For half a century, Roe v. Wade, 410 U. S. 113 (1973), and Planned Parenthood of Southeastern Pa. v. Casey, 505 U. S. 833 (1992), have protected the liberty and equality of women. Roe held, and Casey reaffirmed, that the Constitution safeguards a woman’s right to decide for herself whether to bear a child. Roe held, and Casey reaffirmed, that in the first stages of pregnancy, the government could not make that choice for women. The government could not control a woman’s body or the course of a woman’s life: It could not determine what the woman’s future would be. See Casey, 505 U. S., at 853; Gonzales v. Carhart, 550 U. S. 124, 171–172 (2007) (Ginsburg, J., dissenting). Respecting a woman as an autonomous being, and granting her full equality, meant giving her substantial choice over this most personal and most consequential of all life decisions.

Roe and Casey well understood the difficulty and divisiveness of the abortion issue. The Court knew that Americans hold profoundly different views about the “morality” of “terminating a pregnancy, even in its earliest stage.” Casey, 505 U. S., at 850. And the Court recognized that “the
State has legitimate interests from the outset of the pregnancy in protecting the “life of the fetus that may become a child.” \textit{Id.}, at 846. So the Court struck a balance, as it often does when values and goals compete. It held that the State could prohibit abortions after fetal viability, so long as the ban contained exceptions to safeguard a woman’s life or health. It held that even before viability, the State could regulate the abortion procedure in multiple and meaningful ways. But until the viability line was crossed, the Court held, a State could not impose a “substantial obstacle” on a woman’s “right to elect the procedure” as she (not the government) thought proper, in light of all the circumstances and complexities of her own life. \textit{Ibid.}

Today, the Court discards that balance. It says that from the very moment of fertilization, a woman has no rights to speak of. A State can force her to bring a pregnancy to term, even at the steepest personal and familial costs. An abortion restriction, the majority holds, is permissible whenever rational, the lowest level of scrutiny known to the law. And because, as the Court has often stated, protecting fetal life is rational, States will feel free to enact all manner of restrictions. The Mississippi law at issue here bars abortions after the 15th week of pregnancy. Under the majority’s ruling, though, another State’s law could do so after ten weeks, or five or three or one—or, again, from the moment of fertilization. States have already passed such laws, in anticipation of today’s ruling. More will follow. Some States have enacted laws extending to all forms of abortion procedure, including taking medication in one’s own home. They have passed laws without any exceptions for when the woman is the victim of rape or incest. Under those laws, a woman will have to bear her rapist’s child or a young girl her father’s—no matter if doing so will destroy her life. So too, after today’s ruling, some States may compel women to carry to term a fetus with severe physical anomalies—for example, one afflicted with Tay-Sachs disease, sure to die.
within a few years of birth. States may even argue that a prohibition on abortion need make no provision for protecting a woman from risk of death or physical harm. Across a vast array of circumstances, a State will be able to impose its moral choice on a woman and coerce her to give birth to a child.

Enforcement of all these draconian restrictions will also be left largely to the States’ devices. A State can of course impose criminal penalties on abortion providers, including lengthy prison sentences. But some States will not stop there. Perhaps, in the wake of today’s decision, a state law will criminalize the woman’s conduct too, incarcerating or fining her for daring to seek or obtain an abortion. And as Texas has recently shown, a State can turn neighbor against neighbor, enlisting fellow citizens in the effort to root out anyone who tries to get an abortion, or to assist another in doing so.

The majority tries to hide the geographically expansive effects of its holding. Today’s decision, the majority says, permits “each State” to address abortion as it pleases. *Ante*, at 79. That is cold comfort, of course, for the poor woman who cannot get the money to fly to a distant State for a procedure. Above all others, women lacking financial resources will suffer from today’s decision. In any event, interstate restrictions will also soon be in the offing. After this decision, some States may block women from traveling out of State to obtain abortions, or even from receiving abortion medications from out of State. Some may criminalize efforts, including the provision of information or funding, to help women gain access to other States’ abortion services. Most threatening of all, no language in today’s decision stops the Federal Government from prohibiting abortions nationwide, once again from the moment of conception and without exceptions for rape or incest. If that happens, “the views of [an individual State’s] citizens” will not matter. *Ante*, at 1. The challenge for a woman will be to finance a

Whatever the exact scope of the coming laws, one result of today’s decision is certain: the curtailment of women’s rights, and of their status as free and equal citizens. Yesterday, the Constitution guaranteed that a woman confronted with an unplanned pregnancy could (within reasonable limits) make her own decision about whether to bear a child, with all the life-transforming consequences that act involves. And in thus safeguarding each woman’s reproductive freedom, the Constitution also protected “[t]he ability of women to participate equally in [this Nation’s] economic and social life.” Casey, 505 U. S., at 856. But no longer. As of today, this Court holds, a State can always force a woman to give birth, prohibiting even the earliest abortions. A State can thus transform what, when freely undertaken, is a wonder into what, when forced, may be a nightmare. Some women, especially women of means, will find ways around the State’s assertion of power. Others—those without money or childcare or the ability to take time off from work—will not be so fortunate. Maybe they will try an unsafe method of abortion, and come to physical harm, or even die. Maybe they will undergo pregnancy and have a child, but at significant personal or familial cost. At the least, they will incur the cost of losing control of their lives. The Constitution will, today’s majority holds, provide no shield, despite its guarantees of liberty and equality for all.

And no one should be confident that this majority is done with its work. The right Roe and Casey recognized does not stand alone. To the contrary, the Court has linked it for decades to other settled freedoms involving bodily integrity, familial relationships, and procreation. Most obviously, the right to terminate a pregnancy arose straight out of the right to purchase and use contraception. See Griswold v. Connecticut, 381 U. S. 479 (1965); Eisenstadt v. Baird, 405 U. S. 438 (1972). In turn, those rights led, more recently,
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... to rights of same-sex intimacy and marriage. See Lawrence v. Texas, 539 U. S. 558 (2003); Obergefell v. Hodges, 576 U. S. 644 (2015). They are all part of the same constitutional fabric, protecting autonomous decisionmaking over the most personal of life decisions. The majority (or to be more accurate, most of it) is eager to tell us today that nothing it does “cast[s] doubt on precedents that do not concern abortion.” Ante, at 66; cf. ante, at 3 (THOMAS, J., concurring) (advocating the overruling of Griswold, Lawrence, and Obergefell). But how could that be? The lone rationale for what the majority does today is that the right to elect an abortion is not “deeply rooted in history”: Not until Roe, the majority argues, did people think abortion fell within the Constitution’s guarantee of liberty. Ante, at 32. The same could be said, though, of most of the rights the majority claims it is not tampering with. The majority could write just as long an opinion showing, for example, that until the mid-20th century, “there was no support in American law for a constitutional right to obtain [contraceptives].” Ante, at 15. So one of two things must be true. Either the majority does not really believe in its own reasoning. Or if it does, all rights that have no history stretching back to the mid-19th century are insecure. Either the mass of the majority’s opinion is hypocrisy, or additional constitutional rights are under threat. It is one or the other.

