



Abortion and the Rise of the Religious Right in American Politics

Patrick Jing

Salisbury School, CT,

ABSTRACT

Abortion became an incendiary political as a topic in late 1990s after the rise of Christian evangelicals and their influence over conservative politics. The combination of the Republican party, conservative thinkers, anti-abortion evangelicals created the powerful political group called "the religious right." The growing influence of the religious right was fostered first by President Jimmy Carter before expanding dramatically with Ronald Reagan's election. The federalist society and Reagan's desire for a more conservative U.S. Supreme Court, combined with the Federalist Society, a political interest group that channeled and magnified the influence of the religious right, led to the domination of conservative values and judges, like Antonin Scalia, who shared right beliefs and by extension the religious leaders who supported them, across the American judiciary.

KEYWORDS: Abortion, Religious Right, American Politics, Policy, Supreme Court

Abortion became an incendiary political as a topic in late 1990s after the rise of Christian evangelicals and their influence over conservative politics. The combination of the Republican party, conservative thinkers, anti-abortion evangelicals created the powerful political group called "the religious right." The growing influence of the religious right was fostered first by President Jimmy Carter before expanding dramatically with Ronald Reagan's election. The federalist society and Reagan's desire for a more conservative U.S. Supreme Court, combined with the Federalist Society, a political interest group that channeled and magnified the influence of the religious right, led to the domination of conservative values and judges, like Antonin Scalia, who shared right beliefs and by extension the religious leaders who supported them, across the American judiciary. This development ultimately culminated in the repeal of a constitutional right to an abortion in the *Dobbs v. Jackson's Women Health Organization* (U.S., 2022), which overturned *Roe v. Wade* (U.S., 1973).

Abortion did not play a major role in politics until the late 20th century. In fact, a consensus existed among British colonies in the colonial period that abortion was "legal prior to quickening"—that is, when the woman first feels the movement of the fetus—typically occurring sometime around sixteen to twenty weeks of pregnancy.¹ Following the decades

1 GREENHOUSE, LINDA, and REVA B. SIEGEL. "Before (and After) Roe v. Wade: New Questions About Backlash." *The Yale Law Journal* 120, no. 8 (2011): 2028–87. <http://www.jstor.org/stable/41149586>.

after the colonies' independence, this policy endured as the primary restriction on abortion.²

It was only during the mid 19th century that this policy began to change. While Connecticut passed the first law criminalizing abortion in 1821, a campaign by the American Medical Association (AMA) from the 1850s and general concern on the widespread use of abortion led the banning of the act by nearly every state following the turn of the century.

During the nineteenth century, abortion was quite common and easily accessible. During this time before modern medical procedures, childbirth could have life threatening consequences for women. Additionally, as the nation became more urban, Americans began to see large families as a sign of carelessness rather than prosperity, as children shifted from essential laborers to economic burdens.³ However, the rise of abortion and other such methods to limit family sizes by the 1840s and 1850s would provoke nativist fears of a dwindling anglo-saxon population in the wake of a flood of immigrants, as well as religious fears with the influx of Catholic immigrants who liked large families.⁴ Such concerns led the AMA to find criminalization increasingly attractive.

2 Sauer, R. "Attitudes to Abortion in America, 1800-1973." *Population Studies* 28, no. 1 (1974): 53–67. <https://doi.org/10.2307/2173793>.

3 STONE, GEOFFREY R. "The Road to Roe." *Litigation* 43, no. 1 (2016):43. <https://www.jstor.org/stable/26402017>.

4 Sauer, R. "Attitudes to Abortion in America, 1800-1973." *Population Studies* 28, no. 1 (1974): 55. <https://doi.org/10.2307/2173793>.

Additionally, Christian leaders, Catholic and Protestant alike, were publicly opposed to the issue, though there remained a large portion of the public that did not share the same views as the medical and religious groups. While such a group did exist, however, the restrictive laws on abortion were rarely, if ever, spoken out against,⁵ likely a byproduct of Christian efforts to stigmatize the act.⁶

During the early twentieth century, abortion remained widespread, albeit no longer legal. While popular opinions remained relatively consistently against the right to an abortion, an increasing number of people began openly questioning anti-abortion laws in the 1950s. For example, many physicians would have patients who bled out or died of infection from illegal abortion complications, which led to resistance of a universal ban on abortion in the medical community⁷.

