny, requiring them to be narrowly tailored to serve compelling state interests. *Casey*, however, introduced the undue burden standard to evaluate pre-viability abortion restrictions. This standard rejected the trimester framework, arguing it misconstrued the pregnant woman's interests and undervalued the state's interest in potential life.

The woman's right, as Metzger explained, is "[the] right to make the ultimate decision, not to be insulated from all others in doing so" [11]. Under the undue burden standard, a regulation is unconstitutional if it imposes a substantial obstacle on a woman seeking an abortion, either in intent or effect. While controversial, this standard became the primary method for reviewing abortion laws. It replaced *Roe*'s stricter scrutiny with a more nuanced, case-by-case analysis, significantly weakening the reproductive rights granted by *Roe v. Wade* and allowing for greater state regulation of pre-viability abortions [10].

In *Casey*, the Supreme Court significantly shifted the balance by acknowledging the state's interest in protecting fetal life throughout pregnancy, not just after viability. Justice O'Connor argued that *Roe*'s trimester framework failed to recognize the state's legitimate interest in protecting potential life at all stages of pregnancy, even before viability. By abandoning *Roe*'s rigid framework, *Casey* permitted states to express a preference for childbirth over abortion and take measures to inform and influence a woman's decision, as long as these measures did not constitute substantial obstacles [12]. The Court reasoned that, while a woman retains the right to terminate her pregnancy before viability, the government can ensure that her choice was "thoughtful and informed." This included allowing states to provide women with information about alternatives such as adoption or welfare services to encourage childbirth over abortion.

## **2.3. Would it be better? You choose: Rejecting Abortion Rights through a Historical Approach in *Dobbs v. Jackson Women's Health Organization***

In *Dobbs v. Jackson Women's Health Organization* (2022) [2], the Supreme Court overturned both *Roe v. Wade* and *Planned Parenthood v. Casey*, effectively eliminating the federal constitutional right to abortion. The case stemmed from Mississippi's Gestational Age Act, which banned most abortions after 15 weeks of pregnancy except in cases of medical emergency or severe fetal abnormality. The Court held that the Constitution does not confer a right to abortion, arguing that the Due Process Clause of the 14th Amendment protects only rights explicitly stated in the Constitution or "deeply rooted in U.S. history and tradition" [13].

The majority opinion rejected the idea that abortion access is deeply rooted in American history and tradition, noting its historical criminalization. They rejected the argument that it could be protected by the right to privacy, which is recognized as fundamental to ordered liberty. The majority also disregarded the principle of stare decisis, refusing to uphold *Roe*, *Casey*, or subsequent cases that relied on them as precedent. The *Dobbs* ruling replaced the viability and undue burden standards with a rational basis review, a less stringent standard that presumes state abortion regulations to be valid. This allows states to regulate or restrict abortion as long as the laws are rationally related to a legitimate state interest. In a dissenting opinion, Justices Breyer, Sotomayor, and Kagan, argued that overturning nearly 50 years of precedent disregards individual rights, especially those of women, and undermines the Court's legitimacy. They criticized the majority for ignoring the constitutional protections of women's liberty and equality and warned of the potential far-reaching consequences of this decision.

In *Dobbs*, the Court heavily relies on the "deeply rooted" concept to define fundamental rights, overlooking other potential interpretations. This approach reflects an overly conservative interpretation, as the Court neglects the historical reality that many fundamental rights were once highly regulated or denied altogether [14]. For instance, the right to interracial marriage, contraception, same-sex marriage, and parental rights have all, at various points, faced significant legal barriers, yet they were ultimately recognized as fundamental. Even the Second Amendment right to bear arms, as seen in *McDonald v. City of Chicago*, was deemed deeply rooted despite a history of regulation and criminalization. This suggests that fundamental rights do not require an unbroken tradition of enjoyment but instead demand a recognition of the broader historical context and evolving societal values.

Furthermore, the Court's approach in *Dobbs* contradicts the pluralist version of the "History and Tradition" test, which recognizes that tradition is not static but can evolve as society progresses [14]. Cases, such as *Moore v. City of East Cleveland*, exemplifies this approach, where the Court acknowledged that societal values could adapt to accommodate changing circumstances and the inclusion of previously marginalized groups [14]. This flexible understanding of history and tradition allows for the recognition of fundamental rights that align with modern interpretations of liberty and equality. In contrast, *Dobbs* imposes a unitary and static view, failing to acknowledge that fundamental rights should reflect both the lessons of the past and the evolving principles of justice and liberty in contemporary society.

In their dissenting opinion, Justices Breyer, Sotomayor, and Kagan pointed out the fundamental flaw in the Court's originalist interpretation of the 14th Amendment. The majority claim that "three-quarters of the States made abortion a crime at all stages of pregnancy" when the 14th Amendment was ratified is inaccurate. In reality, only about 16 states—far fewer than the 28 claimed by the *Dobbs* majority—banned abortion at all stages of pregnancy in 1868 [15]. This significant discrepancy undermines the core of the majority's reasoning, which emphasized this alleged historical consensus to argue that a right to abortion is not "deeply rooted in this Nation's history and tradition."

Furthermore, the majority's selective use of history disregards the fact that, in early American history, pre-quickening abortions (those performed before fetal movement at around 16 to 18 weeks) were widely permitted, reflecting a deeply rooted liberty interest. As the *Dobbs* majority itself admitted, "many states in the late 18th and early 19th century did not criminalize pre-quickening abortions" [15]. This undermines the notion that abortion bans at all stages of pregnancy were the prevailing norm at the time of the 14th Amendment's ratification. Therefore, the claim that the Amendment was adopted in a backdrop of uniform abortion bans is inaccurate and misleading.