One piece of evidence on that score seems especially salient: The majority’s cavalier approach to overturning this Court’s precedents. Stare decisis is the Latin phrase for a foundation stone of the rule of law: that things decided should stay decided unless there is a very good reason for change. It is a doctrine of judicial modesty and humility. Those qualities are not evident in today’s opinion. The majority has no good reason for the upheaval in law and society it sets off. Roe and Casey have been the law of the land for decades, shaping women’s expectations of their choices when an unplanned pregnancy occurs. Women have relied...
on the availability of abortion both in structuring their relationships and in planning their lives. The legal framework Roe and Casey developed to balance the competing interests in this sphere has proved workable in courts across the country. No recent developments, in either law or fact, have eroded or cast doubt on those precedents. Nothing, in short, has changed. Indeed, the Court in Casey already found all of that to be true. Casey is a precedent about precedent. It reviewed the same arguments made here in support of overruling Roe, and it found that doing so was not warranted. The Court reverses course today for one reason and one reason only: because the composition of this Court has changed. Stare decisis, this Court has often said, “contributes to the actual and perceived integrity of the judicial process” by ensuring that decisions are “founded in the law rather than in the proclivities of individuals.” Payne v. Tennessee, 501 U. S. 808, 827 (1991); Vasquez v. Hillery, 474 U. S. 254, 265 (1986). Today, the proclivities of individuals rule. The Court departs from its obligation to faithfully and impartially apply the law. We dissent.

I

We start with Roe and Casey, and with their deep connections to a broad swath of this Court’s precedents. To hear the majority tell the tale, Roe and Casey are aberrations: They came from nowhere, went nowhere—and so are easy to excise from this Nation’s constitutional law. That is not true. After describing the decisions themselves, we explain how they are rooted in—and themselves led to—other rights giving individuals control over their bodies and their most personal and intimate associations. The majority does not wish to talk about these matters for obvious reasons; to do so would both ground Roe and Casey in this Court’s precedents and reveal the broad implications of today’s decision. But the facts will not so handily disappear. Roe and Casey were from the beginning, and are even more now, embedded
in core constitutional concepts of individual freedom, and of the equal rights of citizens to decide on the shape of their lives. Those legal concepts, one might even say, have gone far toward defining what it means to be an American. For in this Nation, we do not believe that a government controlling all private choices is compatible with a free people. So we do not (as the majority insists today) place everything within “the reach of majorities and [government] officials.” *West Virginia Bd. of Ed. v. Barnette*, 319 U. S. 624, 638 (1943). We believe in a Constitution that puts some issues off limits to majority rule. Even in the face of public opposition, we uphold the right of individuals—yes, including women—to make their own choices and chart their own futures. Or at least, we did once.

Some half-century ago, *Roe* struck down a state law making it a crime to perform an abortion unless its purpose was to save a woman’s life. The *Roe* Court knew it was treading on difficult and disputed ground. It understood that different people’s “experiences,” “values,” and “religious training” and beliefs led to “opposing views” about abortion. 410 U. S., at 116. But by a 7-to-2 vote, the Court held that in the earlier stages of pregnancy, that contested and contestable choice must belong to a woman, in consultation with her family and doctor. The Court explained that a long line of precedents, “founded in the Fourteenth Amendment’s concept of personal liberty,” protected individual decisionmaking related to “marriage, procreation, contraception, family relationships, and child rearing and education.” *Id.*, at 152–153 (citations omitted). For the same reasons, the Court held, the Constitution must protect “a woman’s decision whether or not to terminate her pregnancy.” *Id.*, at 153. The Court recognized the myriad ways bearing a child can alter the “life and future” of a woman and other

At the same time, though, the Court recognized “valid interest[s]” of the State “in regulating the abortion decision.” *Id.*, at 153. The Court noted in particular “important interests” in “protecting potential life,” “maintaining medical standards,” and “safeguarding [the] health” of the woman. *Id.*, at 154. No “absolut[ist]” account of the woman’s right could wipe away those significant state claims. *Ibid.*

The Court therefore struck a balance, turning on the stage of the pregnancy at which the abortion would occur. The Court explained that early on, a woman’s choice must prevail, but that “at some point the state interests” become “dominant.” *Id.*, at 155. It then set some guideposts. In the first trimester of pregnancy, the State could not interfere at all with the decision to terminate a pregnancy. At any time after that point, the State could regulate to protect the pregnant woman’s health, such as by insisting that abortion providers and facilities meet safety requirements. And after the fetus’s viability—the point when the fetus “has the capability of meaningful life outside the mother’s womb”—the State could ban abortions, except when necessary to preserve the woman’s life or health. *Id.*, at 163–164.

In the 20 years between *Roe* and *Casey*, the Court expressly reaffirmed *Roe* on two occasions, and applied it on many more. Recognizing that “arguments [against *Roe*] continue to be made,” we responded that the doctrine of *stare decisis* “demands respect in a society governed by the rule of law.” *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U. S. 416, 419–420 (1983). And we avowed that the “vitality” of “constitutional principles cannot be allowed to yield simply because of disagreement with them.” *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U. S. 747, 759 (1986). So the Court, over and
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Then, in Casey, the Court considered the matter anew, and again upheld Roe’s core precepts. Casey is in significant measure a precedent about the doctrine of precedent—until today, one of the Court’s most important. But we leave for later that aspect of the Court’s decision. The key thing now is the substantive aspect of the Court’s considered conclusion that “the essential holding of Roe v. Wade should be retained and once again reaffirmed.” 505 U. S., at 846.

