

CULTURE WARS, ABORTION, AND THE SUPREME COURT

Dr. Agata Czarnecka

Nicolaus Copernicus University in Toruń, Poland*
e-mail: agatato@umk.pl; <https://orcid.org/0000-0002-1325-2907>

Abstract. Western societies are at a crossroads, grappling with profound questions of identity, values, and governance. The culture wars that dominate public discourse reflect deeper ideological divides that are unlikely to be resolved in the near future. Constitutional courts, as arbiters of these conflicts, play a critical role in shaping the course of these debates. The author cites the example of abortion as an issue deeply embedded in the culture wars. In American political and legal reality, this issue has been resolved not by popularly elected institutions, but by the Supreme Court, whose decisions have not only failed to defuse cultural disputes, but have, on the contrary, intensified them. However, the reliance on judicial resolution also highlights the limitations of political institutions in addressing contentious issues. As societies become more polarized, the challenge is to find common ground and foster dialogue across ideological divides. Only then can Western democracies navigate the complexities of the modern era and chart a path forward that reflects their shared values and aspirations. Moreover, research conducted shortly after the *Dobbs* decision confirms the commonsense intuition that state legislation is much more in tune with public opinion in a given state and helps defuse one front of the culture war – that of abortion.

Keywords: culture wars; abortion; Supreme Court of the United States; *Roe v. Wade*; polarization.

INTRODUCTION

It can be argued that virtually all Western societies are currently at a crossroads, facing a prolonged period of deliberation regarding their identity. What was previously regarded as a straightforward generational transition, a gap between the young and the old, has now reached a point where even a minor incident can ignite a widespread reaction, polarize politicians and citizens, and, most significantly, give rise to divisions within society that may take years to overcome. In today's satiated and full Western societies, debates are occurring about issues that were not relevant to previous generations. Their grandparents were not exposed to the same concerns, as they were involved

* 2022-2023 James Madison Program Visiting Fellow, Princeton University.

in wars and struggled with hunger. The issues currently at the forefront, such as abortion, same-sex marriage, religious freedoms, and state-church relations, have only been prominent during the prolonged period of peace in the most of Western world after World War II. The public discourse on controversial and emotionally charged matters often leads politicians to engage with these topics as well, prompting the constitutional and highest courts of each state to weigh in on the matter. Poland and the United States serve as illustrative cases of how often contentious issues and those evoking strong emotions are not resolved at the level of parliament, but rather through judicial determinations. This was evident in the abortion cases, where the courts played a pivotal role in determining the outcome.

The philosophies that underpin contemporary legal systems are shaped by the prevailing ideologies in these countries and the historical development of the respective nations. Nevertheless, irrespective of the specific routes pursued by individual countries, it appears reasonable to suggest that the majority are well-acquainted with the culture wars, which are primarily waged on the constitutional courts, where contentious matters that elicit strong public sentiment are adjudicated. To illustrate, one might cite a few examples such as abortion or same sex marriages.¹

These examples showcase the role of the court as a pivotal arena in cultural wars. However, the roots of these conflicts are deeply embedded in society and the philosophies of the people. In the case of the American culture wars, the fundamental tension can be seen as between personal autonomy and the possibility of a paternalistic or perfectionist vision of law.

In order to organize the flow of the argument, it is first necessary to establish the term that will be used throughout the remainder of this discussion: “culture wars”. The term, borrowed from sociology, denotes conflicts that have a profound impact on social life. These conflicts pertain to axiological issues that the community is unable to resolve through the methods of dialogue. This inability to reach a consensus through dialogue results in the formation of a consensus, albeit an operative one, on the matter in question. Such a consensus would be, for example, an agreement on the fact that it is a normal state for society to hold different views, share different values, and respect dissent in this regard. Nevertheless, it appears that consensus on matters pertaining to the culture wars is unattainable. It is not possible to reach an agreement on issues that the parties to the dispute define as being fundamentally linked to their moral and value systems. As will be demonstrated shortly, it is not feasible to achieve consensus even on a contentious issue such as abortion, where one side employs moral rhetoric and the other

¹ *Bowers v. Hardwick*, 478 U.S. 186 (1986); *Romer v. Evans*, 517 U.S. 620 (1996); *Obergefell v. Hodges*, 576 U.S. 644 (2015).

invokes the principles of autonomy. It thus appears that only by grasping the nature of culture wars in a context where normative and axiological orders are intertwined can societies learn to navigate current conflicts, as well as those that will inevitably emerge as civilization progresses.

