



## Roe Reality Check #11

*myth:* If *Roe v. Wade* is overturned, abortion will automatically be illegal in the U.S.

*fact:* If *Roe* is overturned, abortion policy will be decided through the democratic process in each state.

Before *Roe v. Wade*, all states permitted abortion if necessary to save the mother's life, and some permitted abortion in additional circumstances.<sup>1</sup>

But *Roe* deemed "every [abortion] law - even the most liberal - as unconstitutional."<sup>2</sup>

As a result, no state can prohibit any abortion at any time during pregnancy.<sup>3</sup>

If *Roe* is overturned, policy decisions about abortion will be made by the citizens of each state through the democratic process, rather than by courts.

Some states will place limits on abortion, in others there will likely be few limits.<sup>4</sup>

*Not until Roe v. Wade is reversed  
will the people be able to govern themselves again  
on the important public policy issue of abortion.*

1 Paul Benjamin Linton, "Planned Parenthood v. Casey: The Fight from Reason in the Supreme Court," 13 St. Louis U. Pub. L. Rev. 15, 24-26 (1993)

2 The Associated Press, "Ginsburg: Roe decision seemed 'not the way courts generally work,'" March 11, 2005 (quoting Supreme Court Justice Ruth Bader Ginsburg). See also Linton, 13 St. Louis U. Pub. L. Rev. at 27 (stating that, at the time *Roe* was decided, "[n]o State allowed unrestricted abortion throughout pregnancy, as *Roe* effectively does").

3 See *Roe v. Wade*, 410 U.S. 113 (1973), *Doe v. Bolton*, 410 U.S. 179 (1973), and *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

4 See "Letting Go of *Roe*," *The Atlantic Monthly*, January/February 2005, p. 48.

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