

What to Say & How to Say It: *Dobbs v. Jackson Women's Health Organization*

There is a lot of fear-mongering going on right now about Dobbs vs. Jackson Women's Health Organization. How can you share your perspective with friends and family, social networks, or even with the media? Here are some talking points to consider in response to those who do not know about the case, as well as responses to common arguments in favor of keeping the "status quo."

“What is this *Dobbs* case, anyway? What is supposed to happen?”

- In May of 2021, the Supreme Court agreed to hear the case, *Dobbs v. Jackson Women's Health Organization*. The case involves a law in Mississippi that bans most abortions after the baby reaches 15 weeks. Jackson Women's Health, as the only abortion provider in the state of Mississippi, sued, saying that the law is in direct violation of *Roe v. Wade*. In response, Mississippi essentially asked the Supreme Court to overturn *Roe v. Wade* as bad law, and barring that, to at least allow states to limit pre-viability abortions.
- While it is impossible to speculate what will happen, we hope that the Supreme Court will do the right thing and allow states to once again limit or prohibit abortion, and in doing so, protect millions of preborn children and their mothers from this tragedy.

“If *Dobbs v. Jackson Women's Health* overturns *Roe v. Wade*, doesn't that mean women in the US will no longer be able to get abortions?”

- No. All that this decision could mean is that each state will decide which restrictions it will allow on abortion. In states such as California and Vermont, abortion will continue to be permitted at least up until 24 weeks (when evidence shows that preborn babies feel pain¹).

¹ Expert Report of Kanwaljeets. Anand (Jan 15, 2004), <https://www.nrlc.org/uploads/fetalpain/AnandPainReport.pdf>; Stuart W.G. Derbyshire & John C. Bockmonn, “Reconsidering Fetal Pain,” *J Med Ethics* 2020; 46:3–6, <https://jme.bmj.com/content/medethics/46/1/3.full.pdf>

“Isn’t having a ‘patchwork’ of different state laws on abortion dangerous?”

- States are supposed to have the freedom to make decisions and legislate for the “health, safety, and welfare” of citizens within their borders. Since our country’s inception, states have enacted differing laws on almost every issue imaginable. Yet as of right now, the Supreme Court decisions in *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992) prevent the American people, through their elected representatives, from fully protecting pre-born human life.
- Fears about thousands of women dying from back-alley abortions should abortion laws return to the states have been proven to be unfounded, as the claims that thousands of women were dying from illegal abortions at the time of *Roe* were made up for political purposes. The late Dr. Bernard Nathanson, a chief advocate for legalizing abortion, said he and his fellow advocates invented the “nice, round shocking figure” of “5,000 to 10,000 deaths a year” from illegal abortions.² While any death is a tragedy, the number of deaths from “back alley” abortions do not approach these numbers. In 1966, before the first state legalized abortion, 120 mothers died from abortion.³ In 1972, when abortion was still illegal in 80 percent of the country, the number dropped to 39 maternal deaths from abortion.⁴
- Further, women seeking abortion are overwhelmingly not seeking abortion to protect their health from a “dangerous” pregnancy. In fact, women seeking abortions overwhelmingly report they are not doing so for “health” reasons: a 2013 survey shows only 6% cited any concern for their own health among the reasons for the abortion.⁵ (For more information on how abortion does not support women’s health, see [this fact sheet](#)).
- A groundbreaking 2012 study of abortion in Chile published in a peer-reviewed scientific journal found that Chile's abortion prohibition in 1989 did not cause an increase in the maternal mortality rate (MMR).

² Bernard Nathanson, *Aborting America* (New York: Doubleday, 1979), 193.

³ From the U.S. Bureau of Vital Statistics Center for Disease Control, as cited in Dr. and Mrs. J. C. Wilke, *Abortion: Questions and Answers*, revised edition (Cincinnati: Hayes Publishing, 1990), 169.

⁴ *Ibid.*

⁵ M. Biggs et al., “Understanding why women seek abortion in the US,” *BMC Women’s Health* 13.29 (2013) 1-13 at 6 (Table 2).