Following this demand, the American Law Institute (ALI), a prominent legal institution during this time, created a model law in 1959 that would permit abortion in cases of rape or incest, when pregnancy would threaten physical or mental health, or when the child would likely have serious physical or mental defects.⁸

While opinions during the mid-twentieth century tended to lean more liberally, the opinion of the Catholic Church remained as it was. In 1951, Pope Pius XII stated that abortion was murder, regardless of if the mother would die. Following this declaration, few, if any, Catholics objected. A survey of numerous Protestant groups found that, while abortion to save the mother would be accepted, abortion was also generally condemned in Protestant circles in this period.⁹

In the 1960s, pro-abortion sentiment began to rise further. By 1969, a Gallup poll found that 40% of the adult population had begun to support the legalization of abortion in pregnancies of twelve weeks or less.¹⁰ Additionally, as efforts of liberalization began, statutes such as Colorado's in 1967 passed moderately liberal statutes that would permit abortion along the ALI's model. During this time, abortion was discussed on major issues such as public health, women's rights, and population control.

On the issue of public health, medical director of Planned Parenthood Mary Steichen Calderone published a medical journal article arguing that doctors had an obligation to involve themselves with abortion, noting anywhere from

5 Ibid, 56

6 Ibid, 66.

7Reagan LJ. *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973*. Berkeley, CA: University of California Press; 1997.

8 Sauer, R. "Attitudes to Abortion in America, 1800-1973." *Population Studies* 28, no. 1 (1974): 55. <https://doi.org/10.2307/2173793>.

9 Ibid.

10 Ibid, 64.

200,000 to 1.2 million cases of illegal abortion per year in the US. This was a major issue, as illegal abortion inflicted health harms and additionally disproportionately affected poor women who didn't have the connections or money to afford safer operations.

During the 1960s, the Feminist movement, began to involve themselves in abortion. As a result of the attention the movement began to give abortion, leaders of the abortion cause shifted from male doctors to women. Prior to this, the movement had not seen the issue as a central part of their project, though they later began to see the reform of childbearing policies as essential to equality.¹¹

In particular, the founding president of the National Organization for Women (NOW), Betty Friedman, declared abortion a feminist cause in the First National Conference on Abortion Laws in 1969, and would organize a nationwide strike on the issue the following year, with rhetoric linking abortion to a revolution in work and family life.¹² Such efforts led abortion to be considered a part of the overall challenge against the societal role of women.

The topic of the environment was also linked to the abortion issue. A group known as Zero Population Growth founded in 1968 was especially relevant in the discussion of abortion. Warning the public on the threat of overpopulation and the finite resources on earth, the movement sought to resolve such environmental concerns through abortion, and advocated for full access to all birth control.¹³

A major legal victory for the movement to legalize abortion came in 1965 with the U.S. Supreme Court's *Griswold v. Connecticut* decision (U.S., 1965). Prior to the ruling, a criminal statute in Connecticut had banned contraceptive use and sale. The arrest of Estelle Griswold, the executive director of the Planned Parenthood League of Connecticut, after her and Dr. C. Lee Buxton's opening of a birth control clinic in the state, provoked Supreme Court action, leading to the statute's repeal by this decision.

The main question addressed in the Supreme Court decision was whether or not the statute violated marriage couples' privacy by regulating their choice to limit pregnancies; the Court ultimately decided that, in fact, such a statute denying access to contraception infringed on married couples' right to privacy. This decision was primarily based on the Fourteenth Amendment, though other parts of the U.S. Constitution, such as the Fourth and the Ninth Amendments were both used to strengthen the Supreme Court's judgement. This precedent from the Supreme Court legalizing contraceptives would later play a major role in the legalization of abortion.

11 GREENHOUSE, LINDA, and REVA B. SIEGEL. "Before (and After) *Roe v. Wade*: New Questions About Backlash." *The Yale Law Journal* 120, no. 8 (2011): 2028-87. <http://www.jstor.org/stable/41149586>.

