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by NCR Editorial Staff

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Much is being made on both sides of the abortion debate over the nomination of Judge Brett Kavanaugh to the U.S. Supreme Court. At this point, it's difficult to imagine Kavanaugh won't be an associate justice by the midterm elections in November. Moreover, in the hearings leading up to his Senate confirmation, he will do everything possible to make you think he has no idea how he would vote on a challenge to *Roe* v. *Wade*, the 1973 Supreme Court decision that made it legal for women across the nation to have an abortion. That could be true, but we won't know until the first test case rises up to the high bench.

What we do know is that those in favor of abortion rights and those opposed to them — better known as pro-choicers and pro-lifers — are preparing for the day when *Roe* v. *Wade* is no longer the law of the land. Four states already have passed "trigger laws" that will ban abortion in most cases as soon as *Roe* is overturned. In West Virginia and Alabama, the November ballots contain measures to include anti-abortion language in their state constitutions.

Some say it's time to leave abortion regulation up to the individual states and their voters. They say lives will be saved if the court strikes down the decision to legalize abortion. We say we wish it could all be that simple. But it's not. The issue of abortion is complicated. It's a health issue. It's a social issue. It's a religious issue. It's a civil rights issue. It's a life issue.

And it's a political issue in which there is slim hope for common ground. At the far reaches of one side, activists would like to see it become legally impossible for abortion to be an option in any situation. The other side fights for unfettered access to the procedure for all women.

In between is the majority of Americans — including American Catholics — who support the right of a woman to make a choice in most cases, a majority well-documented in multiple polls over decades. To suggest that overturning *Roe* and returning abortion to the state legislatures is an answer to this question is either hopelessly naive or dismissive of the current political climate.

No matter where one falls on this issue, one thing must be kept in mind: Criminalizing abortion will not stop the procedure from occurring. Women have been seeking to end unintended pregnancies from the beginning of time. Stories of back-alley abortions and the ugly image of coat hangers prevailed in the decades leading up to the *Roe* decision. Many of the gynecologists who fought for legal access to the procedure did so because they witnessed the results of botched abortions in their offices and emergency rooms.

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Criminalizing abortion will create a black market, not only for unregulated medical procedures, but also — unlike in 1973 — for abortion pills. If that happens, who's to say where those drugs were made and how safe they really are. Women's lives will be at risk. We do not want to return to this dark, dangerous past.

How would criminalization be enforced? In El Salvador, where abortion is illegal, women have been falsely imprisoned after miscarriages. Could that happen in the United States? Don't forget that in 2016 then-presidential candidate Donald Trump said women who seek abortions should face "some form of punishment." Are we really ready to put women and doctors in jail?

Today, even with *Roe* in place, we see a hodgepodge of state laws governing abortion. Overturning *Roe* would only exacerbate this situation and put the most vulnerable women at risk.

Some states, such as California and Maryland, are expected to keep abortion legal. Criminalizing abortion on a state-by-state basis will create a new form of commerce

as women flee to those states, or even to Canada or Mexico, to end their pregnancies. Abortion won't be eliminated, it will just be available to women who can afford the travel and the time off work.

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We would all do well to remember what Episcopal priest Kira Schlesinger says in her book, *Pro-Choice and Christian: Reconciling Faith, Politics, and Justice*: "We seem to forget we are talking about real people and their lives, not just using this as an ideological purity test or an intellectual exercise."

The question of abortion cannot be solved with legislation. We must first trust this question to those who know best the unique circumstances of these situations — we must trust the individual women. And we must stand ready to support them in the decisions they make. As Catholics, our first option must be for life, and we must also respect and support the women.

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The first course of action is to reduce the number of unintended pregnancies. That means access to, education about and support for birth control. Under the Patient Protection and Affordable Care Act of 2010, insurers must cover prescription contraceptives, and researchers at the Guttmacher Institute — which advocates for abortion rights and whose data are well-regarded — cite the Affordable Care Act law in explaining a drop in the number of abortions between 2011 and 2014. Preserving access to contraception in health insurance plans and government programs must be a priority for all.

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Some states have mandated that women must have an ultrasound before they obtain an abortion. What they really need to see, though, is a path to a hopeful future. Show them state-funded prenatal services and child care programs. Show them education and job opportunities. Show them loan forgiveness or low-interest debt. Show them housing they can afford. Show them guaranteed, paid parental leave. Show them a society that cares for them and for children.

Overturning *Roe* won't end abortion. But addressing the pre-pregnancy needs of women and improving the post-birth life realities of mothers and their children will move us in the right direction toward a truly pro-life future. As federal and state legislatures debate budgets and set priorities, we will have ample opportunities in the years ahead to defend this circle of protection for women and children.

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