1. CULTURE WARS

In 1991, James Davidson Hunter published a book entitled “Culture Wars: The Struggle to Define America” [Hunter 1991], in which he persuasively argued that previous social categories and divisions relating to economic and ownership issues had been replaced by moral and religious ones. Hunter states that his research was motivated by two fundamental puzzles: “The first was a question about whether seemingly disparate social, moral, and political issues were tied together in some way” [Hunter and Wolfe 2006, 12]. Was there any underlying connection between seemingly disparate issues, such as the potential link between same-sex marriage and smoking in public? The second phenomenon that occurred Hunter was “who was lining up on different sides of different issues and why they were doing so” [ibid.]. How have previously static categories of divisions, predominantly economic, transformed into divisions that polarize societies around cultural issues, frequently merely reflections of broader discrepancies in their value systems? [Bafumi and Shapiro 2009, 3; Bartels 2016, 33ff]. In his 1991 book, Hunter delineated the two principal groups of American society: the Orthodox and the Progressive [Hunter 1991]. These categories continue to resonate in contemporary discourse. “A year after Hunter put *culture wars* on the social science map, Patrick Buchanan popularized the idea in his speech to the 1992 Republican National Convention. He told the audience in Houston that *a cultural war* was taking place, a *struggle for the soul of America*. The defining issues were abortion, homosexuality, school choice, and *radical feminism*. In the aftermath of this address, the idea of a *culture war* became a journalistic staple” [Thomson 2010, 4].

The even more often used term “polarization” overused in both journalistic and academic discourse, only scratches the surface of a much deeper and more complex issue. It provides a convenient label for a phenomenon that is clearly visible in election results on both sides of the Atlantic. In two-party systems, voters are typically divided into supporters of one party or the other. While these divisions fluctuate and evolve over time, most studies reveal a simple pattern: individuals with similar characteristics tend to associate with others who share those characteristics. This tendency explains why certain geographic areas are overwhelmingly dominated by supporters of one political party. It is not that some mysterious natural force magnetically draws Democratic voters to New York or Republican voters

to rural areas [Sussel and Thomson 2015, 3]. Rather, people's social positions, shaped by factors such as occupation, education, or lifestyle, influence their political preferences, which in turn determine where they live and with whom they interact. But this is only the tip of the iceberg. It remains a challenge to identify all the factors that drive these political divisions beyond the most visible markers, such as education, race, or economic status. Even when these elements are taken into account, the underlying causes of polarization remain elusive. Moreover, a growing body of empirical research suggests that polarization may not be as pervasive or as simple as popular narratives suggest. While it serves as a convenient shorthand for journalists to frame societal divisions, the reality is far more nuanced. In many cases, what is labeled polarization may reflect superficial differences or exaggerated perceptions of division rather than a true and fundamental division of society into ideologically entrenched camps. Thus, a number of empirical studies can be cited to show that polarization is more or less a myth of journalistic convenience, but not necessarily true [Fiorina, Abrams, and Pope 2011, 11-33], or that it represents the political class, but not necessarily the division among citizens [Fiorina and Lavendusky 2006, 51].

The term "culture wars" is defined in Polish social science in a manner that aligns with its interpretation in American literature. For example, Wojciech Burszta notes that: "In a deeper sense, culture wars are a permanent state of tension between traditional and postmodern ways of solving moral problems. Culture wars, in a word, are fought in the register of morality and concern not so much material issues (wages, labor, the role of the state), but conflicts related to the normative order of social life and the question of collective identities" [Burszta 2013]. In the case of Poland, however, a more detailed analysis, including an empirical analysis, of specific issues would be required. Some of the American culture wars involve the same issues that have inflamed public opinion in Poland, such as abortion or same-sex unions. However, Polish society is much more homogeneous, which would make it much more difficult to point to factors such as race, gender, or religion as determining the attitudes of certain social categories toward the aforementioned issues. An analysis of the Polish case may be best served by distinguishing between at least four categories, as proposed by Rhys H. Williams [Williams 1997]. Williams suggested differentiating between culture wars in a narrower and broader sense, indicating that only the latter should be of interest to social science. As he claims, "In fact, survey research consistently shows that there are at least two dimensions of political attitudes: one for issues pertaining to economics and political power (what I'll call *justice* issues) and another one for issues of personal behavior and cultural symbolism (what I'll call *morality* issues). And in many cases these dimensions are not related to each other – that is, those who

are *liberals* on one set of issues are not necessarily *liberals* on the other set of issues” [ibid.]. We will sometimes refer to the Polish example here, because in the case of regulating the rules of abortion, the history of Poland and the United States is somewhat parallel, despite all the differences arising from completely separate legal systems – civil and common law.

