

# Roe Inspired Activists Worldwide, Who May Be Rethinking Strategy

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The draft Supreme Court opinion overturning *Roe v. Wade* that leaked last week is not yet final. But when the dust settles, American women may conclude that they had lost the right to abortion the same way that an Ernest Hemingway character said he had gone bankrupt: gradually, and then suddenly.

If anything like the leaked draft becomes law, it will be the result not just of decades of campaigning, litigating and nominating of conservative judges by anti-abortion groups and their Republican allies but also of a single decision that reverses the establishment of a constitutional right that had inspired abortion rights campaigners around the world.

So the opinion also raises a question relevant to activists everywhere: Is seeking protection for abortion rights through courts, rather than building the kind of mass movement that can power legislative victories, a riskier strategy than it once seemed?

## Roe's Surprising Politics

It is hard to imagine now, but **at the time *Roe v. Wade* was decided, in 1973, abortion was not a major issue for the American right or even for evangelical Christians.** In fact, two years before *Roe*, the Southern Baptist Convention voted for a resolution calling for abortion to be legalized. And though both parties were split on the issue, **opposition to abortion was most associated with Catholics, who tended to vote Democratic.** But just a few years later, that had changed. **The shift was not spurred by abortion itself, but by desegregation.**

After the Supreme Court ordered schools in the South to desegregate, many white parents pulled their children from public schools and sent them to all-white private schools known as segregation academies. After further litigation by Black parents, the IRS **revoked those schools' tax-exempt status**, provoking widespread anger among white evangelical Christians and catalyzing their new role as a powerful conservative force in American politics.

Publicly opposing desegregation was not really socially acceptable or palatable to a broader coalition. **But opposing abortion was.** And abortion rights had followed a similar procedural path as *Brown v. Board of Education* and other civil rights cases, using impact litigation to win constitutional protections at the Supreme Court to override state laws. So **criticizing *Roe* became a way to talk about "government overreach," "states' rights" and the need to "protect the family"** without having to actively oppose civil rights or desegregation. Over the years, the backlash built up more steam. But the right to abortion still seemed relatively secure, particularly after the Supreme Court reaffirmed it in *Planned Parenthood v. Casey* in 1992. The fact that abortion rights **remained protected in the United States**, even in the face of growing political opposition, seemed like an argument in favor of seeking protections via the courts.

Activists in other countries have sought a similar path. In Colombia in 2006, Monica Roa, a lawyer for the feminist group Women's Link Worldwide, won exceptions to the country's blanket abortion ban by arguing that Colombia's international treaty organizations, and thus its Constitution, required exceptions for rape, incest or danger to the life or health of the mother. This year, in a subsequent case, the court went further, **decriminalizing all abortion before 24 weeks of gestation.** Pursuing the issue via the courts allowed activists to partly circumvent the contentious politics around the issue, said Julia Zulver, a political sociologist who studied activism around reproductive rights in Colombia. *"During the peace process, everything got polarized,"* she said.

In 2016, the government held a referendum on a peace agreement with the FARC guerrilla group. To undermine public support for the deal, conservative politicians, including former President Álvaro Uribe, sought

to associate the draft agreement with abortion, gender education in schools and other contentious social issues.

*“As soon as the peace referendum started going through, it was like, if you’re voting yes to this peace referendum, you’re voting to turn your children gay. You’re voting against the nation. You’re voting against the idea of the nation and the family. And lumped into that are issues like women’s rights or access to reproductive rights,”* Zulver said.

In Mexico, President Andrés Manuel López Obrador has been fiery in his opposition to the Mexican feminist movement, which he views as hostile opposition to his populist administration. But after years of grassroots organizing by the movement, the country’s Supreme Court decriminalized abortion in 2021.

## Courts Are the Catch

But just as Roe’s passage and ability to withstand opposition seemed to map out a path to abortion protection, its likely fall now highlights a potential weakness of judicial protection: It is inherently dependent on the makeup of the courts. And over time, that can change. In the United States, **Republican voters’ opposition to abortion** helped fuel a decadeslong effort to appoint and elect conservative judges at all levels of the judicial system.

Today, the result is a conservative supermajority on the Supreme Court that not only looks set to overturn Roe but also **has swung sharply to the right on other issues, including voting rights**. In Poland, when the far-right nationalist government failed to get a restrictive abortion law through Parliament, it turned instead to the constitutional tribunal, which was stacked with justices friendly to the governing Law and Justice party. In October 2020, the tribunal effectively enshrined the failed legislation into constitutional law. Sometimes litigation simply fizzles. In 2010, many thought that a challenge to Irish abortion restrictions in the European Court of Human Rights might become a Roe for Europe. But the court issued only a narrow procedural decision instead.

## Activism After All

In the end, it may come down to activism after all. And around the world, a pattern has emerged: Successful campaigns treat abortion as part of broader questions of national identity, and rest on sustained organizing by experienced activists.

- In Ireland in 2012, the death of a young woman named Savita Halappanavar who had been denied a medically necessary abortion became a rallying cry for the abortion rights movement. In 2018, the country held a referendum to change the Constitution to legalize abortion, which passed with more than 66% support.
- As in Colombia, Irish activists sought to frame the abortion issue as a matter of national and social identity. But this time, the dynamic was reversed: In Ireland, the most successful identity argument was made by the side arguing in *favor* of abortion rights, framing reproductive rights as part of Ireland’s European identity.  
*“The framing around Ireland’s abortion rights campaign was about compassion and how Ireland has to be the compassionate face of Europe,”* said Marie Berry, a University of Denver political scientist who has studied the Irish campaign. *“That it is more compassionate than the U.K., as the U.K. became more and more conservative, especially under Tory government. That we’re in the EU, we represent a progressive Europe.”*

But the key to the movement’s success may have been combining that appealing message with the organizing experience of more radical feminist groups.

*“What shocked me when I was doing research with activists there was that, actually, the organizing node of the whole abortion rights ‘Repeal the 8th’ campaign came from **anarcho-feminist movements**, which were more rooted in environmental movements than the liberal women’s rights movement,”* Berry said. *“The bulk of the people who voted for it, of course, were not affiliated with the more leftist organizing nodes. But that was really the heart of the movement that made it happen.”*

In Argentina, the Ni Una Menos (“Not one woman less”) movement combined sustained, long-term organizing with framing that situated abortion rights in the broader context of a just society, presenting the lack of access

to safe, legal abortion as just one part of the broader problem of violence against women. A 2018 bill to legalize the procedure failed, **but in 2020, the country legalized abortion**, making Argentina the largest country in Latin America to do so.

In the United States, by contrast, legal abortion has been the status quo since the Roe decision in 1973, which made it a difficult target for that kind of sustained mass organizing.

*“I think the indigenous mobilizing, some of the more progressive kind of racial justice work, Occupy, all of the kind of the leftist nodes within those movements, haven’t centered abortion in their advocacy because it has been, constitutionally, more or less a solved issue since the ‘70s,”* Berry said. And for other organizations focused on the intersection of reproductive rights with race and class, *“abortion has always been there, but it isn’t the only demand,”* she said.

Centrist organizations and Democratic politicians, by contrast, have often framed abortion as a matter of unfortunate but necessary health care services that should be “safe, legal and rare,” and focused activism on issues of access. That was often vital for women in rural areas or states whose burdensome regulations had made abortion essentially unavailable in practice, but it did not generate the kind of mass, identity-based appeal that has been effective in countries like Ireland.

And so today, **with Roe apparently on the brink of falling**, American activists are considering what it will take to build their own mass movement in the style of Ni Una Menos — and what they can accomplish before it is too late.