The Leaked Draft of the U.S. Court's Decision on Abortion Law

What is the issue?

The draft of the US Supreme Court's decision to overturn Roe v. Wade, 1973 case judgment that made abortion a constitutional right has spurred an issue.

What is Roe v. Wade case (1973) about?

> *Statistics speak of about 6,30,000 reported abortions in the United States in 2019, down 18% from 2010.*

- The judgement struck down laws that made abortion illegal in several states, and ruled that abortion would be allowed up to the point of foetal viability (the time after which a foetus can survive outside the womb).
- An average pregnancy lasts about 40 weeks and the 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), and newer studies show this could be further pegged at 22 weeks.
- **Support for abortion**- 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.
- Since many people identify pregnancy only after the sixth week, pre-viability timelines leave women with very little time and opportunity to make a decision to abort.
- **Arguments against abortion**- Those opposing abortions argue that this is an arbitrary timeframe that legislation and the court in Roe adopted.

What is the Mississippi law?

- **The Mississippi ban**- In 2018, the state of Mississippi banned most abortions after 15 weeks much before foetal viability directly challenging the 1973 judgment.
- Later it was struck down on the grounds that it unequivocally violates the constitutional rights of women.
- **The heartbeat abortion law**- In 2019, then Republican Governor Phil Bryant signed the heartbeat abortion law that banned abortions once foetal cardiac activity is detected which is about six weeks.
- The law said that physicians who performed an abortion after a foetal heartbeat was detected could have their medical licences revoked.
- It also made no exceptions for pregnancies caused by rape or incest.
- The 2018 law reached the Supreme Court and a decision in the matter was expected in June or July 2022.

Why is the decision of the Supreme Court important?

- **Difference of opinion**- The issue of abortion has sharply split opinion among conservatives and liberals in the US for decades.
- The clear conservative majority in the Supreme Court has given the conservatives their best chance for decades to overturn Roe.
- **Applicability in States**- If the court strikes down the Roe v Wade ruling, individual states would be allowed to ban abortion if they wish.
- It is expected abortion could then be banned in almost half of US states.
- **Impact on poor women**- The availability of clinics, insurance payouts, are crucial issues that form part of the struggle of many women even with the backing of Roe.
- Limiting abortion access will most intensely affect poor women.
- **Concern over LGBTQ+ rights**- The Supreme Court established the right of same-sex couples to marry in the 2015 *Obergefell v. Hodges* decision.
- The leaked draft has raised fears that other landmark civil rights cases could also face legal challenges in the Supreme Court.

What about the abortion law in India?

- India's Medical Termination of Pregnancy Act, 1971 allows abortion until 20 weeks of pregnancy.
- The 2021 amendment raised the ceiling for abortions to 24 weeks only for special categories of pregnant women such as rape or incest survivors with the approval of two registered doctors.
- In case of foetal 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.

In approximately 16 countries around the world, abortion is entirely prohibited and even criminalised.

References

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