The majority also erred in counting states such as Alabama, Nebraska, Louisiana, and Oregon as having banned abortion at all stages, when in fact, these states either adhered to the common law rule punishing only post-quickening abortions or only banned abortion through specific methods, such as

poisoning, while allowing other procedures [15]. These factual inaccuracies demonstrate that the majority's historical analysis was not only selective but also fundamentally flawed.

The flaws in the Court's historical and tradition-based reasoning in *Dobbs* become even more apparent when considering the majority's contradictory claims about the broader impact of their decision. While the majority asserts that the *Dobbs* ruling does not threaten other constitutional rights, such as contraception or same-sex marriage, this position is undermined by the logic of their own decision. The majority's reliance on a rigid historical analysis, which dismisses a woman's right to choose simply because it was not protected in the 19th century, ignores the fact that many other rights, such as interracial marriage (*Loving v. Virginia*), same-sex marriage (*Obergefell v. Hodges*), and the right to contraception (*Griswold v. Connecticut*), were also not historically protected [2].

If the historical approach used in *Dobbs* were applied consistently, these rights could also be called into question, as noted in Justice Thomas's concurring opinion, where he explicitly stated that cases such as *Griswold* and *Obergefell* should be reconsidered under the same logic [2]. This contradiction demonstrates the problem with the *Dobbs* Court's historical approach, as it selectively applies history in a way that disregards the evolving nature of liberty and equality under the Fourteenth Amendment, thereby undermining their claim that other fundamental rights are safe from future challenges.

### 3. Centering Women's Autonomy: Rethinking the Balance of Interests in Abortion Rights

In U.S. legal practice, all roads lead back to the Constitution. When evaluating the constitutionality of abortion rights, whether grounded in privacy, due process in the Fourteenth Amendment, or future constitutional arguments, a central question inevitably emerges: How do we balance the competing interests? Specifically, how do we reconcile the state's regulatory interests with the interests of the pregnant woman, the unborn child, the father, and other significantly impacted parties? Among these groups, the pregnant woman is arguably the most directly affected by anti-abortion laws. Ironically, though paramount, her interests have been largely overlooked in the U.S. legal framework. Even in landmark decisions, such as *Roe v. Wade* and *Planned Parenthood v. Casey*, where the Supreme Court supported abortion rights, the jurisprudence relied on principles of privacy and liberty rather than an in-depth consideration of women's specific, personal interests.

#### 3.1. Missed Considerations: Judicial Neglect of Women's Interests

##### 3.1.1. The Shift in *Dobbs*: Abandoning the Balance of Interests Test for a Historical Approach

In *Roe* and *Casey*, the Court recognized the complex nature of abortion by balancing a woman's right to privacy and liberty against the state's legitimate interest in protecting potential life, especially after fetal viability. This balancing framework allowed for varying degrees of state intervention at different stages of pregnancy, with the state's authority increasing as the pregnancy progressed and the fetus approached viability. Crucially, this approach did not prioritize one interest over the other; both had to be considered and weighed against each other.

The *Dobbs* majority abandoned the balancing framework established in *Roe* and *Casey* by focusing solely on whether abortion is "deeply rooted in the history and traditions" of the United States. Since abortion was not historically protected in the 19th century and was often criminalized by the time the 14th Amendment was ratified, the majority concluded that there was no constitutional basis for recognizing a right to abortion under the Due Process Clause. This historical approach replaced the previous focus on balancing state interests with women's liberty and equality. The Court also argued that abortion is distinct from other privacy rights, such as marriage or contraception, because it involves the destruction of a "potential life." This distinction, they claimed, justified rejecting the need to balance a woman's rights with the state's interest, allowing states to regulate or ban abortion without further constitutional justification.



In *Dobbs*, the majority discarded the balancing framework by effectively stripping the woman's liberty interests of any constitutional weight. The majority failed to engage with the profound impact that forced childbirth can have on a woman's life, future, and bodily autonomy. The majority, as the dissent points out, "scoffs" at the idea of balancing, favoring a one-sided approach that prioritizes the state's interest in protecting potential life over women's rights. The dissent also notes that "the majority takes pride in not expressing a view 'about the status of the fetus'" [2], and criticizes *Roe* and *Casey*'s balancing approach for addressing the complexities of both the "potential life" and the women's rights. This rejection of balance means the woman's interests are no longer constitutionally significant, effectively erasing the nuanced framework that had existed for 50 years [2]. The majority's reasoning rests on a rigid historical perspective, which prioritizes the state's interest in protecting potential life while dismissing the need to weigh that interest against the rights and equality of women.

The balancing approach used in *Roe* and *Casey*, while not without flaws, was essential because it recognized the legitimate and competing interests of both the state's interest in protecting potential life and the woman in exercising her liberty. The *Dobbs* majority's decision to discard this framework overlooks the fact that the protection of potential life does not negate the importance of a woman's rights. As the dissent argues, *Roe* and *Casey* sought to navigate the "difficult and disputed ground" of abortion, acknowledging that "opposing views" on the issue stem from diverse "experiences, values, and religious training" [2]. The balancing approach was designed to accommodate these complexities, allowing the state to protect potential life while ensuring women retained autonomy over their bodies, particularly in the early stages of pregnancy. By rejecting this balance, *Dobbs* ignores the reality that both interests must be considered and reconciled, especially in a decision as consequential as abortion. As the dissent notes, the majority fails to recognize that the absence of this balance not only erases women's rights but also creates a legal landscape where the state's interest can completely overshadow individual liberty [2].