Central to that conclusion was a full-throated restatement of a woman’s right to choose. Like Roe, Casey grounded that right in the Fourteenth Amendment’s guarantee of “liberty.” That guarantee encompasses realms of conduct not specifically referenced in the Constitution: “Marriage is mentioned nowhere” in that document, yet the Court was “no doubt correct” to protect the freedom to marry “against state interference.” 505 U. S., at 847–848. And the guarantee of liberty encompasses conduct today that was not protected at the time of the Fourteenth Amendment. See id., at 848. “It is settled now,” the Court said—though it was not always so—that “the Constitution places limits on a State’s right to interfere with a person’s most basic decisions about family and parenthood, as well as bodily integrity.” Id., at 849 (citations omitted); see id., at 851 (similarly describing the constitutional protection given to “personal decisions relating to marriage, procreation, contraception, [and] family relationships”). Especially
important in this web of precedents protecting an individual’s most “personal choices” were those guaranteeing the right to contraception. *Ibid.*; see *id.*, at 852–853. In those cases, the Court had recognized “the right of the individual” to make the vastly consequential “decision whether to bear” a child. *Id.*, at 851 (emphasis deleted). So too, *Casey* reasoned, the liberty clause protects the decision of a woman confronting an unplanned pregnancy. Her decision about abortion was central, in the same way, to her capacity to chart her life’s course. See *id.*, at 853.

In reaffirming the right *Roe* recognized, the Court took full account of the diversity of views on abortion, and the importance of various competing state interests. Some Americans, the Court stated, “deem [abortion] nothing short of an act of violence against innocent human life.” 505 U. S., at 852. And each State has an interest in “the protection of potential life”—as *Roe* itself had recognized. 505 U. S., at 871 (plurality opinion). On the one hand, that interest was not conclusive. The State could not “resolve” the “moral and spiritual” questions raised by abortion in “such a definitive way that a woman lacks all choice in the matter.” *Id.*, at 850 (majority opinion). It could not force her to bear the “pain” and “physical constraints” of “carry[ing] a child to full term” when she would have chosen an early abortion. *Id.*, at 852. But on the other hand, the State had, as *Roe* had held, an exceptionally significant interest in disallowing abortions in the later phase of a pregnancy. And it had an ever-present interest in “ensur[ing] that the woman’s choice is informed” and in presenting the case for “choos[ing] childbirth over abortion.” 505 U. S., at 878 (plurality opinion).

So *Casey* again struck a balance, differing from *Roe*’s in only incremental ways. It retained *Roe*’s “central holding” that the State could bar abortion only after viability. 505 U. S., at 860 (majority opinion). The viability line, *Casey* thought, was “more workable” than any other in marking
the place where the woman's liberty interest gave way to a State's efforts to preserve potential life. Id., at 870 (plural-opinion). At that point, a “second life” was capable of “independent existence.” Ibid. If the woman even by then had not acted, she lacked adequate grounds to object to “the State's intervention on [the developing child’s] behalf.” Ibid. At the same time, Casey decided, based on two decades of experience, that the Roe framework did not give States sufficient ability to regulate abortion prior to viability. In that period, Casey now made clear, the State could regulate not only to protect the woman’s health but also to “promot[e] prenatal life.” 505 U. S., at 873 (plurality opinion). In particular, the State could ensure informed choice and could try to promote childbirth. See id., at 877–878. But the State still could not place an “undue burden”—or “substantial obstacle”—“in the path of a woman seeking an abortion.” Id., at 878. Prior to viability, the woman, consistent with the constitutional “meaning of liberty,” must “retain the ultimate control over her destiny and her body.” Id., at 869.

We make one initial point about this analysis in light of the majority’s insistence that Roe and Casey, and we in defending them, are dismissive of a “State’s interest in protecting prenatal life.” Ante, at 38. Nothing could get those decisions more wrong. As just described, Roe and Casey invoked powerful state interests in that protection, operative at every stage of the pregnancy and overriding the woman's liberty after viability. The strength of those state interests is exactly why the Court allowed greater restrictions on the abortion right than on other rights deriving from the Fourteenth Amendment. But what Roe and Casey also recognized—which today’s majority does not—is that a woman's

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1 For this reason, we do not understand the majority’s view that our analogy between the right to an abortion and the rights to contraception and same-sex marriage shows that we think “[t]he Constitution does not permit the States to regard the destruction of a ‘potential life’ as a matter
freedom and equality are likewise involved. That fact—the presence of countervailing interests—is what made the abortion question hard, and what necessitated balancing. The majority scoffs at that idea, castigating us for “repeatedly prais[ing] the ‘balance’” the two cases arrived at (with the word “balance” in scare quotes). Ante, at 38. To the majority “balance” is a dirty word, as moderation is a foreign concept. The majority would allow States to ban abortion from conception onward because it does not think forced childbirth at all implicates a woman’s rights to equality and freedom. Today’s Court, that is, does not think there is anything of constitutional significance attached to a woman’s control of her body and the path of her life. Roe and Casey thought that one-sided view misguided. In some sense, that is the difference in a nutshell between our precedents and the majority opinion. The constitutional regime we have lived in for the last 50 years recognized competing interests, and sought a balance between them. The constitutional regime we enter today erases the woman’s interest and recognizes only the State’s (or the Federal Government’s).

B

The majority makes this change based on a single question: Did the reproductive right recognized in Roe and Casey

of any significance.” Ante, at 38. To the contrary. The liberty interests underlying those rights are, as we will describe, quite similar. See infra, at 22–24. But only in the sphere of abortion is the state interest in protecting potential life involved. So only in that sphere, as both Roe and Casey recognized, may a State impinge so far on the liberty interest (barring abortion after viability and discouraging it before). The majority’s failure to understand this fairly obvious point stems from its rejection of the idea of balancing interests in this (or maybe in any) constitutional context. Cf. New York State Rifle & Pistol Assn., Inc. v. Bruen, 597 U. S. ___—____ (2022) (slip op., at 8, 15–17). The majority thinks that a woman has no liberty or equality interest in the decision to bear a child, so a State’s interest in protecting fetal life necessarily prevails.
exist in “1868, the year when the Fourteenth Amendment was ratified”? Ante, at 23. The majority says (and with this much we agree) that the answer to this question is no: In 1868, there was no nationwide right to end a pregnancy, and no thought that the Fourteenth Amendment provided one.