On the contrary, after abortion was prohibited, the MMR decreased by 69.2% in the following fourteen years.⁶

“*Roe v. Wade* is ‘settled law.’ It’s a ‘foundational constitutional right.’”

- As a whole, the U.S. has never “settled down” and accepted *Roe v. Wade*. A “constitutional right” to abortion remains highly contested. This is evidenced not only by the number of proposed and enacted laws seeking to restrict it,⁷ but also by the enormous number of grassroots groups and activists working to overturn it.
- For something to be a “fundamental constitutional right,” it must be deeply embedded in the vast majority of Americans’ understanding of what freedom means. If half of the states want to ban abortion, it was never part of the American fabric in the first place.

“But polling shows most Americans support *Roe v. Wade*!”

- Most Americans do not understand how extreme the *Roe v. Wade* and *Planned Parenthood v. Casey* rulings are. *Roe* and *Casey* both held that even in the last trimester, states must allow abortions for “psychological or emotional or familial” reasons.⁸ In effect this means all abortions are permitted up until birth.
- When people are asked whether they support this, they answer NO. Gallup reported in 2018 that only 13% of Americans actually support the abortion permission *Roe* and *Casey* allowed: abortions through the third trimester. And less than 30% of Americans say abortion should “generally be legal” in the second trimester.⁹

“Won’t women be jailed for abortion in the future?”

- This argument is designed to frighten people away from the pro-life movement. The pro-life movement seeks to penalize the doctors who profit from abortion, and not women.¹⁰

⁶ Elard Koch, et al., "Women's Education Level, Maternal Health Facilities, Abortion Legislation and Maternal Deaths: A Natural Experiment in Chile from 1957 to 2007," *PLoS ONE* 7, no. 5 (May 2012), <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0036613>.

⁷ See <https://www.guttmacher.org/article/2016/01/last-five-years-account-more-one-quarter-all-abortion-restrictions-enacted-roe>.

⁸ *Doe v. Bolton*, 410 U.S.179, 192 (1973).

⁹ Gallup News Service, "Gallup Poll Social Series: Values and Beliefs" (May 1–10, 2018), Q.15, <http://news.gallup.com/file/poll/235634/180613AbortionTrimesters.pdf>.

¹⁰ See e.g. <https://cruxnow.com/interviews/2018/02/05/new-pro-life-movement-aims-rethink-approach-end-abortion/>; <https://www.rehumanizeintl.org/post/2017-06-06-after-abortion-the-hard-questions>.

“Isn’t overturning *Roe* just forcing religion on people?”

- When asked if abortion is a religious issue, the Supreme Court has said no. Moral concern about abortion reaches far beyond any one religion, and these laws have the legitimate secular purpose of encouraging childbirth over abortion. The fact that some religions oppose abortion doesn’t change this. “That the Judeo-Christian religions oppose stealing does not mean that a State or the Federal Government may not, consistent with the Establishment Clause, enact laws prohibiting larceny.”¹¹
- Abortion advocates claim that, “however we may feel about abortion,” we should not impose our views on others. But they do not hold themselves to this standard. How we feel about abortion –or rather, what we recognize it to be –is the whole issue. If abortion is a wrongful attack on human life, as millions of American women and men believe, it is wrong to prevent states from legislating against this injustice.

“Shouldn’t reducing abortion be done through changing the culture, and not through Supreme Court decisions or legislation?”

- Most people on both sides of the abortion debate agree that reducing the number of abortions is a desirable outcome. Yet in this country, the CDC estimates that there are more than 600,000 abortions performed every year.
- Common sense tells us that when something is made legal and accessible, you often get more of it, and when you make something more difficult to obtain, you usually get less of it. Where abortion is legal, women will have less resistance to choosing it when they feel they are in an impossible situation. So too will more people around the pregnant woman feel comfortable recommending she have an abortion, an important factor when a large proportion of women report feeling some degree of pressure or aborting to please someone else, often their partner.¹²
- Evidence suggests that laws restricting the funding of abortion (like the Hyde amendment preventing Medicaid funds from going to

¹¹ *Harris v McRae*, 448 U.S. 297 (1980) at 319.