It is important to note that the *Dobbs* decision did not outright deny women all rights in the abortion context, but rather established that women's liberty interests in abortion are not protected by the Constitution. The majority reasoned that it is up to individual states to decide, through democratic deliberation, whether and how women's interests should be considered. While the majority emphasizes that women are not without political power, suggesting they can influence state laws through voting and running for office, this perspective oversimplifies the systemic barriers that women—particularly those from marginalized communities—face in fully engaging with the democratic process. These barriers make it extremely difficult for women to fully advocate for their interests, highlighting the necessity of constitutional protections to ensure that their interests are consistently considered. By leaving such critical decisions to state legislatures, *Dobbs* overlooks significant disparities in representation, political influence, and participation that limit women's ability to effectively advocate for their rights. The assumption that democratic deliberation alone can safeguard women's interests is critically flawed due to the existing inequalities in political representation, particularly for women of color, low-income women, and those living in states with restrictive abortion laws.

### 3.1.2. The Impact of *Dobbs* on Democratic Access and Representation in Abortion Rights

The *Dobbs* decision's reliance on democratic deliberation to leave abortion rights to state legislatures overlooks the profound barriers that marginalized communities face in engaging with the democratic process [16]. For instance, although women are more likely to register and vote than men, their representation in legislative bodies tells a different story. Women only occupy 32.8% of state legislative seats across the U.S., with states such as Mississippi, where *Dobbs* originated, having a mere 15.5% representation of women in the state legislature [17]. Such underrepresentation

undermines the validity of leaving crucial decisions such as abortion access to state legislatures that do not proportionally represent women's interests.

At the federal level, women's representation remains similarly inadequate. Only 25 women currently serve in the U.S. Senate [18], and 126 in the House of Representatives, comprising about a quarter of each chamber [19]. Even when women attain office, they tend to be significantly older than their male counterparts, often entering politics later in life after raising children [16]. This gap in both representation and the age at which women enter office reflects broader societal expectations placed on women and highlights their delayed access to political power. Additionally, in areas surrounding political decision-making, such as lobbying and campaign donations, women remain severely underrepresented [16]. For instance, women accounted for only 37% of lobbyists in Washington [20], and in state legislative elections, men out-donated women by a 2:1 ratio [21], further hindering women's influence over political outcomes.

This disparity in political power is not just a numerical problem but has tangible effects on policy outcomes. Research shows a direct correlation between women's representation in legislatures and the permissiveness of abortion policies, with higher percentages of women in government resulting in more protective abortion laws [16]. The *Dobbs* Court's assumption that women can rely on democratic processes to protect their rights ignores these systemic inequalities and overlooks how political structures often fail to reflect the voices of those most affected by the policies being debated. By leaving decisions about abortion to underrepresented and gerrymandered state legislatures, the *Dobbs* decision perpetuates a democratic deficit that disproportionately harms women, especially those in marginalized communities.

The *Dobbs* decision's reliance on democratic deliberation to leave abortion rights to state legislatures also overlooks the profound barriers that women who experience multiple layers of marginalization, including those based on race, class, and geography face in engaging with the democratic process. In states such as Mississippi, for example, racial polarization and restrictive abortion laws severely limit the ability of women of color, particularly Black women who account for 80% of all abortions in the state [22]. This problem is exacerbated by the stark racial divide in political representation and voting patterns; in the 2020 presidential election, 85% of White voters supported Trump, while 94% of Black voters chose Biden [23]. Such polarization makes it difficult for Black women to build effective coalitions with White women to advocate for reproductive rights, thus rendering the democratic process ineffective in protecting their interests. This disparity highlights the fundamental flaw in assuming that democratic deliberation is an adequate means of ensuring reproductive justice.

By relegating abortion rights to state legislatures, the *Dobbs* decision overlooks the historical reality that reproductive control has long been wielded as a tool of oppression against marginalized groups, reinforcing existing hierarchies of race, class, and gender. Critically, Justice Stevens's objection to unfettered majority rule in *Griswold* emphasized that certain issues, especially those concerning fundamental rights and liberties, should not be left to the whims of a transient majority, as the Court has a duty to protect individual freedoms from majoritarian encroachment: "no individual should be compelled to surrender the freedom to make that decision for herself simply because her 'value preferences' are not shared by the majority" [16]. Thus, by framing abortion as a matter best suited for democratic debate, *Dobbs* risks undermining the protection of essential liberties and compromising the ability of marginalized women to exercise control over their reproductive lives.

Ultimately, the *Dobbs* decision fails to acknowledge the inherent limitations and inequities of leaving abortion rights to democratic deliberation. This approach disregards the intersectional dimensions of reproductive justice and ignores the structural barriers that prevent marginalized women from participating fully and equitably in the democratic process. The barriers in the democratic deliberation process for women make it nearly impossible for them to fully advocate for



their interests, highlighting the necessity of constitutional protection to ensure that women's interests are consistently considered. As such, the *Dobbs* decision perpetuates a legal framework that compromises the rights and autonomy of the most vulnerable members of society, failing to protect the very liberties that the Constitution seeks to guarantee.

