

Supreme Court to overturn *Roe v. Wade*, ending right to abortion

Eric London
2 May 2022

Yesterday evening, *Politico* published a leaked US Supreme Court draft opinion authored by Samuel Alito overturning the landmark abortion rights case *Roe v. Wade* and granting states the power to criminalize abortion. The existence of a “draft opinion” means a majority of the court has already voted on the outcome of the case and is merely finalizing the language.

“We hold that *Roe*...must be overruled,” the draft opinion reads.

The decision is an assault on the democratic rights of the entire population, and particularly on tens of millions of working class women who will not be able to travel for necessary medical procedures. It raises the likelihood that the court will move to abolish gay marriage, move to further end the separation of church and state, and eviscerate a broad range of basic democratic and civil rights won through decades of social struggle.

The decision (in a case named *Dobbs v. Jackson Women’s Health Organization*) is an unlawful ruling by an illegitimate court and should be treated as such. All but one judge ruling with the majority was appointed by a president who lost the popular vote. Two of the Supreme Court’s nine justices were appointed by George W. Bush, who lost the 2000 election outright (Alito and John Roberts). One justice, Clarence Thomas, is married to an organizer of the January 6 coup to overturn the Constitution, and three Justices (Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett) were appointed by Donald Trump, who led that coup attempt.

The decision overturning *Roe v. Wade* evidently received votes from five or six of the justices. It is not known whether Roberts will support the majority, write a concurring opinion, or dissent with the court’s Democratic Party-appointed rump. His vote is not

necessary to the majority.

The content of the decision is politically, legally and morally abhorrent.

The draft opinion calls *Roe* “egregiously wrong” and compares it to the 1896 decision *Plessy v. Ferguson*, which upheld racial segregation of railroad dining cars under the pseudo-legal “separate but equal” doctrine. In a footnote, Alito’s decision claims that proponents of abortion are eugenicists who are “motivated by a desire to suppress the size of the African American population.”

The decision is an open attack on the population of the United States and is thoroughly imbued with the oligarchic principle. According to the Supreme Court, the interests of masses of people are of no consequence whatsoever:

“We cannot allow our decisions to be affected by any extraneous influences such as concern about the public’s reaction to our work,” the opinion states.

Elsewhere, the decision reads, “It is time to heed the Constitution and return the issue of abortion to the people’s elected representatives.” In reality, 60 percent of Americans support abortion rights, the highest percentage in US history.

The Supreme Court’s legal rationale is that because the word “abortion” was not mentioned in the Constitution, there can be no right to abortion. This paves the way for a massive and unprecedented assault on all democratic rights not explicitly enumerated in the Constitution. Other “unenumerated rights” include the right to vote, the right to travel, the right to privacy, and the right to the presumption of innocence.

The Supreme Court is also paving the way for overturning past decisions clarifying and establishing fundamental rights, the importance of which the framers could not have recognized in the society of the

1780s and 1790s. The decision states, “For the first 185 years after the adoption of the Constitution, each state was permitted to address [abortion] in accordance with the views of its citizens. Then, in 1973, this Court decided *Roe v. Wade*.¹”

By this token, very little stops today’s court from reversing almost all of the decisions of the court’s brief liberal period of the 1950s to early 1970s, culminating in *Roe*. This includes the right to a public defender (*Gideon v. Wainwright*), the right of arrestees to hear their constitutional rights read to them upon arrest (*Miranda v. Arizona*), the abolition of anti-miscegenation laws (*Loving v. Virginia*), and the ban on mandatory prayer in public schools (*Engel v. Vitale*).

The decision even opens the door to overturning the court’s prior decision holding that the Equal Protection Clause applies not only to the actions of the federal government, but also to the governments of the states (*Bolling v. Sharpe*). In fact, the content of Alito’s decision undermines his attempt to equate *Roe v. Wade* with *Plessy v. Ferguson* since the text of the Constitution makes no reference to barring racial segregation either.

Blame for the fact that the Supreme Court has come to be dominated by a gang of bigots and arch-reactionaries falls squarely at the feet of the Democratic Party. Democrats capitulated to Republicans when the latter stole the 2000 election and rubber-stamped it with the Supreme Court’s illegitimate decision in *Bush v. Gore*, which de facto meant that the population does not have the right to vote for president.

For the last half century, the Democrats have refused to oppose the Republicans as the latter have legitimized all forms of backwardness and religious obscurantism.

Most recently, in 2017, Democratic House Speaker Nancy Pelosi announced that Democrats would not defend the right to abortion for fear of alienating the far right. She said the issue would not be a “litmus test” for Democrats, adding:

“I grew up Nancy D’Alesandro, in Baltimore, Maryland; in Little Italy; in a very devout Catholic family; fiercely patriotic; proud of our town and heritage, and staunchly Democratic. Most of those people—my family, extended family—are not pro-choice. You think I’m kicking them out of the Democratic Party?”

The Democratic Party is as feckless in defending democratic rights as it is ruthless in prosecuting the interests of American imperialism.

The Supreme Court decision also explodes the lie that the US government’s proxy war against Russia in Ukraine is being fought for the sake of “democracy.” Russia’s right-wing abortion laws allow legal abortions only in the first 12 weeks of pregnancy, but even this reactionary standard is now more liberal than many American states inhabited by tens of millions of people.



To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact