

Signposts in Reproductive Rights

HISTORICAL DISCUSSION

Facilitated by

Raye Haskell & Kathryn LePage, MFT

Discussion Questions

1. What draws you to the history of reproductive rights?
2. What would you like to take away from our discussion?
3. Who makes policy decisions about abortion access and what is their objective?
4. Is access to reproductive healthcare a women's issue or a civil rights issue?
Should men be concerned/involved?
5. How does history inform your reaction to current events?
6. Has the information presented helped you to feel a sense of direction for action?

The 19th Century

- **1821:** Connecticut passed the first statutory abortion regulation in the United States, banning the use of poisons to induce abortions after quickening, or the first fetal movements. The punishment for breaking this law was a life sentence.
- **1847:** The male-dominated AMA was formed. Its role was to scrutinize reproductive health care workers, like midwives and nurses. The obstetric services they provided were curtailed and eventually phased out.
- **1848:** The Seneca Falls Convention, a first for women's rights, passed a resolution in favor of women's suffrage.
- **1857—1860:** The AMA campaigned to criminalize abortion. At the time, 20 states had laws limiting abortion in place.
- **1869:** The Catholic Church publicly condemned abortion at any stage of pregnancy.
- **1873:** Congress passed the Comstock Law, which bans distribution of and information about contraceptives. Twenty-four states followed suit, issuing similar laws to regulate the sale and use of contraceptives.
- **1880:** Most states in the U.S. had laws restricting abortions. 4



The 20th Century

- **1914:** Margaret Sanger coined the term “birth control.” Sanger was indicted for violating the Comstock Law.
- **1916:** Margaret Sanger opened the first birth control clinic in Brooklyn, the precursor for Planned Parenthood, and was arrested ten days later. She spent thirty days in prison.
- **1920:** The 19th Amendment to the U.S. Constitution, Women's Right to Vote, was ratified.
- **1927:** Supreme Court ruled to allow the State of Virginia to sterilize a black woman (8 to 1 vote). This action opened the door to other states taking action to involuntarily sterilize a person considered “unfit” to procreate.⁵
- **1930:** Abortion techniques were recognized as dangerous and even deadly to women, with 2,700 abortion-related deaths reported (one-fifth of all maternal deaths that year).
- **1942:** The U.S. War Manpower Commission was created to recruit women for manufacturing lines throughout the United States as part of the war effort.
- **1960:** The FDA approved Enovid, the first oral contraceptive.
- **1965:** In *Griswold v. Connecticut*, the Supreme Court ruled that married couples have the right to contraception due to their **right to privacy**.
- **1967:** Colorado was the first state to pass laws that allowed abortion in cases of incest, fetal defects, or for mental health reasons.
- **1968:** Seven birth control pill options were widely distributed and available to women in the United States.
- **1970:** Hawaii legalized abortion, making abortion available at the request of a woman or her doctor. Alaska, New York, and Washington followed suit.
- **1972:** In *Eisenstadt v. Baird*, the Supreme Court struck down a law prohibiting the distribution of birth control to unmarried adults.
- **1973:** In *Roe v. Wade* (7-2 vote), the Supreme Court ruled against a Texas law prohibiting abortions not necessary to save the woman’s life, extending the fundamental right to privacy to a woman’s decision to choose abortion
- **1976:** Congress passed the Hyde Amendment, which barred the use of Medicaid and other federal funding for abortions.