Of course, the majority opinion refers as well to some later and earlier history. On the one side of 1868, it goes back as far as the 13th (the 13th!) century. See ante, at 17. But that turns out to be wheel-spinning. First, it is not clear what relevance such early history should have, even to the majority. See New York State Rifle & Pistol Assn., Inc. v. Bruen, 597 U. S. ___, ___ (2022) (slip op., at 26) (“Historical evidence that long predates [ratification] may not illuminate the scope of the right”). If the early history obviously supported abortion rights, the majority would no doubt say that only the views of the Fourteenth Amendment’s ratifiers are germane. See ibid. (It is “better not to go too far back into antiquity,” except if olden “law survived to become our Founders’ law”). Second—and embarrassingly for the majority—early law in fact does provide some support for abortion rights. Common-law authorities did not treat abortion as a crime before “quickening”—the point when the fetus moved in the womb.2 And early American law followed the common-law rule.3 So the criminal law of that early time might be taken as roughly consonant with

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3 See J. Mohr, Abortion in America: The Origins and Evolution of National Policy, 1800–1900, pp. 3–4 (1978). The majority offers no evidence to the contrary—no example of a founding-era law making pre-quickening abortion a crime (except when a woman died). See ante, at 20–21. And even in the mid-19th century, more than 10 States continued to allow pre-quickening abortions. See Brief for American Historical Association et al. as Amici Curiae 27, and n. 14.
Roe’s and Casey’s different treatment of early and late abortions. Better, then, to move forward in time. On the other side of 1868, the majority occasionally notes that many States barred abortion up to the time of Roe. See ante, at 24, 36. That is convenient for the majority, but it is window dressing. As the same majority (plus one) just informed us, “post-ratification adoption or acceptance of laws that are inconsistent with the original meaning of the constitutional text obviously cannot overcome or alter that text.” New York State Rifle & Pistol Assn., Inc., 597 U. S., at ___–___ (slip op., at 27–28). Had the pre-Roe liberalization of abortion laws occurred more quickly and more widely in the 20th century, the majority would say (once again) that only the ratifiers’ views are germane.

The majority’s core legal postulate, then, is that we in the 21st century must read the Fourteenth Amendment just as its ratifiers did. And that is indeed what the majority emphasizes over and over again. See ante, at 47 (“[T]he most important historical fact [is] how the States regulated abortion when the Fourteenth Amendment was adopted”); see also ante, at 5, 16, and n. 24, 25, 28. If the ratifiers did not understand something as central to freedom, then neither can we. Or said more particularly: If those people did not understand reproductive rights as part of the guarantee of liberty conferred in the Fourteenth Amendment, then those rights do not exist.

As an initial matter, note a mistake in the just preceding sentence. We referred there to the “people” who ratified the Fourteenth Amendment: What rights did those “people” have in their heads at the time? But, of course, “people” did not ratify the Fourteenth Amendment. Men did. So it is perhaps not so surprising that the ratifiers were not perfectly attuned to the importance of reproductive rights for women’s liberty, or for their capacity to participate as equal members of our Nation. Indeed, the ratifiers—both in 1868 and when the original Constitution was approved in 1788—
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did not understand women as full members of the community embraced by the phrase “We the People.” In 1868, the first wave of American feminists were explicitly told—of course by men—that it was not their time to seek constitutional protections. (Women would not get even the vote for another half-century.) To be sure, most women in 1868 also had a foreshortened view of their rights: If most men could not then imagine giving women control over their bodies, most women could not imagine having that kind of autonomy. But that takes away nothing from the core point. Those responsible for the original Constitution, including the Fourteenth Amendment, did not perceive women as equals, and did not recognize women’s rights. When the majority says that we must read our foundational charter as viewed at the time of ratification (except that we may also check it against the Dark Ages), it consigns women to second-class citizenship.

Casey itself understood this point, as will become clear. See infra, at 23–24. It recollected with dismay a decision this Court issued just five years after the Fourteenth Amendment’s ratification, approving a State’s decision to deny a law license to a woman and suggesting as well that a woman had no legal status apart from her husband. See 505 U. S., at 896–897 (majority opinion) (citing Bradwell v. State, 16 Wall. 130 (1873)). “There was a time,” Casey explained, when the Constitution did not protect “men and women alike.” 505 U. S., at 896. But times had changed. A woman’s place in society had changed, and constitutional law had changed along with it. The relegation of women to inferior status in either the public sphere or the family was “no longer consistent with our understanding” of the Constitution. Id., at 897. Now, “[t]he Constitution protects all individuals, male or female,” from “the abuse of governmental power” or “unjustified state interference.” Id., at 896, 898.

So how is it that, as Casey said, our Constitution, read
now, grants rights to women, though it did not in 1868? How is it that our Constitution subjects discrimination against them to heightened judicial scrutiny? How is it that our Constitution, through the Fourteenth Amendment’s liberty clause, guarantees access to contraception (also not legally protected in 1868) so that women can decide for themselves whether and when to bear a child? How is it that until today, that same constitutional clause protected a woman’s right, in the event contraception failed, to end a pregnancy in its earlier stages?

The answer is that this Court has rejected the majority’s pinched view of how to read our Constitution. “The Founders,” we recently wrote, “knew they were writing a document designed to apply to ever-changing circumstances over centuries.” *NLRB v. Noel Canning*, 573 U. S. 513, 533–534 (2014). Or in the words of the great Chief Justice John Marshall, our Constitution is “intended to endure for ages to come,” and must adapt itself to a future “seen dimly,” if at all. *McCulloch v. Maryland*, 4 Wheat. 316, 415 (1819). That is indeed why our Constitution is written as it is. The Framers (both in 1788 and 1868) understood that the world changes. So they did not define rights by reference to the specific practices existing at the time. Instead, the Framers defined rights in general terms, to permit future evolution in their scope and meaning. And over the course of our history, this Court has taken up the Framers’ invitation. It has kept true to the Framers’ principles by applying them in new ways, responsive to new societal understandings and conditions.

Nowhere has that approach been more prevalent than in construing the majestic but open-ended words of the Fourteenth Amendment—the guarantees of “liberty” and “equality” for all. And nowhere has that approach produced prouder moments, for this country and the Court. Consider an example *Obergefell* used a few years ago. The Court
there confronted a claim, based on Washington v. Glucksberg, 521 U. S. 702 (1997), that the Fourteenth Amendment “must be defined in a most circumscribed manner, with central reference to specific historical practices”—exactly the view today’s majority follows. Obergefell, 576 U. S., at 671. And the Court specifically rejected that view. In doing so, the Court reflected on what the proposed, historically circumscribed approach would have meant for interracial marriage. See ibid. The Fourteenth Amendment’s ratifiers did not think it gave black and white people a right to marry each other. To the contrary, contemporaneous practice deemed that act quite as unprotected as abortion. Yet the Court in Loving v. Virginia, 388 U. S. 1 (1967), read the Fourteenth Amendment to embrace the Lovings’ union. If, Obergefell explained, “rights were defined by who exercised them in the past, then received practices could serve as their own continued justification”—even when they conflict with “liberty” and “equality” as later and more broadly understood. 576 U. S., at 671. The Constitution does not freeze for all time the original view of what those rights guarantee, or how they apply.