As the paper follows, we will demonstrate, the phenomenon of political polarization and deepening social divisions can be attributed, at least in part, to the contentious issue commonly referred to as the culture war. However, as the abortion example perfectly illustrates, the culture war problem is much deeper and goes beyond the question of voting for a particular party and political attitudes. According to the definition adopted here, culture wars are about moral issues. Some of these disagreements arise, for example, from the development of civilization. The latter, moreover, is likely to expand the scope of the culture wars to include issues such as human enhancement or cloning. Thus, abortion is an example of an issue in which moral considerations are interwoven. Whether one talks about the autonomy of the individual in its context or considers the ontic and legal status of the fetus, one always weighs values. Moreover, the consequence of this weighing is a certain expectation in terms of state action and appropriate regulation of the issue. The problem, however, is that the state very often tries to regulate these issues not through the mechanisms of deliberative democracy, but through judicial institutions. This is precisely the story of the litigation that has swept the United States since the 1970s. The lawsuits before the court reflected a deep social divide that the political institutions ran away from resolving, ceding their responsibility to the Supreme Court. And into the hands of nine seemingly apolitical justices was placed a decision on an issue that divided citizens.

This dynamic poses a significant challenge to Western democracies because the resolution of these cultural, and therefore moral, social conflicts is not determined through the mechanisms of public debate or the democratic process. Instead, they are often adjudicated by the judiciary, an institution whose legitimacy is often questioned because of its limited accountability and inadequate integration into the system of checks and balances.

2. ABORTION IN THE COURT

Whatever one’s personal position on the matter, it is crucial to recognize that judicial authority goes far beyond being a neutral interpreter of the law on the issues that together make up the universe of the culture wars. It is difficult to ask judges to be merely the mouthpiece of the law when it comes to legal issues that are only a reflection of moral ones. Rather, the opinions issued by the courts reflect the underlying social fractures and the balance

– or imbalance – of power among competing political forces. Judicial decisions in such cases are influenced, explicitly or implicitly, by the prevailing social and political climate. As will be shown in the abortion cases below, the Supreme Court, in deciding abortion cases, has been well aware, to say the least, that the judiciary’s *Weltanschauung* may have been quite far removed from the prevailing public morality at the time of the decision. Of course, it is fair to say that as the process of appointing Supreme Court justices has become increasingly politicized, majority beliefs and values have begun to shape constitutional interpretation, embedding the judiciary even further in the heart of these contentious divisions. “[M]ajority beliefs and values tend to some extent influence how the constitution is interpreted, because the process through which Supreme Court judges are appointed become highly politicised” [Fanning 2023, 68]. But that means politicized in the sense that it is embodied in the actual political conflicts. And these conflicts are rooted in the culture wars that divide the country and drive political polarization. As a result, the judiciary not only resolves legal disputes, but also becomes a battleground where the deeper cultural and political tensions of society are played out.

The problem of abortion represents a clear and prominent example of the cultural war that has emerged in recent decades. This conflict is evident in a multitude of settings, from the waiting room of a medical practitioner to the local farmers market, from television programmes to the courtroom. The history of the U.S. judiciary encompasses two cases that are widely known among the general public and have attracted the attention of foreign observers. In addition, there have been several attempts before the Supreme Court that have not produced any substantial alterations to the legal *status quo*.

*Roe v. Wade*² is probably one of the most well-known cases adjudicated by the US Supreme Court. The case was brought before the Supreme Court, where the justices were asked to consider whether the Constitution recognized a woman’s right to terminate her pregnancy and, if so, to what extent states could regulate or restrict access to abortion. The case was initiated by Jane Roe (a pseudonym for Norma McCorvey), who challenged Texas legislation that criminalized abortion except in cases where the life of the mother was at risk. Roe advanced the argument that the Texas laws violated her right to personal privacy, which she believed was protected by the Constitution. “She claimed that the Texas statutes were unconstitutionally vague and that they abridged her right of personal privacy, protected by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments.”³

² *Roe v. Wade*, 410 U.S. 113 (1973).