Signposts in Reproductive Rights: Historical Discussion

- **1976:** In *Planned Parenthood of Central Missouri v. Danforth*, the Supreme Court ruled against a Missouri statute that would force a married woman to obtain her husband's approval before getting an abortion and ruled against a written parental consent requirement for minors.
- **1977:** A revised Hyde Amendment passed the Congress, allowing states to deny Medicaid funding except in cases of rape, incest, or severe damage to the woman's physical health.
- **1977:** In *Maher v. Roe* the Supreme Court upheld a Connecticut ban on public funding for abortions, with the exception of those that are "medically necessary."
- **1980:** In *Harris v. McRae* the Supreme Court upheld the Hyde amendment, which prohibits the federal Medicaid funding of abortions not necessary to preserve a woman's life.
- **1982:** The Abortion Control act passed in Pennsylvania, which imposed a 24-hour waiting period, required married women to inform their husbands, and mandated parental consent for minors.
- **1984:** The FDA approved the distribution of the Copper T380A IUD, but distribution was delayed by four years because no manufacturers or distributors were willing to make it available to women.
- **1989:** In *Webster v. Reproductive Health Services*, the Supreme Court upheld a Missouri law prohibiting the use of public employees and facilities for performing abortions that were not "medically necessary."
- **1992:** *Planned Parenthood of Southeastern Pennsylvania v. Casey* reaffirmed that the Constitution protects the right to abortion. However, Casey created an "**undue burden**" framework, under which laws restricting how access to abortion would be judged. Following Casey, state legislatures passed numerous "medically unnecessary" abortion restrictions across the country, which courts have found do not impose an undue burden.

The 21st Century¹⁰

- **2007:** In *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood Federation of America*, the Supreme Court upheld the first federal legislation to criminalize abortion. **Because the legislation did not contain an exception for the patient's health, the Supreme Court effectively overruled a key component of *Roe v. Wade*: that the patient's health must be of paramount concern in laws that restrict abortion access.**



Signposts in Reproductive Rights: Historical Discussion

- **2016:** In *Whole Woman’s Health v. Hellerstedt*, the Supreme Court ruled that two Texas abortion restrictions were unconstitutional, because they would shut down most abortion providers in the state and impose an “**undue burden**” on access to safe, legal abortion in Texas.
- **June 29, 2020:** In *Medical Services v. Russo*, the Supreme Court struck down a medically unnecessary law that was nearly identical to the one it had struck down in *Whole Woman’s Health v. Hellerstedt*. This law would have made abortion virtually inaccessible in Louisiana.
- **September 1, 2021:** Texas implemented a law called S.B. 8. which banned abortion at approximately six weeks of pregnancy—before many people even know they’re pregnant.
- **June 24, 2022:** Supreme Court in the *Dobbs v. Jackson Women's Health Organization* decision (5-4 vote) overturned *Roe v. Wade*, ending 50 years of federal abortion rights.
- **September 13, 2022:** U.S. Senator Lindsey Graham proposed a bill that would impose new national restrictions on abortion.

Notes

1. Malcolm Potts and Martha Campbell, “History of Contraception,” in *Gynecology and Obstetrics*, 2002, 1. <https://web.archive.org/web/20030701162741/http://big.berkeley.edu/ifplp.history.pdf>
2. Potts & Campbell, “History of Contraception.”
3. Lydia Harris, “*Old Ideas for a New Debate: Medieval and Modern Attitudes to Abortion*,” (University of Durham).
<https://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=2091&context=mff>
4. The information in this section, as well as the following section on the 20th century, can be found on the “Historical Abortion Law Timeline: 1850 to Today,” Planned Parenthood Action Fund. <https://www.plannedparenthoodaction.org/issues/abortion/abortion-central-history-reproductive-health-care-america/historical-abortion-law-timeline-1850-today>
5. This decision resulted in as many as 70,000 sterilizations in the U.S. in the 20th century. These sterilizations disproportionately affected indigenous populations, Black Americans, and anyone deemed “feebleminded.” For more on this, see National Public Radio (NPR), “The Supreme Court Ruling That Led To 70,000 Forced Sterilizations,” March 7, 2016.
<https://www.npr.org/sections/health-shots/2016/03/07/469478098/the-supreme-court-ruling-that-led-to-70-000-forced-sterilizations>
6. See the “Timeline of Attacks on Abortion: 2009–2021,” Planned Parenthood Action Fund. <https://www.plannedparenthoodaction.org/issues/abortion/abortion-central-history-reproductive-health-care-america/timeline-attacks-abortion>