That does not mean anything goes. The majority wishes people to think there are but two alternatives: (1) accept the original applications of the Fourteenth Amendment and no others, or (2) surrender to judges’ “own ardent views,” ungrounded in law, about the “liberty that Americans should enjoy.” Ante, at 14. At least, that idea is what the majority sometimes tries to convey. At other times, the majority (or, rather, most of it) tries to assure the public that it has no designs on rights (for example, to contraception) that arose only in the back half of the 20th century—in other words,

4The majority ignores that rejection. See ante, at 5, 13, 36. But it is unequivocal: The Glucksberg test, Obergefell said, “may have been appropriate” in considering physician-assisted suicide, but “is inconsistent with the approach this Court has used in discussing other fundamental rights, including marriage and intimacy.” 576 U. S., at 671.
that it is happy to pick and choose, in accord with individual preferences. See ante, at 32, 66, 71–72; ante, at 10 (KAVANAUGH, J., concurring); but see ante, at 3 (THOMAS, J., concurring). But that is a matter we discuss later. See infra, at 24–29. For now, our point is different: It is that applications of liberty and equality can evolve while remaining grounded in constitutional principles, constitutional history, and constitutional precedents. The second Justice Harlan discussed how to strike the right balance when he explained why he would have invalidated a State’s ban on contraceptive use. Judges, he said, are not “free to roam where unguided speculation might take them.” Poe v. Ullman, 367 U. S. 497, 542 (1961) (dissenting opinion). Yet they also must recognize that the constitutional “tradition” of this country is not captured whole at a single moment. Ibid. Rather, its meaning gains content from the long sweep of our history and from successive judicial precedents—each looking to the last and each seeking to apply the Constitution’s most fundamental commitments to new conditions. That is why Americans, to go back to Obergefell’s example, have a right to marry across racial lines. And it is why, to go back to Justice Harlan’s case, Americans have a right to use contraceptives so they can choose for themselves whether to have children.

All that is what Casey understood. Casey explicitly rejected the present majority’s method. “[T]he specific practices of States at the time of the adoption of the Fourteenth Amendment,” Casey stated, do not “mark[ ] the outer limits of the substantive sphere of liberty which the Fourteenth Amendment protects.” 505 U. S., at 848.5 To hold otherwise—as the majority does today—“would be inconsistent

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5 In a perplexing paragraph in its opinion, the majority declares that it need not say whether that statement from Casey is true. See ante, at 32–33. But how could that be? Has not the majority insisted for the prior 30 or so pages that the “specific practice[ ]” respecting abortion at the
with our law.” *Id.*, at 847. Why? Because the Court has “vindicated [the] principle” over and over that (no matter the sentiment in 1868) “there is a realm of personal liberty which the government may not enter”—especially relating to “bodily integrity” and “family life.” *Id.*, at 847, 849, 851. *Casey* described in detail the Court’s contraception cases. See *id.*, at 848–849, 851–853. It noted decisions protecting the right to marry, including to someone of another race. See *id.*, at 847–848 (“[I]nterracial marriage was illegal in most States in the 19th century, but the Court was no doubt correct in finding it to be an aspect of liberty protected against state interference”). In reviewing decades and decades of constitutional law, *Casey* could draw but one conclusion: Whatever was true in 1868, “[i]t is settled now, as it was when the Court heard arguments in *Roe v. Wade*, that the Constitution places limits on a State’s right to interfere with a person’s most basic decisions about family and parenthood.” *Id.*, at 849.

And that conclusion still held good, until the Court’s intervention here. It was settled at the time of *Roe*, settled at the time of *Casey*, and settled yesterday that the Constitution places limits on a State’s power to assert control over an individual’s body and most personal decisionmaking. A multitude of decisions supporting that principle led to *Roe*’s recognition and *Casey*’s reaffirmation of the right to choose; and *Roe* and *Casey* in turn supported additional protections for intimate and familial relations. The majority has em-
barrassingly little to say about those precedents. It (liter-
ally) rattles them off in a single paragraph; and it implies
that they have nothing to do with each other, or with the
right to terminate an early pregnancy. See ante, at 31–32
(asserting that recognizing a relationship among them, as
addressing aspects of personal autonomy, would inelucta-
bly “license fundamental rights” to illegal “drug use [and]
prostitution”). But that is flat wrong. The Court’s prece-
dents about bodily autonomy, sexual and familial relations,
and procreation are all interwoven—all part of the fabric of
our constitutional law, and because that is so, of our lives.
Especially women’s lives, where they safeguard a right to
self-determination.

And eliminating that right, we need to say before further
describing our precedents, is not taking a “neutral” posi-
tion, as JUSTICE KAVANAUGH tries to argue. Ante, at 2–3,
5, 7, 11–12 (concurring opinion). His idea is that neutrality
lies in giving the abortion issue to the States, where some
can go one way and some another. But would he say that
the Court is being “scrupulously neutral” if it allowed New
York and California to ban all the guns they want? Ante, at
3. If the Court allowed some States to use unanimous juries
and others not? If the Court told the States: Decide for
yourselves whether to put restrictions on church attend-
ance? We could go on—and in fact we will. Suppose
JUSTICE KAVANAUGH were to say (in line with the majority
opinion) that the rights we just listed are more textually or
historically grounded than the right to choose. What, then,
of the right to contraception or same-sex marriage? Would
it be “scrupulously neutral” for the Court to eliminate those
rights too? The point of all these examples is that when it
comes to rights, the Court does not act “neutrally” when it
leaves everything up to the States. Rather, the Court acts
neutrally when it protects the right against all comers. And
to apply that point to the case here: When the Court deci-
mates a right women have held for 50 years, the Court is
not being “scrupulously neutral.” It is instead taking sides: against women who wish to exercise the right, and for States (like Mississippi) that want to bar them from doing so. JUSTICE KAVANAUGH cannot obscure that point by appropriating the rhetoric of even-handedness. His position just is what it is: A brook-no-compromise refusal to recognize a woman’s right to choose, from the first day of a pregnancy. And that position, as we will now show, cannot be squared with this Court’s longstanding view that women indeed have rights (whatever the state of the world in 1868) to make the most personal and consequential decisions about their bodies and their lives.

Consider first, then, the line of this Court’s cases protecting “bodily integrity.” Casey, 505 U. S., at 849. “No right,” in this Court’s time-honored view, “is held more sacred, or is more carefully guarded,” than “the right of every individual to the possession and control of his own person.” Union Pacific R. Co. v. Botsford, 141 U. S. 250, 251 (1891); see Cruzan v. Director, Mo. Dept. of Health, 497 U. S. 261, 269 (1990) (Every adult “has a right to determine what shall be done with his own body”). Or to put it more simply: Everyone, including women, owns their own bodies. So the Court has restricted the power of government to interfere with a person’s medical decisions or compel her to undergo medical procedures or treatments. See, e.g., Winston v. Lee, 470 U. S. 753, 766–767 (1985) (forced surgery); Rochin v. California, 342 U. S. 165, 166, 173–174 (1952) (forced stomach pumping); Washington v. Harper, 494 U. S. 210, 229, 236 (1990) (forced administration of antipsychotic drugs).