12 Ibid, 2042.

13 Ibid, 2038.

In the 1970s, abortion first entered politics with President Nixon and the Republican Party's interest in using the division between the anti-abortion policy of the Catholic Church and the more liberal mindset of the Democratic Party that it typically sided with to gain more votes.¹⁴ As Catholics composed 25% of voters, even minor shifts would have major impacts on politics,¹⁵ a fact that the Republican Party began to focus on. Along with the issue of abortion, Republicans had also taken up other issues to attract Catholic votes, such as supporting school prayer and opposing busing, a practice that led to more diverse racial composition in schools. As a result of such efforts from the Republican Party, the votes that had been over 80% Democratic in 1960 would shift to over 60% Republican in 1972.¹⁶

While such a major change in Catholic voting may seem as if it would have much to do with the anti-abortion position that Nixon had taken, a Gallup poll that summer demonstrated that a majority of Catholics were in support of a more lenient policy towards abortion.¹⁷ This suggests that at this time, where abortion had just entered the political scene, abortion had either yet to become a major issue for Catholic voters, or that the issue was still controversial within Catholic groups despite the sentiments of the Church.

From the 1960s and continuing during most of the 1970s, Protestants had remained mostly neutral or even supporting of abortion, forming a stark contrast to the Catholic Church and their leaders. As a result of this, religious leaders would not rally together until later into the decade, with Protestants and Catholics having separate beliefs on the issue.

During the 1972 election, neither the Democratic nor the Republican platform mentioned abortion. However, a plank suggested by the National Women's Political Caucus that supported abortion led to heated discussions in the Democratic Party. The party candidate for president, George McGovern, would state that he saw abortion as a private matter between the "pregnant woman and her own doctor," though also seeing it as something to be left to states.¹⁸

President Nixon would later expand the strategy of appealing to Catholics to social conservatives in general, and would reframe the attack on abortion to express respect for traditional authority.¹⁹ While the feminist movement would

strongly support abortion rights, it also became connected and vulnerable to the same arguments that plagued the larger movement, instead of being its own issue.

During 1973, the U.S. Supreme Court ruled on the landmark abortion decision *Roe v. Wade* (U.S., 1973). Following a lawsuit from "Jane Roe" against Henry Wade, the district attorney of Dallas County in Texas, where she challenged a Texas law that criminalized abortion except to save a woman's life, the Supreme Court considered the question of whether the Constitution recognized a women's right to abortion. In a 7-2 majority decision, the Court determined that this right did indeed exist, stating that the right falls within the right to privacy that is given from the Due Process Clause of the Fourteenth Amendment. A significant precedent for this decision was the 1965 decision of *Griswold* (U.S., 1965), which had also focused on a right to privacy with roots in the Fourteenth Amendment. While the decision did stipulate that this abortion would be increasingly regulated by the state as the pregnancy went on, the ruling would guarantee the right to abortion in the first trimester of the pregnancy.

Following the *Roe v. Wade* decision, there was little backlash from the public, or in politics for the most part. Additionally, as the timing of *Roe* coincided with the death of Lyndon Johnson, a previous president, the news was only treated as a secondary headline for most sources. At the time, the evangelicals that would later become particularly vocal against abortion did not condemn the decision. The only group that loudly protested were Catholics, with Justice Blackmun noting that he had never before been so personally attacked.²⁰

In the following decades, organized religion would become a major party in the abortion issue. However, when the Catholic Church had taken up issue with *Roe v. Wade* and stood against legal abortion, Protestant evangelicals had yet to return to the public sphere since their withdrawal in the early 20th century.²¹

In the 1920s, many conservative evangelicals had disappeared from public engagement. This departure could be explained with the weakening of the temperance movement, which had heavy evangelical influence, in the 1920s along with the Scopes trial and the rise of fundamentalism.²² However, as the decisions of the Supreme Court, such as the school prayer and abortion cases, and the government in the mid-20th century began to threaten conservative Christian interests, evangelicals began to return to the public.²³

20 STONE, GEOFFREY R. "The Road to Roe." *Litigation* 43, no. 1 (2016): 48-49. <https://www.jstor.org/stable/26402017>.

21 Nichols, Joel A. "EVANGELICALS AND HUMAN RIGHTS: THE CONTINUING AMBIVALENCE OF EVANGELICAL CHRISTIANS' SUPPORT FOR HUMAN RIGHTS." *Journal of Law and Religion* 24, no. 2 (2008): 638. <http://www.jstor.org/stable/25654332>.