### 3.1.3. Omissions of Balancing Women's Needs with State Interests in *Roe* and *Casey*

*Roe v. Wade* framed abortion rights around a balance of interests between women's rights and state concerns about potential life, establishing viability as a threshold for state intervention. This approach protected women's autonomy early in pregnancy and allowed states to impose restrictions post-viability, representing an attempt to balance both parties' interests. However, this balance often failed to fully protect women's needs under complex, real-world circumstances. For instance, *Roe*'s limitations beyond viability restricted women's options, especially for those facing economic or access-related obstacles that could delay pregnancy detection. Women lacking financial resources or transportation to healthcare facilities might take longer to confirm pregnancy, pushing them closer to or even beyond the viability threshold. Furthermore, *Roe*'s framework did not adequately consider severe fetal abnormalities, which are often diagnosed later in pregnancy, potentially after viability.

A more refined approach would provide exceptions post-viability not only for maternal life and health but also in cases of economic hardship, delayed detection due to lack of access, or severe fetal abnormalities that impact a woman's decision. By incorporating exceptions that account for these realistic challenges, the framework could both preserve the core of the viability standard while better respecting women's autonomy. Ultimately, broadening *Roe*'s framework to include these considerations would ensure a more flexible balance, allowing the legal structure to support women's rights in a way that acknowledges the diverse and often unpredictable factors that can arise in reproductive healthcare decisions.

As established above, a reasonable application of balancing interests requires weighing all relevant considerations, including both the unborn child's and the mother's interests. While the state might prioritize the unborn child's interests over the mother's in certain circumstances, the premise of this logic is that all interests—especially the mother's—must be carefully considered before making such a judgment. *Roe* and *Casey* attempted to strike this balance, but still significantly overlooked the interests of the mother, particularly when compared to the focus on the fetus. This failure to fully consider both sides means that the balance of interests has never been properly applied in these cases.

The privacy framework used in *Roe v. Wade* largely overlooks critical rights that are disproportionately affected when a woman is forced to carry an unwanted pregnancy to term, such as her rights to health, employment, and equal participation in society. Framing abortion under the right to privacy, as *Roe* does by linking it to the right to use contraceptives established in *Griswold v. Connecticut*, sidesteps the deeper conversation about how reproduction uniquely burdens women. This "right to be left alone" framework fails to account for the broader realities of abortion, including its long-term effects on a woman's future, her family, and the life of the unwanted child, all of which extend far beyond the narrow scope of privacy rights. These complexities demand a more nuanced discussion than the privacy framework allows.

The undue burden test introduced in *Casey* exemplifies the Court's failure to sufficiently consider women's rights in its balancing approach, as it created mechanisms that allowed state interests to more easily encroach on women's autonomy. Although the Court defined an undue burden as a "substantial obstacle" to a woman seeking a pre-viability abortion, it failed to provide clear guidelines for what qualified as a substantial obstacle. This ambiguity left the door open for subjective interpretations by lower courts, allowing state interests to overshadow women's rights in many cases [12]. Justice Scalia warned in his dissent that the vagueness of the standard would lead to inconsistent rulings, with judges free to impose their personal preferences on abortion laws. As a result, *Casey*'s

balancing approach did not adequately protect women's interests and enabled state interests to be prioritized in judicial decisions.

The inconsistency of the undue burden test within the *Casey* decision itself further highlights the Court's failure to properly balance women's rights against state interests [12]. When the Court upheld a 24-hour waiting period, reasoning that it protected fetal life by allowing women time to reflect, it overlooked the disproportionate burden this placed on low-income women, who faced financial and logistical challenges due to the requirement for multiple trips to clinics. This reflects a lack of sensitivity to the practical barriers women face in accessing abortion in *Casey*'s balancing approach. Despite this impact, the Court did not recognize the waiting period as a substantial obstacle. In contrast, it struck down the spousal notification requirement, acknowledging the danger it posed to women in abusive relationships. These contrasting rulings on provisions that both clearly burden specific groups of women demonstrate how *Casey*'s framework allowed inconsistent application of the undue burden standard, with certain state interests—particularly in protecting fetal life—receiving more weight than the actual burdens imposed on women [12].

Critically, lower courts have inconsistently applied the undue burden standard, often failing to assess the specific impact of abortion restrictions on different groups of women [12]. In *Cincinnati Women's Services, Inc. v. Taft*, for example, the Sixth Circuit upheld Ohio's mandatory 24-hour waiting period and biased counseling provisions, despite evidence showing that these laws created significant obstacles for battered women [12]. The court overlooked findings that requiring two in-person visits would preclude about 12.5% of battered women from obtaining abortions, effectively ignoring the severe burden these restrictions imposed on a vulnerable group. This failure to apply the undue burden standard in a meaningful, contextualized way [12] demonstrates the standard's vagueness and inadequacy in protecting women's reproductive autonomy. These inconsistencies reveal how *Casey* failed to fully consider women's rights in its balancing approach, resulting in a framework that allowed lower courts to more easily encroach on women's interests.

Furthermore, while *Casey* upheld *Roe*'s core holding through the principle of stare decisis, it did little to expand upon or improve the recognition of women's rights. The undue burden standard heavily focused on the state's interest in protecting potential life but provided only vague references to a woman's right to "choose." It failed to address the various factors, such as economic hardship, that influence a woman's decision to seek an abortion. In countries such as Japan, for instance, economic considerations play a significant role in reproductive rights decisions [24]. By contrast, *Casey* ignored these socio-economic factors and instead centered on state interests, downplaying the burdens such regulations place on disadvantaged women. This lack of consideration for real-world impacts further weakened protections for women's rights under the undue burden standard, allowing states more freedom to restrict access to abortion while framing it as protecting potential life.

