



US' Roe v. Wade Case 1973

For Prelims: US' Roe v. Wade Case 1973, Abortion Laws in India

For Mains: Debate Regarding Abortion, Government Policies & Interventions, Issues Related to Women, Gender

Why in News?

Recently, a leak by political journalism company Politico has revealed that, the [US Supreme Court](#) has decided to **overturn Roe v. Wade, 1973** the **court's landmark 1973** judgment that made **abortion a constitutional right**.

What is Roe v. Wade Judgment?

- In 1973, in the **landmark Roe vs Wade judgment**, the Supreme Court of the United States made the **right to abortion a constitutional right**, establishing a benchmark for **abortion laws across the world**.
- In this case, the US Supreme Court struck down laws that **made abortion illegal in several states and** ruled that abortion would be allowed up to the **point of foetal viability**, that is, **the time after which a foetus can survive outside the womb**.
 - Foetal viability was around **28 weeks (7 months)** at the time of the **Roe judgment**, experts now agree that advances in medicine have brought the threshold down to **23 or 24 weeks (6 months or a little less)**.
- Foetal viability is often seen as the point at which the **rights of the woman can be separated from the rights of the unborn foetus**.
- Abortion laws across the world rely on this metric but those **opposing abortions argue that this is an arbitrary timeframe** that legislation and the court in Roe adopted.

What is the Debate Regarding Abortion?

- The abortion debate is the ongoing controversy **surrounding the moral, legal, and religious status of induced abortion**.
- In many western countries, the sides involved in the debate are the self-described "**pro-choice**" and "**pro-life**" movements.
 - Pro-choice emphasizes the **woman's choice whether to terminate a pregnancy**.
 - On the contrary, the pro-life position **stresses the humanity of both the mother and fetus**, arguing that a fetus is a human person deserving of legal protection.
- Each movement has, with varying results, **sought to influence public opinion and to attain legal support for its position**.
- Many people believe that abortion is **essentially a moral issue**, concerning the beginning of **human personhood, rights of the fetus, and bodily integrity**.

What is the Present case?

- The current case pertains to challenging the **Mississippi law on abortion**.
- In 2018, the state of **Mississippi banned most abortions after 15 weeks** — much before fetal viability, and sooner than was allowed by Roe — throwing a direct challenge to the **1973 judgment**.
- In 2019, **“heartbeat” abortion law** was passed in Mississippi, an even more restrictive measure that banned most abortions once fetal cardiac activity could be detected — which is about six weeks.
- The **heartbeat law** said that physicians who performed an **abortion after a fetal heartbeat** was detected could have their medical licenses revoked.
 - The law made **no exceptions for pregnancies caused by rape or incest**.
- This law too was blocked by a district judge, and in **February 2020, the 5th Circuit Court of Appeals in New Orleans agreed with the decision**.

What will be the Impact of the Judgement?

- Since there is **no federal law** protecting the right to abortion in the US, the overturning of Roe **would leave abortion laws entirely up to the states**.
- In essence, in overlooking the checks and balances of **Roe vs Wade and in disabling personal agency**, the matter will no longer be set within the **paradigm of women’s rights**.
- It is also likely to impact the **larger framework of human rights**, tilting it away from the **poor and the voice-less**.

What are Abortion Laws in India?

- Under the **Indian Penal Code, 1860**, abortion remains a criminal offence under **Section 312**.
 - However, the **Medical Termination of Pregnancy Act, 1971 (MTP)** And its amendment simply provides an exception to the criminalization.
- The MTP Act, 1971 allows **abortion until 20 weeks of pregnancy**.
- Through an amendment in 2021, the **ceiling for abortions was raised to 24 weeks**, but only for special categories of pregnant women such as **rape or incest survivors, that too, with the approval of two registered doctors**.
- In the case of fetal disability, **there is no limit to the timeline for abortion**, but that is allowed by a medical board of specialist doctors set up by the governments of states and union territories.

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