Casey recognized the “doctrinal affinity” between those precedents and Roe. 505 U. S., at 857. And that doctrinal affinity is born of a factual likeness. There are few greater incursions on a body than forcing a woman to complete a pregnancy and give birth. For every woman, those experiences involve all manner of physical changes, medical treatments (including the possibility of a cesarean section), and
medical risk. Just as one example, an American woman is 14 times more likely to die by carrying a pregnancy to term than by having an abortion. See Whole Woman’s Health v. Hellerstedt, 579 U. S. 582, 618 (2016). That women happily undergo those burdens and hazards of their own accord does not lessen how far a State impinges on a woman’s body when it compels her to bring a pregnancy to term. And for some women, as Roe recognized, abortions are medically necessary to prevent harm. See 410 U. S., at 153. The majority does not say—which is itself ominous—whether a State may prevent a woman from obtaining an abortion when she and her doctor have determined it is a needed medical treatment.

So too, Roe and Casey fit neatly into a long line of decisions protecting from government intrusion a wealth of private choices about family matters, child rearing, intimate relationships, and procreation. See Casey, 505 U. S., at 851, 857; Roe, 410 U. S., at 152–153; see also ante, at 31–32 (listing the myriad decisions of this kind that Casey relied on). Those cases safeguard particular choices about whom to marry; whom to have sex with; what family members to live with; how to raise children—and crucially, whether and when to have children. In varied cases, the Court explained that those choices—“the most intimate and personal” a person can make—reflect fundamental aspects of personal identity; they define the very “attributes of personhood.” Casey, 505 U. S., at 851. And they inevitably shape the nature and future course of a person’s life (and often the lives of those closest to her). So, the Court held, those choices belong to the individual, and not the government. That is the essence of what liberty requires.

And liberty may require it, this Court has repeatedly said, even when those living in 1868 would not have recognized the claim—because they would not have seen the person making it as a full-fledged member of the community. Throughout our history, the sphere of protected liberty has
expanded, bringing in individuals formerly excluded. In that way, the constitutional values of liberty and equality go hand in hand; they do not inhabit the hermetically sealed containers the majority portrays. Compare *Obergefell*, 576 U. S., at 672–675, with *ante*, at 10–11. So before *Roe* and *Casey*, the Court expanded in successive cases those who could claim the right to marry—though their relationships would have been outside the law’s protection in the mid-19th century. See, *e.g.*, *Loving*, 388 U. S. 1 (interracial couples); *Turner v. Safley*, 482 U. S. 78 (1987) (prisoners); see also, *e.g.*, *Stanley v. Illinois*, 405 U. S. 645, 651–652 (1972) (offering constitutional protection to untraditional “family unit[s]”). And after *Roe* and *Casey*, of course, the Court continued in that vein. With a critical stop to hold that the Fourteenth Amendment protected same-sex intimacy, the Court resolved that the Amendment also conferred on same-sex couples the right to marry. See *Lawrence*, 539 U. S. 558; *Obergefell*, 576 U. S. 644. In considering that question, the Court held, “[h]istory and tradition,” especially as reflected in the course of our precedent, “guide and discipline [the] inquiry.” *Id.*, at 664. But the sentiments of 1868 alone do not and cannot “rule the present.” *Ibid.*

*Casey* similarly recognized the need to extend the constitutional sphere of liberty to a previously excluded group. The Court then understood, as the majority today does not, that the men who ratified the Fourteenth Amendment and wrote the state laws of the time did not view women as full and equal citizens. See *supra*, at 15. A woman then, *Casey* wrote, “had no legal existence separate from her husband.” 505 U. S., at 897. Women were seen only “as the center of home and family life,” without “full and independent legal status under the Constitution.” *Ibid.* But that could not be true any longer: The State could not now insist on the historically dominant “vision of the woman’s role.” *Id.*, at 852. And equal citizenship, *Casey* realized, was inescapably con-
nected to reproductive rights. “The ability of women to participate equally” in the “life of the Nation”—in all its economic, social, political, and legal aspects—“has been facilitated by their ability to control their reproductive lives.” *Id.*, at 856. Without the ability to decide whether and when to have children, women could not—in the way men took for granted—determine how they would live their lives, and how they would contribute to the society around them.

For much that reason, *Casey* made clear that the precedents *Roe* most closely tracked were those involving contraception. Over the course of three cases, the Court had held that a right to use and gain access to contraception was part of the Fourteenth Amendment’s guarantee of liberty. See *Griswold*, 381 U. S. 479; *Eisenstadt*, 405 U. S. 438; *Casey v. Population Services Int’l*, 431 U. S. 678 (1977). That clause, we explained, necessarily conferred a right “to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.” *Eisenstadt*, 405 U. S., at 453; see *Casey*, 431 U. S., at 684–685. *Casey* saw *Roe* as of a piece: In “critical respects the abortion decision is of the same character.” 505 U. S., at 852. “[R]easonable people,” the Court noted, could also oppose contraception; and indeed, they could believe that “some forms of contraception” similarly implicate a concern with “potential life.” *Id.*, at 853, 859. Yet the views of others could not automatically prevail against a woman’s right to control her own body and make her own choice about whether to bear, and probably to raise, a child. When an unplanned pregnancy is involved—because either contraception or abortion is outlawed—“the liberty of the woman is at stake in a sense unique to the human condition.” *Id.*, at 852. No State could undertake to resolve the moral questions raised “in such a definitive way” as to deprive a woman of all choice. *Id.*, at 850.

Faced with all these connections between *Roe/Casey* and judicial decisions recognizing other constitutional rights,
the majority tells everyone not to worry. It can (so it says) neatly extract the right to choose from the constitutional edifice without affecting any associated rights. (Think of someone telling you that the Jenga tower simply will not collapse.) Today’s decision, the majority first says, “does not undermine” the decisions cited by *Roe* and *Casey*—the ones involving “marriage, procreation, contraception, [and] family relationships”—“in any way.” *Ante*, at 32; *Casey*, 505 U. S., at 851. Note that this first assurance does not extend to rights recognized after *Roe* and *Casey*, and partly based on them—in particular, rights to same-sex intimacy and marriage. See *supra*, at 23.6 On its later tries, though, the majority includes those too: “Nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion.” *Ante*, at 66; see *ante*, at 71–72. That right is unique, the majority asserts, “because [abortion] terminates life or potential life.” *Ante*, at 66 (internal quotation marks omitted); see *ante*, at 32, 71–72. So the majority depicts today’s decision as “a restricted railroad ticket, good for this day and train only.” *Smith v. Allwright*, 321 U. S. 649, 669 (1944) (Roberts, J., dissenting). Should the audience for these too-much-repeated protestations be duly satisfied? We think not.

