

Opinion The court has shifted on abortion over the past 50 years. I have, too.

By [Kathleen Parker](#)

Columnist

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The explosive leak of a Supreme Court draft opinion suggesting the imminent reversal of *Roe v. Wade* has proved quite the Rorschach test for a country long divided over this most fundamental of moral issues.

The usual combatants have reacted predictably, even though the document is, hello, only a “draft” by Justice Samuel A. Alito Jr. and may or may not receive the predicted approval by five conservative justices. Pity Chief Justice John G. Roberts Jr., who had this unprecedented leak on his watch and has [ordered an investigation](#).

Alito’s [100-page opinion](#) is worth everyone’s attention, however, as the best conservative summary of why, as he puts it, the “exceedingly weak” *Roe* (1973) and *Casey* (1992) decisions should be reversed.

Alito does his best to argue that it is not only conservatives who found the original reasoning in *Roe* lacking. As cited in the brief, Archibald Cox, who served as solicitor general under Presidents John F. Kennedy and Lyndon B. Johnson, remarked that *Roe* “read[s] like a set of hospital rules and regulations” that “Neither historian, layman, nor lawyer will be persuaded ... are part of ... the Constitution.” Harvard constitutional scholar and author Mark Tushnet called *Roe* a “totally unreasoned judicial opinion.”

While *Roe* okayed [abortion](#) under a right to privacy, *Casey* established abortion as a freedom to make “intimate and personal choices” that are “central to personal dignity and autonomy.” It’s hard today to argue otherwise, accustomed as we’ve become to these ideas.

Many Americans — 60 percent to 70 percent — support *Roe* and don’t want it overturned, according to polling by [Gallup](#) and the Pew Research Center. But other polls also say they favor limits on second-trimester abortions. About [one-third](#) of Americans believe that abortion should generally be legal in the second trimester.

I've been an adult throughout *Roe*'s 50-year life span and, admittedly, have wobbled to and fro. When *Roe* became law in 1973, a much younger me performed a sideways leap and clicked my heels together, such was my glee.

Eleven years later and pregnant with my son, I became someone else and thought anew. It was clear to me that I was a mere vessel for this other autonomous life growing inside me and my job was to protect him. Sure, it was my body, but it was *his* life. Whereupon, I became, for lack of a better term, "pro-life."

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COUNTERPOINT

The Supreme Court might never recover from overturning *Roe v. Wade*

Even so, I've never supported reversing *Roe*, figuring that education and a host of pregnancy-prevention measures would bring about abortion's eventual end.

To some extent, they have. In 2017, the number and rate of abortions in the U.S. fell to its lowest since 1973, according to the Guttmacher Institute. The decrease was attributed to fewer pregnancies, not restrictive policies.

Nearly a half century after *Roe*, and liberated from worry about pregnancy, I'm frankly exhausted from this ceaseless debate and its soul-numbing conservative attempts to stamp a date on fetal pain from which to ban abortions or listening to liberals define "personhood" as self-awareness, as though babies can be self-aware. Most adults aren't self-aware.

I've watched both parties go over the cliff fighting or defending *Roe* and I've sometimes wondered: Would it really be so bad if abortion were decided by the states? What would the pros look like?

First, abortion would not be universally outlawed, as some might think. Some states would limit or eliminate its access; others would make a virtue of access problems elsewhere. Planned Parenthood with its vast resources could probably step up its game. Charities could pitch in as needed. Even baby daddies could be made to pony up.

Second, we might see the end of abortion litmus tests for politicians at the national level. No single issue has been more destructive to bipartisan comity. The Republican Party has largely purged itself of pro-choice candidates who otherwise might make valuable contributions. Pro-life Democrats long ago became obsolete. I don't want to overstate the case, but this could eventually open the door for more moderates in public office.

Lastly, irony of ironies, Supreme Court nominations might no longer hinge so disproportionately on whether a nominee will vow to uphold or overturn *Roe*. Judicial hearings might again resemble high-level discussions instead of search-and-destroy missions.

Against all the above, of course, is the surrender of women's autonomy to the mercy of the random strangers in state legislatures who get to vote on whether to permit abortions in every state. I wonder: Because men don't get pregnant or give birth, should they be even allowed to vote on abortion? (My answer: only if women get to decide whether Viagra and comparable products are made available at local pharmacies.)

As I continue to struggle with such issues, a small crumb for pro-choice Americans: If the Supreme Court rules as *seems* likely, we might not see another Republican president for a very long time.