³ *Jane Roe, et al., Apellants v. Henry Wade*, 121.

The case of *Roe v. Wade* is inextricably linked to the constitutional concept of a right to privacy, which the Supreme Court had previously acknowledged in cases such as *Griswold v. Connecticut*,⁴ which pertained to contraception. In *Roe v. Wade*, the Court extended this right, arguing that a woman's decision to have an abortion falls within the sphere of privacy, which is implicitly protected by the Due Process Clause of the Fourteenth Amendment. In a ruling by the Supreme Court, it was determined that the Constitution afforded a woman the right to privacy which was inferred from the penumbras of the Fourteenth Amendment. This right encompasses a woman's autonomy in matters pertaining to her personal life. In the opinion for the Court, Justice Harry Blackmun asserted that this right to privacy was sufficiently expansive to encompass a woman's decision regarding whether or not to terminate her pregnancy. However, the Court also acknowledged that this right is not absolute and that states have legitimate interests in protecting both the health of the mother and the potential life of the fetus. To reconcile these competing interests, the Court established a trimester framework, allowing states to regulate or prohibit abortion in the third trimester, after the fetus reaches "viability", while imposing limited restrictions in the first and second trimesters.

The most significant allegations concern the Court's conceptualization of *privacy* and the fact that the opinion does not focus on the fetus's rights. But – what is most important from our point of view, after the *Roe*, the Court was accused of being "guilty of *Lochnering*, that is of superimposing its own views of wise social policy on those of legislature" [Rossum, Tarr, and Muñoz 2020, 730].

The Supreme Court reaffirmed its decision in the cases adjudicated years later, among which the most notable is probably *Planned Parenthood v. Casey*.⁵ The case was a landmark decision that reaffirmed the constitutional right to abortion established in *Roe v. Wade* while fundamentally altering the legal framework for regulating abortion. In this case, the Court undertook a review of the Pennsylvania Abortion Control Act of 1982, which imposed a number of restrictions on the availability of abortions. These included requirements for informed consent, a twenty-four-hour waiting period, parental consent for minors, and spousal notification. These provisions were contested by Planned Parenthood of Southeastern Pennsylvania on the grounds that they infringed upon the right to abortion as established in *Roe*. The Supreme Court's decision in *Casey* ultimately upheld the majority of Pennsylvania's restrictions, with the exception of the spousal notification requirement, marking a notable shift in the Court's approach to abortion rights.

⁴ *Griswold v. Connecticut*, 318 U.S. 479 (1965).

⁵ *Planned Parenthood v. Casey*, 505 U.S. 833 (1992).

One of the most significant aspects of the *Casey* decision was the Court's introduction of the "undue burden" standard, which was established to assess the constitutionality of abortion regulations. It can be reasonably argued that this phrase, associated with Justice Sandra J. O'Connor, had a profound and enduring impact on the evolution of abortion legislation in the United States [Toobin 2014]. In accordance with this standard, states are permitted to impose restrictions on abortion procedures, provided that they do not create a "substantial obstacle" for women seeking abortions after the fetus has reached a viable state. This replaced *Roe's* rigid trimester framework with a more flexible, yet somewhat ambiguous, standard that permitted states greater latitude in regulating abortion. The undue burden standard was designed to balance the rights of women to seek abortions with the states' interest in protecting potential life, shifting the framework from a strict protection of privacy to a more nuanced approach that allowed for greater regulation.

It was not until 2022 that the legal standards delineated by *Roe* and subsequent cases were overturned. The *Dobbs v. Jackson Women's Health Organization* case, decided by the U.S. Supreme Court on June 24, 2022, signified a pivotal shift in American abortion law, as it effectively overturned *Roe v. Wade* and *Planned Parenthood v. Casey*. The case concerned Mississippi's Gestational Age Act, a state law that prohibited the majority of abortions after the fifteenth week of pregnancy, with exceptions only permitted in instances of medical emergency or severe fetal abnormality. This legislation was in direct contravention of the viability standard established in *Roe* and reaffirmed in *Casey*, which prohibited states from banning abortions before fetal viability (approximately twenty-four weeks). In the 1983 opinion in *Akron v. Akron Center for Reproductive Health*,⁶ the Court on several occasions invoked the concept of a "fundamental right" to abortion. However, the majority opinion in the *Dobbs* decision ultimately concluded that there is no constitutional right to abortion, effectively returning the power to regulate abortion to individual states.