The *Casey* ruling, while preserving the constitutional right to abortion, inadequately addressed women's interests by framing reproductive autonomy primarily as a matter of liberty under the Fourteenth Amendment, rather than fully recognizing its importance to gender equality [25]. The Court did incorporate some equality concerns, particularly when it struck down the spousal notification provision. This decision was based on the recognition that the requirement could lead to the subordination of married women, especially those facing domestic violence, by giving their husbands control over their reproductive decisions. The Court's analysis showed that married women would face a greater burden compared to their single counterparts, reflecting an implicit consideration of equality [25]. However, this was an isolated instance, as the Court largely focused on privacy and liberty principles rather than consistently addressing the broader equality implications of reproductive rights.

In Japan, abortion laws and attitudes reflect a nuanced balance between the interests of the woman, family welfare, and societal considerations, contrasting with the U.S., where the focus often centers

on individual rights or fetal personhood. For example, Japanese women are often addressed as "moms" by medical professionals even in the early stages of pregnancy, acknowledging the fetus's humanity from the outset [24]. Despite this acknowledgment, abortion is ethically accepted in Japan as a means of preventing situations where a child would be uncared for, and even second-trimester abortions are legal [24]. The Japanese ethical framework prioritizes the social life of the child, the welfare of the family, and the broader societal good over the question of when life begins. This perspective recognizes that the decision to terminate a pregnancy is often driven by the need to ensure the well-being of existing family members, and economic hardship is a valid reason for abortion under Japanese law. In contrast, U.S. abortion laws, while allowing for the right to choose, frequently fail to account for the socio-economic burdens that carrying a pregnancy might impose on a woman, limiting the consideration of economic hardship in the undue burden analysis.

The differences in how Japan and the U.S. approach abortion highlight the contrasting values at stake in balancing interests. While Japan accepts abortion to avoid economic hardship for the family, framing the decision within the context of ensuring appropriate upbringing and family welfare, the U.S. debate is often polarized between individual rights and the moral status of the fetus. This focus on fetal life in the U.S. tends to overlook the broader spectrum of burdens women face, such as the economic challenges of raising a child. Japanese textbooks, for instance, discuss birth control and abortion under the broader theme of "deciding when and when not to give birth," emphasizing that children have the right to be raised in a suitable environment. This holistic approach contrasts with the U.S. system, where the undue burden standard primarily considers whether women are prevented from obtaining an abortion, rather than whether the act of carrying a pregnancy itself imposes significant economic and social hardships on the woman. This often ignores the real-life implications of pregnancy on women's autonomy and welfare.

Japan's abortion policy explicitly acknowledges economic hardship as a legitimate reason for seeking an abortion, demonstrating a broader understanding of what constitutes a "burden" on women and their families. Unlike the U.S. *Casey* framework, which narrowly defines undue burden as whether legal obstacles prevent a woman from obtaining an abortion, the Japanese approach evaluates whether she and her family have the financial and emotional resources to support a child. In this way, Japan's logic recognizes that forcing a woman to continue a pregnancy in circumstances where she faces economic hardship or where the family cannot provide a stable and nurturing environment is itself an undue burden. By contrast, the U.S. undue burden standard fails to capture the full reality of the burdens a woman might face, such as job insecurity, income loss, and the financial strain of raising a child, especially when the woman is already struggling. Therefore, Japan's approach is more comprehensive and compassionate, as it considers the impact of economic hardships on the woman, her existing family, and the potential child's future, ensuring a fair and informed choice. This comparison demonstrates that Japan's more holistic balancing of interests offers a deeper consideration of the complexities surrounding reproductive choices, prioritizing women's rights, family welfare, and potential life, rather than disproportionately elevating fetal rights at the expense of women's socioeconomic realities.

In conclusion, the Court's abortion rulings, particularly in *Roe* and *Casey*, reflect a deep insensitivity to the equality issues at stake. By prioritizing privacy or liberty frameworks over equality-based reasoning, the Court fails to adequately protect women's rights, allowing laws that impose undue burdens on their reproductive choices to stand. This failure highlights the need for a more nuanced understanding of the intersection between privacy, liberty, and equality in the Court's jurisprudence, one that fully accounts for the real-world impact of its decisions on women's autonomy and equality.

## **3.2. Women's Distinct Burdens in Reproductive Decisions**

### **3.2.1. Economic, Professional, and Emotional Dimensions**

When considering abortion-related legislation or court rulings, several vital women's interests must be recognized by the state and the Supreme Court. First, economic burdens play a central role, as many women seek abortions due to the financial pressures of raising a child. Childcare, healthcare, education, and other long-term costs create significant challenges, particularly for low-income women. Second, professional and career aspirations are jeopardized by the demands of pregnancy and parenthood, as these responsibilities can hinder job stability and career progression. Women's ability to achieve career goals and maintain economic independence must be considered when crafting abortion policies. Third, emotional and psychological strain, often overlooked, is a key factor. Raising an unwanted child, particularly in unstable circumstances, places a tremendous mental toll on women, which can affect their overall well-being and the quality of care they provide to existing or future children. Furthermore, societal shifts have increased women's pressures, particularly in balancing work and family, adding to the already immense burdens of motherhood in modern times. These interests—economic, social, and emotional dimensions—are essential in shaping reproductive laws that reflect the complexities women face today and ensure that their rights are adequately protected.

