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Mississippi attorney general: Overturning 'Roe' will return abortion policy to the people

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On Dec. 1, we will make the case to the Supreme Court for [overturning](#) *Roe v. Wade* and returning decision-making about abortion policy to the people. We recognize the magnitude of what we are asking. But the reason it represents such a monumental change is because almost 49 years ago the court put political intuition above sound legal reasoning and reached a [conclusion](#) in *Roe* utterly unsupported by the Constitution or the court's own jurisprudence. It is time to correct that mistake.

There is no question that the issues involved in abortion policy are tough, complex and emotionally charged. But it is precisely because of such challenges that the Constitution gives the people the difficult task of balancing competing interests, devising compromises and developing policy. It is the core principle of democratic self-governance that U.S. citizens act on hard issues through the men and women they elect and can hold accountable at the ballot box.

When the Supreme Court decided *Roe*, it took abortion policymaking out of the hands of the people. It set it apart from all sorts of other difficult policy issues and created a special set of rules that have acted to keep abortion policy behind the bench, where unelected judges decide the fate of the people's laws.

For decades, states have tried in vain to craft laws that would satisfy those special rules and also promote the people's legitimate interests, such as defending the sanctity of life and protecting women's health. Over and over again, those attempts have been quickly quashed by the judiciary, which itself has struggled to make sense of the special rules of abortion jurisprudence. The world in which we live today barely resembles the world of 1973, yet states have been unable to reflect our changed experiences in our laws.

In deciding *Roe v. Wade*, the court, almost paternalistically, worried about the ["distressful life and future"](#) of a woman facing an unplanned pregnancy. But in the intervening years, it has become easier for women to reach the very pinnacle of our success, economically and socially, fully independent of the right those seven male justices bestowed upon us.

Law and public policy, culture and society have all advanced to give women more opportunities to pursue success in our professional lives and also have a family. Maternity leave and even paternity leave are commonplace. Women regularly achieve our professional goals with flexible work schedules, telecommuting and independent business opportunities. Men and women are sharing responsibilities in the home better than ever before.

Meanwhile, contraceptive quality has vastly improved, its cost has dropped, and it is more widely accessible. [Safe haven laws](#) that allow women to leave an unharmed newborn at a hospital or other designated refuge now exist in every state, giving women that last final option without judgment or retribution.

The court in *Roe* pitted women against our children, and woman against woman. It came to a political conclusion through a nonpolitical process and threw our society into a chaos that has plagued U.S. politics and jurisprudence ever since. It forced Americans to decide between being pro-life or being pro-choice, and left little room for those who didn't want to label their values as one or the other. It forced states to seek creative workarounds to enforce legitimate state interests.

In *Roe*, the court turned actual policymaking in state legislatures into an almost academic exercise, blocking the people and their elected officials from having the truly difficult debate about how we assert the basic human dignity of women and their children in our laws.

I have great faith in the American people and our elected leaders, so I am certain that when the court overturns *Roe*, an honest debate over true policy will ensue. It will be messy and it will be hard, and that debate may play out differently and reach different conclusions from state to state. But that is the role the Constitution gave to us, to the people, and that is the role the court needs to return to us now.