22 Ibid.

23 Ibid.

14 STONE, GEOFFREY R. "The Road to Roe." *Litigation* 43, no. 1 (2016): 46. <https://www.jstor.org/stable/26402017>.

15 Bridge, Dave. "How the Republican Party Used Supreme Court Attacks to Pursue Catholic Voters." *U.S. Catholic Historian* 34, no. 4 (2016): 79-106. <http://www.jstor.org/stable/26156354>.

16 Ibid, 82.

17 GREENHOUSE, LINDA, and REVA B. SIEGEL. "Before (and After) *Roe v. Wade*: New Questions About Backlash." *The Yale Law Journal* 120, no. 8 (2011): 2058. <http://www.jstor.org/stable/41149586>.

18 Ibid, 2080.

19 Ibid, 2047.

The 1976 election featured Jimmy Carter, a 'born again' Democratic candidate who placed heavy emphasis on the role of religion in his campaign, a move virtually unprecedented among politicians at the time. Carter was considered a public symbol of conservative resurgence in American religion, and his identity as an evangelical was incredibly encouraging for the estimated 40 million evangelical Americans, who had commonly not been courted as the Catholic or Jewish vote had in the past.²⁴ His Republican opponent, Gerald Ford was also an evangelical, though not as public about his religion.

With the politicization of evangelism, many groups designed to rally their votes had formed by the 1980 campaign.²⁵ Notable among these was the Moral Majority, a religious organization that had several million members within a few years of founding. This organization saw abortion on demand as evil, and sought a constitutional amendment or something of similar weight to forbid abortion. Such movements also contributed to the idea of a unified religious group, with the Moral Majority including Catholics, Jews, and Mormons.²⁶

Since tensions in the mid-19th century between Catholic Irish immigrants and Protestants, a divide between the two groups had become widespread, and led to a general association of Catholics with Democrats, and perhaps as a result, Protestants with Republicans.²⁷ However, as a Democratic candidate who considered himself an evangelical, Carter was in a position to gain Catholic support as well as appeal to conservative evangelicals.

The greatest problem with Carter's desire to gain religious support came from his stance on the 'Establishment Clause' of the 1st Amendment. As a Baptist, he followed the firm belief that the church and the state should be separate,²⁸ which led to great dissent with Catholic leaders, who desired amendments that would deal with recent Supreme Court rulings that they saw as hurting religion.

²⁹One of the many areas in which Carter found himself at odds with organized religion was on the issue of government aid to Parochial schools. While he would be willing to support with indirect aid such as secular textbooks and food, Carter

24 Flowers, Ronald B. "President Jimmy Carter, Evangelicalism, Church-State Relations, and Civil Religion." *Journal of Church and State* 25, no. 1 (1983): 114. <http://www.jstor.org/stable/23916386>.

25 Ibid, 115

26 Britannica, T. Editors of Encyclopaedia. "Moral Majority." *Encyclopedia Britannica*, February 12, 2018. <https://www.britannica.com/topic/Moral-Majority>.

27 GREENHOUSE, LINDA, and REVA B. SIEGEL. "Before (and After) *Roe v. Wade*: New Questions About Backlash." *The Yale Law Journal* 120, no. 8 (2011): 2058. <http://www.jstor.org/stable/41149586>.

28 Flippen, J. Brooks. "Carter, Catholics, and the Politics of Family." *American Catholic Studies* 123, no. 3 (2012): 32-33. <http://www.jstor.org/stable/44195421>.