The majority opinion, drafted by Justice Samuel Alito, posited that the Constitution does not explicitly mention abortion rights and that such rights are not "deeply rooted in the nation's history and traditions" a criterion frequently employed to identify fundamental rights. The Court determined that the holdings of *Roe* and *Casey* were erroneous, criticizing the framework established in *Roe* as vague and unworkable and stating that the undue burden standard articulated in *Casey* was inconsistent and had resulted in confusion in lower courts. By overturning *Roe* and *Casey*, the *Dobbs* decision asserted that decisions regarding abortion should be left to "the people and their elected representatives".

⁶ *Akron v. Akron Center for Reproductive Health*, 462 U.S. 416 (1983).

Most significantly, the Supreme Court only seemingly positioned itself as an arbiter in the abortion debate. In practice, its intervention in *Roe v. Wade* exacerbated rather than resolved the conflict. By the time *Roe* was decided, most states had restrictive abortion laws that reflected the era's conservative stance on the issue. Importantly, public opinion polls at the time did not suggest that abortion was a matter of intense national polarization or the subject of fierce ideological battles between pro-choice and pro-life camps. The ruling, however, fundamentally changed the landscape.

From a legal perspective, the reasoning underlying *Roe* has often been criticized for its lack of sophistication. The case relied on a somewhat tenuous interpretation of constitutional privacy rights, an approach that many legal scholars found underdeveloped and unconvincing. This pattern continued in *Planned Parenthood v. Casey*, where the "undue burden" standard (though heralded by some as a compromise) also failed to present a particularly rigorous or compelling intellectual framework. Evaluating these decisions through the lens of the more recent *Dobbs v. Jackson Women's Health Organization*, it becomes clear that the earlier justifications for federal intervention in abortion rights were built on shaky ground. The Court in *Dobbs* ultimately concluded that such matters should not be decided at the federal level at all, arguing that they fall within the domain of state governance.

3. PUBLIC REACTION

The social impact of *Roe* was profound. Opinion polls conducted in the years following the decision revealed a marked shift in public attitudes toward abortion [Arney and Trescher 1976, 117ff; Evans 2002]. This suggests that the Supreme Court's decision not only reflected existing societal divisions, but actively influenced and exacerbated them. Rather than quelling disagreement, the decision ignited a broader cultural battle, transforming abortion from a relatively niche political issue into one of the most enduring and contentious fault lines in American politics. What was once a smoldering disagreement became a full-blown conflagration, fueled by the Court's attempt to impose a definitive resolution on an issue fraught with moral, ethical, and cultural complexities. "Polls taken in the days after *Roe v. Wade* show that Americans had sense that abortion was bad, but lacked a moral framework that would allow them to think about abortion logically and confidently" [Caldwell 2020, 55]. Thus, in the first case, the Supreme Court not only failed to become an arbiter attempting to level the culture war, but directly intensified it [Hartman 2019, 150]. "By declaring that «the personal right to privacy includes the abortion decision», *Roe*, together with the companion

case of *Doe v. Bolton* (1973),⁷ generated a firestorm of controversy that has enveloped the Court ever since” [Rossum, Tarr, and Muñoz 2020, 731].

Interestingly, this critical view—both of the quality of *Roe v. Wade* and of its broader social impact—was shared by none other than Ruth Bader Ginsburg, even before her tenure as a Supreme Court justice. Known for her meticulous legal reasoning and progressive outlook, Ginsburg recognized the weakness of the decision’s legal foundation and its disruptive social impact. She noted, “*Roe v. Wade*, on the other hand, became and remains a storm center. *Roe v. Wade* sparked public opposition and academic criticism, in part, I believe, because the Court ventured too far in the change it ordered and presented an incomplete justification for its action” [Ginsburg 1985]. Her critique underscored that the Court’s approach in *Roe* was not only legally controversial, but also poorly calibrated to navigate the social sensitivities surrounding abortion.

From both a legal and a social perspective, Ginsburg’s assessment highlights a profound misstep by the Court. By framing abortion as an extension of the right to private – an argument that many saw as tenuous – the Court sidestepped public sentiment and ethical complexity, opting instead for a sweeping solution that many perceived as judicial overreach. The decision not only provoked fierce public opposition, but also sowed seeds of distrust in the judiciary’s role in mediating divisive issues.