The first problem with the majority’s account comes from JUSTICE THOMAS’s concurrence—which makes clear he is not with the program. In saying that nothing in today’s opinion casts doubt on non-abortion precedents, JUSTICE THOMAS explains, he means only that they are not at issue

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6 And note, too, that the author of the majority opinion recently joined a statement, written by another member of the majority, lamenting that *Obergefell* deprived States of the ability “to resolve th[e] question [of same-sex marriage] through legislation.” *Davis v. Ermold*, 592 U. S., __ (2020) (statement of THOMAS, J.) (slip op., at 1). That might sound familiar. Cf. *ante*, at 44 (lamenting that *Roe* “short-circuited the democratic process”). And those two Justices hardly seemed content to let the matter rest: The Court, they said, had “created a problem that only it can fix.” *Davis*, 592 U. S., at ___ (slip op., at 4).
in this very case. See ante, at 7 (“[T]his case does not present the opportunity to reject” those precedents). But he lets us know what he wants to do when they are. “[I]n future cases,” he says, “we should reconsider all of this Court’s substantive due process precedents, including Griswold, Lawrence, and Obergefell.” Ante, at 3; see also supra, at 25, and n. 6. And when we reconsider them? Then “we have a duty” to “overrule[e] these demonstrably erroneous decisions.” Ante, at 3. So at least one Justice is planning to use the ticket of today’s decision again and again and again.

Even placing the concurrence to the side, the assurance in today’s opinion still does not work. Or at least that is so if the majority is serious about its sole reason for overturning Roe and Casey: the legal status of abortion in the 19th century. Except in the places quoted above, the state interest in protecting fetal life plays no part in the majority’s analysis. To the contrary, the majority takes pride in not expressing a view “about the status of the fetus.” Ante, at 65; see ante, at 32 (aligning itself with Roe’s and Casey’s stance of not deciding whether life or potential life is involved); ante, at 38–39 (similar). The majority’s departure from Roe and Casey rests instead—and only—on whether a woman’s decision to end a pregnancy involves any Fourteenth Amendment liberty interest (against which Roe and Casey balanced the state interest in preserving fetal life). 7

7 Indulge a few more words about this point. The majority had a choice of two different ways to overrule Roe and Casey. It could claim that those cases underrated the State’s interest in fetal life. Or it could claim that they overrated a woman’s constitutional liberty interest in choosing an abortion. (Or both.) The majority here rejects the first path, and we can see why. Taking that route would have prevented the majority from claiming that it means only to leave this issue to the democratic process—that it does not have a dog in the fight. See ante, at 38–39, 65. And indeed, doing so might have suggested a revolutionary proposition: that the fetus is itself a constitutionally protected “person,” such that an abortion ban is constitutionally mandated. The majority therefore chooses the second path, arguing that the Fourteenth Amendment does
According to the majority, no liberty interest is present—because (and only because) the law offered no protection to the woman’s choice in the 19th century. But here is the rub. The law also did not then (and would not for ages) protect a wealth of other things. It did not protect the rights recognized in Lawrence and Obergefell to same-sex intimacy and marriage. It did not protect the right recognized in Loving to marry across racial lines. It did not protect the right recognized in Griswold to contraceptive use. For that matter, it did not protect the right recognized in Skinner v. Oklahoma ex rel. Williamson, 316 U. S. 535 (1942), not to be sterilized without consent. So if the majority is right in its legal analysis, all those decisions were wrong, and all those matters properly belong to the States too—whatever the particular state interests involved. And if that is true, it is impossible to understand (as a matter of logic and principle) how the majority can say that its opinion today does not threaten—does not even “undermine”—any number of other constitutional rights. Ante, at 32.8

Nor does it even help just to take the majority at its word. Assume the majority is sincere in saying, for whatever reason, that it will go so far and no further. Scout’s honor. Still, the future significance of today’s opinion will be decided in the future. And law often has a way of evolving

not conceive of the abortion decision as implicating liberty, because the law in the 19th century gave that choice no protection. The trouble is that the chosen path—which is, again, the solitary rationale for the Court’s decision—provides no way to distinguish between the right to choose an abortion and a range of other rights, including contraception.

8 The majority briefly (very briefly) gestures at the idea that some stare decisis factors might play out differently with respect to these other constitutional rights. But the majority gives no hint as to why. And the majority’s (mis)treatment of stare decisis in this case provides little reason to think that the doctrine would stand as a barrier to the majority’s redoing any other decision it considered egregiously wrong. See infra, at 30–57.
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without regard to original intentions—a way of actually following where logic leads, rather than tolerating hard-to-explain lines. Rights can expand in that way. Dissenting in Lawrence, Justice Scalia explained why he took no comfort in the Court’s statement that a decision recognizing the right to same-sex intimacy did “not involve” same-sex marriage. 539 U. S., at 604. That could be true, he wrote, “only if one entertains the belief that principle and logic have nothing to do with the decisions of this Court.” Id., at 605.

Score one for the dissent, as a matter of prophecy. And logic and principle are not one-way ratchets. Rights can contract in the same way and for the same reason—because whatever today’s majority might say, one thing really does lead to another. We fervently hope that does not happen because of today’s decision. We hope that we will not join Justice Scalia in the book of prophets. But we cannot understand how anyone can be confident that today’s opinion will be the last of its kind.

Consider, as our last word on this issue, contraception. The Constitution, of course, does not mention that word. And there is no historical right to contraception, of the kind the majority insists on. To the contrary, the American legal landscape in the decades after the Civil War was littered with bans on the sale of contraceptive devices. So again, there seem to be two choices. See supra, at 5, 26–27. If the majority is serious about its historical approach, then Griswold and its progeny are in the line of fire too. Or if it is not serious, then . . . what is the basis of today’s decision? If we had to guess, we suspect the prospects of this Court approving bans on contraception are low. But once again, the future significance of today’s opinion will be decided in the future. At the least, today’s opinion will fuel the fight to get contraception, and any other issues with a moral dimension, out of the Fourteenth Amendment and into state
Anyway, today’s decision, taken on its own, is catastrophic enough. As a matter of constitutional method, the majority’s commitment to replicate in 2022 every view about the meaning of liberty held in 1868 has precious little to recommend it. Our law in this constitutional sphere, as in most, has for decades upon decades proceeded differently. It has considered fundamental constitutional principles, the whole course of the Nation’s history and traditions, and the step-by-step evolution of the Court’s precedents. It is disciplined but not static. It relies on accumulated judgments, not just the sentiments of one long-ago generation of men (who themselves believed, and drafted the Constitution to reflect, that the world progresses). And by doing so, it includes those excluded from that olden conversation, rather than perpetuating its bounds.