29 Ibid, 34

was strictly against aid that would support the religious mission of such schools.³⁰ Additionally, a major concern for organized religion was the U.S. Supreme Court ruling in *Engel v. Vitale* (1962), where after the court ruled that school prayer violated the Establishment Clause of the First Amendment.³¹ With large public outcry following the decision, many demanded legislation to resolve the issue, and Republican politicians Ford and Reagan who proclaimed themselves evangelicals were willing to oblige. However, following a similar interpretation of the clause as the Supreme Court, Carter opposed such a decision.³²

Another issue on which Carter took a stance against organized religion was on the taxation of Church properties, such as orphanages, educational institutions, and other such locations. While Ford would stand against this issue on grounds that it would be an excessive strain on already burdened church-sponsored institutions, Carter publicly stated that he would favor taxing any properties aside from the church itself.³³

Other issues religious Americans found with Carter included sending a Catholic envoy to the Vatican³⁴, a traditionally Protestant role, and supporting the Equal Rights Amendment.³⁵

Especially with more libertine issues, Carter's adherence to the separation of the Church and State would commonly put him at odds with the religious groups he wanted to appeal to. While he remained outspoken in supporting the Equal Rights Amendment, Carter also believed, like many conservatives, that abortion and homosexuality were sinful. However, his beliefs that the government shouldn't have a role in either led to conflict.³⁶

Additionally, Carter advocated a more private form of worship than many had anticipated of him. To the surprise of reporters, the prominent Evangelist stated that he did not intend on having worship services in the White House, a regular event during Nixon's presidency. For Carter, he

30 Flowers, Ronald B. "President Jimmy Carter, Evangelicalism, Church-State Relations, and Civil Religion." *Journal of Church and State* 25, no. 1 (1983): 117-118. <http://www.jstor.org/stable/23916386>.

31 Flippen, J. Brooks. "Carter, Catholics, and the Politics of Family." *American Catholic Studies* 123, no. 3 (2012): 29. <http://www.jstor.org/stable/44195421>.

32 Flowers, Ronald B. "President Jimmy Carter, Evangelicalism, Church-State Relations, and Civil Religion." *Journal of Church and State* 25, no. 1 (1983): 117. <http://www.jstor.org/stable/23916386>.

33 Ibid, 119.

34 Ibid, 120.

35 Flippen, J. Brooks. "Carter, Catholics, and the Politics of Family." *American Catholic Studies* 123, no. 3 (2012): 30. <http://www.jstor.org/stable/44195421>.

36 Ibid, 33.

planned on having less involvement in official religion “than other Presidents have,” instead meaning to worship inconspicuously as any other citizen.³⁷

While Carter’s stance on various religious issues was unsettling to organized religion, he ultimately managed to maintain 54% of Catholic votes, while also carrying 46% of Protestant votes, as compared to the 58% and 39% averages of previous Democratic presidents.³⁸ However, as Carter’s presidency continued, some of the disputes that had appeared during his campaign began to grow more problematic.

Among these problems was that of abortion. After Carter explained to a Catholic publication his personal opposition of abortion and his belief against a constitutional amendment banning it regardless during his campaign, many Catholics were disappointed. Noticing his worsening relationships with Catholics, Carter met with six Catholic Bishops in Washington D.C., where he was unable to come to an agreement with the Catholic Church on the abortion issue yet again, thus continuing to worsen relations with them.³⁹

Carter ultimately managed to rally significant support with his more general message on solving the problems of the “American family,” avoiding any controversial specifics while touching on a unifying topic for traditional Christians in America.⁴⁰ However, his opposition to interference between the government and the Church would become a major problem for his candidacy in the 1980 election, after Christians experienced Carter’s policies firsthand.

By the time of the 1980 election, many religious leaders had become disillusioned with Carter as a religious candidate. While he was still relatively well liked by the religious general public, many from the Catholic Church and other such institutions found him to be disappointing.⁴¹

Running against Carter was Ronald Reagan, a ‘born-again’ Christian from the Republican Party who would prove far more accommodating to organized religion’s goals than Carter had been. However, the major cause for Carter’s loss in the 1980 election was not primarily any sort of religious conflict. While poll results showed a relatively even split from religious voters, a disparity many of the populace had other problems with the Carter administration, namely the worsening economy.