¹² Priscilla Coleman, et al., "Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences" *Journal of American Physicians and Surgeons* 22, no. 4 (Winter 2017), 115, <https://www.jpands.org/vol22no4/coleman.pdf>.

abortion) or limiting its availability, involving parents, and providing women with more information lowers the rate of abortion.¹³

“If you really cared about women and reducing abortion, you would offer free contraception.”

- While some argue that contraception is the key to reducing the abortion rate, real-world evidence does not back that up. Instead, research shows that even when women were provided with free "emergency contraception" ahead of time, the pregnancy and abortion rate remained statistically equivalent with those who were not provided with it.¹⁴ In fact, the availability of contraception and abortion can increase the rate of unintended pregnancies (as well as sexually transmitted infections) as studies show that people engage in more frequent and riskier behavior if they believe their risk has been lowered.¹⁵

“Massive numbers of women will face unexpected, traumatic pregnancies because of this.”

- It is possible that less “access” to abortion will ultimately mean *fewer* women facing unexpected or challenging pregnancies. Since abortion became legal in most states, we have seen an increase in unexpected and challenging pregnancies, not a decrease.
- The overwhelming majority of abortions (86% according to the CDC) take place in the context of non-marital relationships, where women lack the social and financial support of marriage. It has been found that widespread availability of contraception and abortion has helped make non-marital sex more of a cultural norm that in turn leads to more non-marital pregnancies that many women feel unprepared to handle alone.¹⁶
- Justice O’Connor in *Planned Parenthood v. Casey* wrote that by and large, people have come to understand abortion as the backup for

¹³Michael J New, "Analyzing the Effect of Anti-Abortion US State Legislation in the Post-Casey Era," *State Politics and Policy Quarterly* 11, no. 1 (March 2011), 42, <https://journals.sagepub.com/doi/abs/10.1177/1532440010387397>.

¹⁴United States Conference of Catholic Bishops, "Fact Sheet: Emergency Contraception Fails to Reduce Unintended Pregnancy and Abortion," April 1, 2020, (citing authority), <https://www.usccb.org/resources/fact-sheet-emergency-contraception-fails-reduce-unintended-pregnancy-and-abortion>.

¹⁵For more information, see USCCB fact sheets: "Emergency Contraception Fails to Reduce Unintended Pregnancy and Abortion," and "Greater Access to Contraceptives Does Not Reduce Abortions," February 7, 2020, <https://www.usccb.org/resources/fact-sheet-greater-access-contraception-does-not-reduce-abortions>.

¹⁶Yellen, Janet L. et al. "An Analysis of Out-of-Wedlock Childbearing in the United States." *The Quarterly Journal of Economics*, Vol. CXI, Issue 2 (May 1996): 277-317.

failed contraception.¹⁷ If the “abortion backup” becomes less widely available, we could see an important cultural shift that leads both men and women to treat sex with greater respect, and have sex with people only when they are ready for children and open to starting a family. If this happens, the non-marital pregnancy rate could begin to decline.

“Who will help the women who can’t get abortions?”

- The Church will never cease to do what it has always done- to pray, work, and serve until the day when every human life is protected in law, and welcomed in love. Until that day comes, and ever after, we will continue to care for women and children in need, so that every mother has the support to joyfully choose life.
- Through the expansive social ministries of the Church, we do a lot to help mothers in need, but there are tremendous opportunities on the local and parish level to reach out to women who are pregnant and to provide them with the support to choose life. That is why the Church has started “Walking with Moms in Need,” a parish-based ministry where parishes “walk in the shoes” of pregnant and parenting women, so that they have the emotional and material support they need, so that no one gets left behind.
- Pro-life Americans of all faiths have stepped forward to found thousands of pregnancy care centers, and could be counted on to provide even more help as needed. Pro-life activists have been helping these women over the last nearly half-century.”¹⁸

¹⁷ *Casey*, page 856: “[F]or two decades of economic and social developments, people have organized intimate relationships and made choices that define their views of themselves and their places in society, in reliance on the availability of abortion in the event that contraception should fail.”

¹⁸ <https://www.thepublicdiscourse.com/2011/01/2380/>