Had the Court been more cautious in *Roe*, perhaps issuing a narrower decision or deferring more authority to the states, the cascade of events that led to the *Dobbs* decision might never have unfolded. The intense public protests and political polarization that erupted in response to *Dobbs* were, to some extent, a delayed consequence of the Court’s initial decision to regulate an ethically fraught issue with inadequate legal justification and little regard for public opinion. In attempting to impose a definitive solution, the Court inadvertently inflamed divisions and transformed abortion into a central and enduring battleground of cultural and political conflict. Moreover, research conducted shortly after the *Dobbs* decision confirms the common-sense intuition that state legislation is much more in tune with the public mood in a given state and helps to defuse one front of the culture war – that of abortion [Scoglio and Nyak 2023, 4].

Nevertheless, it is important to recognize that, like the concept of “polarization”, the notion of “culture wars” is an abstract and theoretical construct that can be subjected to empirical scrutiny and potentially challenged by empirical evidence. This is, of course, a topic for a separate sociology paper. It would require an attempt to operationalize both concepts so that they can be grasped, in Durkheim’s language, “like things”. In this context, it

⁷ *Doe v. Bolton*, 410 U.S. 179 (1973).

is pertinent to consider the potential insights that the US Supreme Court's rulings on abortion issues might offer with regard to the culture wars. Moreover, it raises the question of whether the courts are the optimal venue for resolving such disputes. It is also worth considering whether fundamental issues that divide entire societies should not be decided at the judicial level, rather than being left to arbitrary decision-making.

From a philosophical and legal perspective, the ongoing tension between a form of paternalism, or a vision of law as an instrument in the hands of the state through which appropriate moral attitudes are formed, and various forms of liberalism, emphasizing the question of individual freedom and autonomy, is a long-standing and enduring phenomenon. The debate surrounding the existence and desirability of a public morality, with the state assuming responsibility for its formulation, has been extensively documented. However, the cases of both the Polish abortion controversy and the recent decision of the Polish Constitutional Court, along with the two American cases regulating abortion, illustrate that this dichotomy does not fully align with the actual dynamics at play.

From the perspective of those identified by Hunter as "progressives", it is reasonable to assume that the overarching goal would be to reach a compromise solution that prioritizes individual autonomy and liberty. Concurrently, however, this liberty should be – in a benevolent gesture – ensured by the state. It is the responsibility of the state to provide citizens with the necessary education to understand the value of freedom and autonomy. In the case of abortion, this is clearly not feasible. The *Dobbs* ruling is essentially of this nature. At the federal level, the Supreme Court effectively concluded the case, thereby transferring the matter to the discretion of state legislatures and courts. This, however, is an inadequate solution (or, depending on one's perspective, an excessive one) because it allows for an unacceptable degree of flexibility for the liberal part of the argument to be regulated by more conservative legislatures, elected by more conservative societies, in a manner that aligns with the prevailing public morality in the state. The assumption has emerged that it is the federal government's or the Supreme Court's responsibility to ensure the protection of freedom, even if this entails the infringement upon the autonomy of not only individuals but also entire communities. Consequently, the same groups that, in the culture war, tend to favour the democratic order – a considerably more reticent state that does not intervene in the sphere of individual freedom but merely safeguards it – anticipate that the state will take paternalistic measures aimed at molding citizens in accordance with the value system of one of the parties involved in the dispute.

CONCLUSION

It appears that the rulings of the U.S. Supreme Court (once more, an analogy can be drawn with the Polish Constitutional Court) result in at least three distinct types of social consequences. These consequences, which extend beyond the scope of this text, warrant mention as they are integral to understanding the context in which this text is situated. Firstly, it can be observed that landmark rulings do not merely reflect a division in public life; rather, they appear to serve to exacerbate it. This is largely due to the fact that the finality of judicial decisions, by definition, rather than fostering resolution, often intensifies emotional responses and exacerbates existing tensions. Secondly, the question of the Supreme Court's impact on the ad hoc policies of the two dominant political parties in a two-party system. The apolitical nature of judges, which is a deeply entrenched myth in Europe, appears to be eroding with each passing year. In the United States, the notion of judicial impartiality has already been significantly eroded. The final issue pertains to the perception and legitimacy of the Supreme Court in the public sphere. In the *Planned Parenthood v. Casey* case, Justice O'Connor observed that a potential decision could negatively impact the public perception of the Court's institution and explicitly stated in her opinion that "A decision to overrule *Roe's* essential holding under the existing circumstances would address error, if error there was, at the cost of both profound and unnecessary damage to the Court's legitimacy, and to the Nation's commitment to the rule of law. It is therefore imperative to adhere to the essence of *Roe's* original decision, and we do so today."⁸ This observation is analogous to statements often made by politicians. Consequently, it is worth questioning whether it would be more beneficial for the judicial system and for the maintenance of the public image of courts as an independent authority if the culture wars were to shift from courtrooms to parliaments.