When women seek abortions, their primary concerns often revolve around the economic, social, and emotional burdens of parenthood rather than the physical burdens of pregnancy. Studies show that 73% of women cited financial reasons, while 74% worried that having a baby would dramatically change their lives [26]. Additionally, many women expressed concerns about their ability to provide a stable, loving environment for their children [26]. These concerns reflect a deep awareness of the responsibility that comes with raising a child, highlighting the material and emotional readiness required for motherhood.

For example, women already caring for children emphasized their need to improve conditions for their existing families, seeing abortion as a way to ensure better outcomes for their current dependents [27]. Meanwhile, women without children spoke of the need to be fully prepared—emotionally, financially, and socially—before taking on the lifelong responsibility of parenthood [27]. This desire to provide a nurturing and secure environment for future children often plays a decisive role in the decision to have an abortion.

Furthermore, even when women cited health concerns, these issues were frequently framed in terms of their ability to fulfill responsibilities to their existing or future children. For instance, women saw the physical strain of pregnancy as potentially compromising their ability to care for dependents or threatening the financial stability needed to support their children [27]. As the number of women seeking abortions due to concerns about providing for their current children rises, these decisions increasingly highlight the importance of preparing a stable, supportive environment before bringing a child into the world.

Many second-trimester abortions are influenced by factors beyond a woman's control, such as medical complications or delayed pregnancy detection, often due to irregular periods, contraceptive failures, or limited access to health care. For example, some women discover they are pregnant only after significant time has passed, as contraceptives such as IUDs can mask typical signs of pregnancy [28]. Additionally, financial and logistical challenges, such as difficulty raising funds or locating providers, further delay abortions. These factors illustrate the complexities surrounding pregnancy and how women are impacted by circumstances beyond their control.

Even when contraceptives are used, unexpected failures such as a broken condom or ineffective emergency contraception can still result in pregnancy, leaving women facing unplanned and unwanted parenthood. In such situations, holding women responsible for these factors outside their

control imposes overwhelming financial, emotional, and health-related burdens, often resulting in long-term obligations, including caregiving responsibilities for over two decades. Thus, second-trimester abortions often reflect a response to both unforeseen physical realities and societal obstacles that inhibit timely decision-making and access to care.

The delay in discovering pregnancies and difficulties in obtaining abortions is compounded by laws and logistical issues. Financial barriers can create significant delays, with abortion costs rising as the pregnancy progresses. Furthermore, many legal restrictions, such as waiting periods, parental involvement laws, or mandatory multiple clinic visits, lead to prolonged waiting times, pushing abortions into the second trimester. These obstacles, along with emotional or moral dilemmas, emphasize the complex circumstances that women face when accessing reproductive healthcare, underscoring the need for greater support and understanding in these situations.

When a mother carries an unwanted child to full term, the child often faces significant challenges. Studies show that mothers of unwanted pregnancies are more likely to engage in unhealthy behaviors such as smoking and delayed prenatal care, which can negatively affect the child's physical development [27]. Additionally, these mothers are more prone to postpartum depression, leading to poor mother-infant interactions, such as neglect or aggressive behavior [29]. These strained relationships can hinder the child's socialization, impacting their long-term emotional well-being, educational outcomes, and self-esteem well into adulthood [29].

The consequences of carrying a child to full term, particularly when the pregnancy is unintended, often involve significant financial, emotional, and social burdens. Women who seek abortions frequently do so because they recognize these hardships and prioritize providing a better quality of life for their existing or future children. They worry about the challenges of raising a child in unstable conditions, such as single-parent households or poverty, which might lead to compromised nurturing environments. The fetus's interest is also at stake, as being born into a life with a parent who is unprepared or unwilling to care for them can result in a disadvantaged upbringing, leading to potential neglect, emotional strain, or financial insecurity. This understanding informs women's interest in seeking an abortion, as they desire to avoid bringing a child into a life where they cannot provide adequate support. Their decisions reflect a commitment to responsible parenthood, where children are given the best possible chances for success, love, and stability. Therefore, both the interests of the woman and the potential child are intertwined in the decision to seek abortion, focusing on the well-being and future outcomes for all involved.

### **3.2.2. Moving Beyond Male-Centric Framework of Reproductive Equality**

Equality arguments in reproductive rights often rely on comparisons between pregnancy and male experiences, such as treating pregnancy as a temporary disability under laws such as the Pregnancy Discrimination Act (PDA) [30]. While these analogies can help secure legal protections, they oversimplify pregnancy by equating it to male conditions. The assumption that pregnancy can be compared to male experiences reflects a broader societal tendency to take women's burdens for granted, reinforcing a male-centric view of legal protections. For instance, focusing solely on physical burdens might protect pregnant workers, but it neglects the long-term social and emotional responsibilities that come with motherhood [30]. Similarly, arguments that highlight the financial burdens of childbearing emphasize social costs but fail to address the profound physical and psychological impact pregnancy has on women. This reflects a broader societal failure to recognize the distinct pressures that pregnancy and motherhood impose on women, pressures that are not similarly imposed on men but are instead normalized or overlooked in legal considerations.