37 Flowers, Ronald B. “President Jimmy Carter, Evangelicalism, Church-State Relations, and Civil Religion.” *Journal of Church and State* 25, no. 1 (1983): 121. <http://www.jstor.org/stable/23916386>.

38 Flippen, J. Brooks. “Carter, Catholics, and the Politics of Family.” *American Catholic Studies* 123, no. 3 (2012): 35. <http://www.jstor.org/stable/44195421>.

39 Ibid, 34.

40 Ibid, 35

41 Ibid, 48

The economy was one of the issues that Carter had pledged to resolve during his presidency. With such concerns a major issue in the 1976 election, Carter had, among other goals, promised to reduce unemployment to three percent by 1980 and cut the rate of inflation. By 1980, however, these pledges had become accusations for Reagan to use against Carter’s candidacy, stating that inflation had risen to 18.2% and that in a recent interview, Carter had blown off unemployment as a temporary inconvenience. By 1980, multiple newspapers such as the *New York Times* had even begun to compare his economic measures with those of President Herbert Hoover’s following the Great Depression. Following the election, newspapers noted that a significant portion of Reagan’s votes had come from individuals who did not explicitly support Reagan, but rather were tired of Carter.

During the Reagan era, America saw a rise of “televangelists,” preachers and ministers who would preach on air, and other widespread media to promote Christianity. This movement to spread religion across the nation was spurred on by Reagan’s elimination of the Fairness Doctrine, a policy enacted in 1949 to regulate media for fairness and balance by demanding an amount of time on public issues while providing contrasting views. With such a policy repealed, these religious leaders were effectively given free reign in their channels.

Prior to the repeal of the doctrine under Reagan, the Supreme Court had upheld the constitutionality of a section within the doctrine in *Red Lion Broadcasting Co. v Federal Communications Commission (FCC)*, ruling in the FCC’s favor. However, the FCC would, with Reagan’s support, later repeal the doctrine in 1987, concluding that there was greater risk of the government controlling the press than the abuse of private freedom.

While the repeal of this decision would only be in 1987, as early as August of 1980, Reagan had already begun to set his eyes on this issue. At the Religious Roundtable meeting of that year, which has been credited for securing Moral Majority support for Reagan, the newly appointed president proclaimed his support of their movement, questioning the separation of church and state, condemning government influence on religion, and criticizing the FCC on their investigation of religious broadcasters.

During Carter’s administration, many reforms had been made for the judicial selection process, more than any administration prior. His main objective was increasing diversity with acts such as the Omnibus Judgeship act of 1978 and didn’t prioritize political philosophy particularly highly. For Reagan, his primary goal was to appoint judges with conservative judicial philosophy, and was fine with the more traditional framework of judicial selection.

The goals of Reagan fit perfectly with the Federalist Society, an organization of law students who sought to create an organization to foster conservative legal thought in what they considered an abundance of liberal ideas in law schools

and courts. Soon after the group's founding in 1981, the group's advisor Antonin Scalia was recommended for the role of a justice on the U.S. Supreme Court bench, an event that would become commonplace in the following years of appointments.

In the following years, the correlation between Federalist Society membership and appointment in judicial roles would become noticeable in public media. In a *New York Times* article in 1991, the author would comment that Federalist Society membership had become "as much a matter of career plotting as of ideology."

By 2022, the influence of the Federalist Society in the

Supreme Court has reached its apex. While new justices have been appointed to the Supreme Court, Republican presidents such as Donald Trump have largely followed Federalist Society recommendations, and it has even been noted that all the recent appointments have been off of a list given by the society. With such influence, the year has had the *Dobbs v. Jackson Women's Health Organization* where the previous landmark case of *Roe v. Wade* was overturned in a 6-3 decision. The influence of the religious right and their ability to influence the courts through the Federalist Society has reached a peak, and will likely lead to future such decisions as they remain in the power they have gained over decades of growth.

Citation: Patrick Jing, "Abortion and the Rise of the Religious Right in American Politics", *American Research Journal of History and Culture*, Vol 8, no. 1, 2022, pp. 46-51.

Copyright © 2022 Patrick Jing, This is an open access article distributed under the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.