REFERENCES

- Arney, William, and William Trescher. 1976. "Trends in Attitudes Toward Abortion, 1972-1975." *Family Planning Perspectives* 8, no. 3:117-24.
- Bafumi, Joseph, and Robert Shapiro. 2009. "A New Partisan Voter." *The Journal of Politics* 71, no. 1:1-24.
- Bartels, Larry. 2016. *Unequal Democracy: The Political Economy of the New Gilded Age*. 2nd ed. Princeton: Princeton University Press.
- Burszta, Wojciech. 2013. "Wojny kulturowe jako fenomen antropologiczny." https://www.nck.pl/upload/archiwum_kw_files/artykuly/2._wojciech_j._burszta_-_wojny_kulturowe_jako_fenomen_antropologiczny.pdf [accessed: 11.09.2024].

⁸ Planned Parenthood opinion.

- Caldwell, Christopher. 2020. *The Age of Entitlement. America Since the Sixties*. New York: Simon&Schuster.
- Evans, John H. 2002. "Polarization in Abortion Attitudes in U.S. Religious Traditions, 1972-1998." *Sociological Forum* 17, no. 3:397-422.
- Fanning, Bryan. 2023. *Public Morality and the Culture Wars. The Triple Division*. Bingley: Emerald Publishing Limited.
- Fiorina, Morris, and Matthew Lavendusky. 2006. *Red and Blue Nation? Characteristics and Causes of America Polarized Politics*. Washington: Brookings Institution Press.
- Fiorina, Morris, Samuel Abrams, and Jeremy Pope. 2011. *Culture War? The Myth of Polarized America*. Longman.
- Ginsburg, Ruth B. 1985. "Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade." <https://opencasebook.org/casebooks/109-roe-at-50/resources/2.2.1-ruth-bader-ginsburg-some-thoughts-on-autonomy-and-equality-in-relation-to-roe-v-wade-63-nc-1-rev-375-1985/> [accessed: 10.09.2024].
- Hartman, Andrew. 2019. *A War for the Soul of America*. Chicago: The University of Chicago Press.
- Hunter, James. 1991. *Culture Wars: The Struggle to Define America*. New York: Basic Books.
- Hunter, James, and Alan Wolfe. 2006. *The Enduring Culture War*. In *Is There a Culture War? A Dialogue on Values and American Public Life*. Washington: Brookings Institution Press.
- Rossum, Ralph, Alan Tarr, and Vincent P. Muñoz. 2020. *American Constitutional Law. Vol. 2: The Bill of Rights and Subsequent Amendments*. New York and London: Routledge.
- Scoglio, Arielle, and Sameera Nyak. 2023. "Alignment of state-level policies and public attitudes towards abortion legality and government restrictions on abortion in the United States." *Social Science & Medicine* 1-7.
- Sussell, Jesse, and James Thomson. 2015. "Is Partisan Geographic Clustering of the American Electorate a Reality?" In *Are Changing Constituencies Driving Rising Polarization in the U.S. House of Representatives?* <http://www.jstor.org/stable/10.7249/j.ctt13x1fv7.10> [accessed: 01.08.2024].
- Thomson, Irene. 2010. *Culture Wars and Enduring American Dilemmas*. Ann Arbor: The University of Michigan Press.
- Toobin, Jeffrey. 2014. "The Disappearing 'Undue Burden' Standard for Abortion Rights." <https://www.newyorker.com/news/daily-comment/disappearing-undue-burden-standard-abortion-rights> [accessed: 10.09.2024].
- Williams, Rhys. 1997. "Is America in a Culture War? Yes-No-Sort Of." <https://www.religion-online.org/article/is-america-in-a-culture-a-war-yes-no-sort-of/> [accessed: 10.09.2024].