Even when male experiences are introduced into the conversation to make women's interests more relatable or comprehensible, this approach remains limited. It fails to fully capture the unique burdens that women face, which extend far beyond what can be understood through comparisons to male

conditions. These analogies often overlook the cumulative, long-term responsibilities women bear in terms of caregiving, emotional labor, and societal expectations. For instance, when male soldiers are not penalized for becoming fathers, the systemic assumption that women should naturally bear the greater burdens of parenthood persists, as seen in the case of Captain Susan Struck. Captain Susan Struck, an Air Force combat nurse, became pregnant during her service in Vietnam and was given the ultimatum to either terminate the pregnancy or face discharge, as required by military policy [31]. Struck, who intended to give birth and place the child for adoption, challenged this policy. Representing her, Ruth Bader Ginsburg argued the policy discriminated based on sex by forcing women, but not men, to choose between their reproductive choices and their careers [31]. Male servicemen who became fathers faced no penalties, while pregnant women were forced out, reflecting a double standard that reinforced traditional gender roles. Ginsburg argued this treatment perpetuated the stereotype that women should prioritize motherhood over professional life, which violated the Equal Protection Clause by denying women equal opportunities [31]. The case was ultimately mooted when the military rescinded Struck's discharge, avoiding a Supreme Court ruling [31].

Ginsburg's argument in *Struck* centered on gender equality, showing that policies regulating women's reproductive choices reinforce traditional gender roles, subordinating women by denying them equal opportunities to pursue their careers and other life goals. This approach directly connects reproductive rights to equal treatment under the law, making it clear that restricting or compelling reproductive choices discriminates against women. While making a strong gender equality argument, the *Struck* case reflects some of the limitations of equality-based approaches by comparing pregnancy to male experience in addressing the full scope of reproductive rights. Ginsburg's analogy in the *Struck* case focused on comparing the treatment of pregnant women to men, highlighting how male servicemen were not similarly penalized for their reproductive choices. While this comparison was effective in exposing the discriminatory nature of the policy, it oversimplified the unique experience of pregnancy by framing it only as a career obstacle. This overlooks the complex physical, emotional, and social burdens that pregnancy and motherhood entail, burdens that cannot be fully addressed by simply drawing parallels to men's experiences. The failure to fully engage with the distinct nature of pregnancy demonstrates how equality arguments based solely on comparisons to male counterparts can miss critical aspects of reproductive justice. This further exemplifies the natural tendency of a male-dominated society to overlook women's unique interests, as even when male experiences are invoked, the distinct challenges women face in pregnancy and motherhood remain marginalized.

### **3.3. Reasonable Limits on Abortion Rights**

#### **3.3.1. Balancing Women's Autonomy with Fetal Interests**

When considering the issue of abortion, one critical factor to examine is the point at which a fetus is capable of surviving outside the mother's womb. This concept, referred to as fetal viability, was central to the framework established in *Roe v. Wade*, where the Supreme Court allowed states to regulate or prohibit abortions after viability, except when necessary to protect the life or health of the mother. However, as medical science has advanced, it has become clear that viability can vary significantly from pregnancy to pregnancy. Therefore, rather than adhering to the rigid 24-week time frame set in *Roe*, it is essential to rely on medical diagnoses to determine whether the fetus can live independently. Once it is established that the fetus can survive on its own, abortion should not be permitted, as the "life" of the fetus must now be considered, aligning with *Roe*'s recognition of the state's legitimate interest in protecting potential life after viability.



### 3.3.2. Exceptions for Permitting Abortions After Viability

In cases where a pregnancy becomes high-risk, including conditions such as cancer, severe blood clotting disorders, or mental health disorders such as depression, exceptions should be made for abortions even after the point of fetal viability. These exceptions should not be limited to situations where the woman's life is in immediate danger, but also extend to conditions that carry significant long-term risks to her health. The right to life, in this case, must be weighed carefully, meaning a woman should have the right to prioritize her own health and well-being over continuing the pregnancy. Whether the risk is physical or mental, such as the potential for severe depression to result in suicide, these high-risk pregnancies should fall under permissible exceptions for late-term abortions. This approach ensures that women can make the choice to seek treatment and protect their health when faced with a dangerous pregnancy.

Furthermore, mandatory prenatal testing for conditions such as Down syndrome and other severe fetal abnormalities should be required before the point of viability. In cases where severe abnormalities are detected after viability, such as Down syndrome, a woman should still have the option to obtain an abortion. Raising a child with significant developmental or physical challenges places considerable emotional, financial, and social burdens on the woman and her family. If a woman lacks the resources or capacity to care for a child with such defects, she should be permitted to make the decision to terminate the pregnancy. However, it is important to stress that this option should only be available when the abnormality was not detected prior to viability. This gives families who are prepared and still want to carry the pregnancy to full term the choice to do so, while ensuring that those facing overwhelming burdens have the necessary support to make the decision that best aligns with their circumstances.

In cases of rape, the trauma inflicted on the woman is not only emotional but also physical. Forcing a woman to carry a pregnancy resulting from rape is an extension of that trauma, as it imposes a profound psychological and physical burden. The woman's autonomy and right to decide her own fate must take precedence in such situations, as no one should be compelled to carry a child conceived through violence. Abortion should be permitted at any stage of pregnancy in cases of rape, even beyond viability, as the psychological harm inflicted upon the woman may not become fully apparent until later in the pregnancy. The relationship model highlights that a pregnancy is not just a biological process but a deeply personal decision that involves the potential for a lifelong parental relationship. In cases of rape, forcing this unwanted relationship upon a woman is an unjust imposition. The emotional and relational impact of carrying a child conceived through violence can severely affect her well-being, which should be respected and protected by the law.

