



A Brief History of Abortion in the U.S.

Abortion wasn’t always a moral, political, and legal tinderbox. What changed?

BY ANNALIES WINNY

Abortion laws have never been more contentious in the U.S. Yet for the first century of the country’s existence—and most of human history before that—abortion was a relatively uncontroversial fact of life.

“Abortion has existed for pretty much as long as human beings have existed,” says Joanne Rosen, JD, MA, a senior lecturer in Health Policy and Management who studies the impact of law and policy on access to abortion.

Until the mid-19th century, the U.S. attitude toward abortion was much the same as it had been elsewhere throughout history: It was a quiet reality, legal until “quickening” (when fetal motion could be felt by the mother). In the eyes of the law, the fetus wasn’t a “separate distinct entity until then,” but rather an extension of the mother, Rosen explains.

What changed? America’s first anti-abortion movement wasn’t driven primarily by moral or religious concerns like it is today. Instead, abortion’s first major foe in the U.S. was physicians on a mission to regulate medicine.

Until this point, abortion services had been “women’s work.” Most providers were midwives, many of whom made a good living selling abortifacient plants. They relied on methods passed down through generations, from herbal abortifacients and pessaries—a tampon-like device soaked in a solution to induce abortion—to catheter abortions that irritate the womb and force a miscarriage, to a minor surgical procedure called dilation and curettage (D&C), which remains one of the most common methods of terminating an early pregnancy.

The cottage abortion industry caught the attention of the fledgling American Medical Association, which was established

OPPOSITE: A pamphlet circa 1887 advertising Chichester’s English Pennyroyal Pills, which were marketed as an herbal remedy to stimulate contractions and trigger a miscarriage

in 1847 and, at the time, excluded women and Black people from membership. The AMA was keen to be taken seriously as a gatekeeper of the medical profession, and abortion services made midwives and other irregular practitioners—so-called quacks—an easy target. Their rhetoric was strategic, says Mary Fissell, PhD, the J. Mario Molina Professor in the Department of the History of Medicine at Johns Hopkins University. “You have to link those midwives to providing abortion as a way of kind of getting them out of business,” Fissell says. “So organized medicine very much takes the anti-abortion position and stays with that for some time.”

In 1857, the AMA took aim at unregulated abortion providers with a letter-writing campaign pushing state lawmakers to ban the practice. To make their case, they asserted that there was a medical consensus that life begins at conception, rather than at quickening.

The campaign succeeded. At least 40 anti-abortion laws went on the books between 1860 and 1880.

And yet doctors continued to perform abortions in the late 19th and early 20th centuries. By then, abortion was illegal in almost all states and territories, but during the Depression era, “doctors could see why women wouldn’t want a child,” and many would perform them anyway, Fissell says. In the 1920s and through the 1930s, many cities had physicians who specialized in

abortions, and other doctors would refer patients to them “off book.”

That leniency faded with the end of World War II. “All across America, it’s very much about gender roles, and women are supposed to be in the home, having babies,” Fissell says. This shift in the 1940s and ’50s meant that more doctors were prosecuted for performing abortions, which drove the practice underground and into less skilled hands. In the 1950s and 1960s, up to 1.2 million illegal abortions were performed each year in the U.S., according to the Guttmacher Institute. In 1965, 17% of reported deaths attributed to pregnancy and childbirth were associated with illegal abortion.

A rubella outbreak from 1963 to 1965 moved the dial again, back toward more liberal abortion laws. Catching rubella during pregnancy could cause severe birth defects, leading medical authorities to endorse therapeutic abortions. But these safe, legal abortions remained largely the preserve of the privileged. “Women who are well-to-do have always managed to get abortions, almost always without a penalty,” says Fissell. “But God help her if she was a single, Black, working-class woman.”

Women who could afford it brought their cases to court to fight for access to hospital abortions. Other women gained approval for abortions with proof from a physician that carrying the pregnancy would endanger her life or her physical or mental health. These cases set off a wave of abortion reform bills in state legislatures that helped set the stage for *Roe v. Wade*. By the time *Roe* was decided in 1973,

legal abortions were already available in 17 states—and not just to save a woman’s life.

But raising the issue to the level of the Supreme Court and enshrining abortion rights for all Americans also galvanized opposition to it and mobilized anti-abortion groups. “*Roe* was under attack virtually from the moment it was decided,” says Rosen.

In 1992 another Supreme Court case, *Planned Parenthood of Southeastern Pennsylvania*, posed the most significant existential threat to *Roe*. Rosen calls it “the case that launched a thousand abortion regulations,” upholding *Roe* but giving states far greater scope to regulate abortion prior to fetal viability. However, defining that nebulous milestone became a flashpoint for debate as medical advancements saw babies survive earlier and earlier outside the womb. Sonograms became routine around the same time, making fetal life easier to grasp and “putting wind in the sails of the ‘pro-life’ movement,” Rosen says. Then in June, the Supreme Court overturned both *Roe* and *Casey*.

For many Americans, that meant the return to the conundrum that led Norma McCorvey—a.k.a. Jane Roe—to the Supreme Court in 1971: being poor and pregnant, and seeking an abortion in a state that had banned them in all but the narrowest of circumstances.

The history of abortion in the U.S. suggests the tides will turn again. “We often see periods of toleration followed by periods of repression,” says Fissell. The current moment is unequivocally marked by the latter. What remains to be seen is how long it will last. ☪

TIMELINE: ABORTION IN THE U.S.