Women facing economic hardship should be encouraged to seek abortion before viability, as this ensures a simpler medical procedure and fewer legal complications. However, if a woman discovers her pregnancy after viability due to factors beyond her control, such as lack of access to healthcare, irregular periods, or transportation challenges, abortion should still be permitted. In such cases, the woman's financial circumstances and inability to care for a child must be taken into account. Abortion access is a vital tool in preventing long-term economic and social hardships that would disproportionately affect the woman and her family. However, while access should be protected after viability in these rare cases, it is important to educate women about the need to act before the point of viability. By encouraging early decision-making and providing the necessary resources and information, women in difficult financial situations can be empowered to make informed choices about their pregnancies and futures.

Another important issue is whether a husband's opinion should factor into the decision to have an abortion. Given the reality that forced pregnancies can occur, requiring the husband's consent for an abortion risks coercing women into childbirth. In such cases, the husband's rights could easily

override the woman's decision, putting her autonomy at risk. Therefore, the husband's opinion should not be taken into account when deciding whether to have an abortion. However, once the decision has been made, the husband should have a say in whether he will assume the role of a parent. For example, if the wife decides to keep the child but the father does not wish to bear the financial or emotional burdens of parenthood, he should have the right to renounce legal responsibility for the child.

Some might argue that if the father wants to keep the child but the mother does not, his desires should also be prioritized. However, the physical burden of pregnancy, and the inherent risks of childbirth, fall solely on the mother, which makes her decision paramount. In addition to the physical aspects, there is the issue of biological bonding. Due to the process of pregnancy and childbirth, women often develop emotional connections to the child, connections they may not consciously choose but are biologically driven to form. The decision to carry a pregnancy to term often forces a woman into a long-term caretaking role, regardless of whether she chooses to continue as the child's caregiver after birth. Even in cases where a woman gives the child up for adoption, the biological and emotional bonds formed during pregnancy influence her decision-making. This makes the choice to abort deeply personal, as it is tied not only to a woman's control over her body but also to her ability to navigate the relational aspects of parenthood. Thus, the relationship model sees forced pregnancy as not only a bodily invasion but also the imposition of a relationship she may not want. Men, on the other hand, are less likely to form such bonds, making it easier for them to opt out of parental obligations. Therefore, when the father wants to keep the child but the mother seeks an abortion, the mother's decision must be paramount.

In conclusion, the balancing approach established in *Roe* and *Casey* is crucial and should not be dismissed, as it recognizes the need to weigh the state's interest in protecting potential life against the woman's rights to privacy, liberty, and equality. While these cases may have faced criticism, especially in their use of the right to privacy, they offered a framework that accounted for the complexities of abortion by considering both sides. Abandoning this balancing act, as seen in *Dobbs*, disregards the important nuances involved in reconciling these competing interests, particularly the unique burdens women face during pregnancy and parenthood.

Women face distinct challenges in the realms of reproduction and parenthood, including economic, emotional, and social burdens. These considerations, such as the financial strain of raising a child, career disruptions, and the mental toll of unplanned parenthood, must be recognized and given weight in any legal framework surrounding abortion. Neglecting these interests fails to account for the lived realities of women, especially those from marginalized communities who are disproportionately affected by restrictive abortion laws.

At the same time, while the freedom to access abortion is a fundamental right, it is not without limits. Reasonable restrictions can be placed on abortion, especially after fetal viability, to reflect the state's legitimate interest in protecting potential life. However, any such limitations must continue to respect the woman's autonomy, ensuring exceptions for cases where her health or well-being is at risk. Striking a balance between these rights and restrictions is key to developing a more just and equitable approach to abortion that takes into account the complex interplay of personal liberty and state interests.

#### 4. Conclusions

An examination of *Roe v. Wade*, *Planned Parenthood v. Casey*, and *Dobbs v. Jackson Women's Health Organization* reveals a complex legal trajectory that has alternately recognized and neglected the multidimensional interests of women in abortion law. *Roe* and *Casey* set foundational frameworks that, while imperfect, attempted to balance women's right to privacy and bodily autonomy with the state's interest in protecting potential life. *Roe* grounded abortion rights within privacy and viability

standards, while *Casey* replaced this with the undue burden standard, allowing greater state regulation. However, these cases limited their analysis by focusing narrowly on abstract constitutional rights, largely sidestepping the broader, lived experiences and socio-economic impacts of pregnancy on women.

The *Dobbs* decision, which overturned both *Roe* and *Casey*, represents a stark shift by dismissing these balancing frameworks altogether and prioritizing a historical tradition approach that disregards women's specific interests in autonomy, equality, and socio-economic stability. By returning abortion regulation to the states, *Dobbs* overlooks critical considerations, leaving women—especially those in marginalized communities—vulnerable to restrictive laws without sufficient recourse or protections under constitutional precedent.

Moving forward, a more comprehensive framework that aligns constitutional protections with the realities of modern society is essential. Lawmakers must recognize the distinct burdens women face—ranging from economic challenges to career impacts and psychological stresses—and acknowledge these interests when shaping policies that impact reproductive rights. By adopting a nuanced, balanced approach that respects individual autonomy while accommodating legitimate state interests, legal standards can progress toward a more just and equitable recognition of reproductive justice.

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