As a matter of constitutional substance, the majority’s opinion has all the flaws its method would suggest. Because laws in 1868 deprived women of any control over their bodies, the majority approves States doing so today. Because those laws prevented women from charting the course of their own lives, the majority says States can do the same again. Because in 1868, the government could tell a pregnant woman—even in the first days of her pregnancy—that she could do nothing but bear a child, it can once more impose that command. Today’s decision strips women of agency over what even the majority agrees is a

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contested and contestable moral issue. It forces her to carry out the State’s will, whatever the circumstances and whatever the harm it will wreak on her and her family. In the Fourteenth Amendment’s terms, it takes away her liberty. Even before we get to stare decisis, we dissent.

II

By overruling Roe, Casey, and more than 20 cases reaffirming or applying the constitutional right to abortion, the majority abandons stare decisis, a principle central to the rule of law. "Stare decisis" means “to stand by things decided.” Black’s Law Dictionary 1696 (11th ed. 2019). Blackstone called it the “established rule to abide by former precedents.” 1 Blackstone 69. Stare decisis “promotes the evenhanded, predictable, and consistent development of legal principles.” Payne, 501 U. S., at 827. It maintains a stability that allows people to order their lives under the law. See H. Hart & A. Sacks, The Legal Process: Basic Problems in the Making and Application of Law 568–569 (1994).

Stare decisis also “contributes to the integrity of our constitutional system of government” by ensuring that decisions “are founded in the law rather than in the proclivities of individuals.” Vasquez, 474 U. S., at 265. As Hamilton wrote: It “avoid[s] an arbitrary discretion in the courts.” The Federalist No. 78, p. 529 (J. Cooke ed. 1961) (A. Hamilton). And as Blackstone said before him: It “keep[s] the scale of justice even and steady, and not liable to waver with every new judge’s opinion.” 1 Blackstone 69. The “glory” of our legal system is that it “gives preference to precedent rather than . . . jurists.” H. Humble, Departure From Precedent, 19 Mich. L. Rev. 608, 614 (1921). That is why, the story goes, Chief Justice John Marshall donned a plain black robe when he swore the oath of office. That act personified an American tradition. Judges’ personal preferences do not make law; rather, the law speaks through
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That means the Court may not overrule a decision, even a constitutional one, without a “special justification.” *Gamble v. United States*, 587 U. S. ___, ___ (2019) (slip op., at 11). *Stare decisis* is, of course, not an “inexorable command”; it is sometimes appropriate to overrule an earlier decision. *Pearson v. Callahan*, 555 U. S. 223, 233 (2009). But the Court must have a good reason to do so over and above the belief “that the precedent was wrongly decided.” *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U. S. 258, 266 (2014). “[I]t is not alone sufficient that we would decide a case differently now than we did then.” *Kimble v. Marvel Entertainment, LLC*, 576 U. S. 446, 455 (2015).

The majority today lists some 30 of our cases as overruling precedent, and argues that they support overruling *Roe* and *Casey*. But none does, as further described below and in the Appendix. See *infra*, at 61–66. In some, the Court only partially modified or clarified a precedent. And in the rest, the Court relied on one or more of the traditional *stare decisis* factors in reaching its conclusion. The Court found, for example, (1) a change in legal doctrine that undermined or made obsolete the earlier decision; (2) a factual change that had the same effect; or (3) an absence of reliance because the earlier decision was less than a decade old. (The majority is wrong when it says that we insist on a test of changed law or fact alone, although that is present in most of the cases. See *ante*, at 69.) None of those factors apply here: Nothing—and in particular, no significant legal or factual change—supports overturning a half-century of settled law giving women control over their reproductive lives.

First, for all the reasons we have given, *Roe* and *Casey* were correct. In holding that a State could not “resolve” the debate about abortion “in such a definitive way that a woman lacks all choice in the matter,” the Court protected women’s liberty and women’s equality in a way comporting with our Fourteenth Amendment precedents. *Casey*, 505
U. S., at 850. Contrary to the majority’s view, the legal status of abortion in the 19th century does not weaken those decisions. And the majority’s repeated refrain about “usurp[ing]” state legislatures’ “power to address” a publicly contested question does not help it on the key issue here. Ante, at 44; see ante, at 1. To repeat: The point of a right is to shield individual actions and decisions “from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts.” Barnette, 319 U. S., at 638; supra, at 7. However divisive, a right is not at the people’s mercy.

In any event “[w]hether or not we . . . agree” with a prior precedent is the beginning, not the end, of our analysis—and the remaining “principles of stare decisis weigh heavily against overruling” Roe and Casey. Dickerson v. United States, 530 U. S. 428, 443 (2000). Casey itself applied those principles, in one of this Court’s most important precedents about precedent. After assessing the traditional stare decisis factors, Casey reached the only conclusion possible—that stare decisis operates powerfully here. It still does. The standards Roe and Casey set out are perfectly workable. No changes in either law or fact have eroded the two decisions. And tens of millions of American women have relied, and continue to rely, on the right to choose. So under traditional stare decisis principles, the majority has no special justification for the harm it causes.

And indeed, the majority comes close to conceding that point. The majority barely mentions any legal or factual changes that have occurred since Roe and Casey. It suggests that the two decisions are hard for courts to implement, but cannot prove its case. In the end, the majority says, all it must say to override stare decisis is one thing: that it believes Roe and Casey “egregiously wrong.” Ante, at 70. That rule could equally spell the end of any precedent with which a bare majority of the present Court disagrees.
So how does that approach prevent the “scale of justice” from “waver[ing] with every new judge’s opinion”? 1 Blackstone 69. It does not. It makes radical change too easy and too fast, based on nothing more than the new views of new judges. The majority has overruled Roe and Casey for one and only one reason: because it has always despised them, and now it has the votes to discard them. The majority thereby substitutes a rule by judges for the rule of law.

A

Contrary to the majority’s view, there is nothing unworkable about Casey’s “undue burden” standard. Its primary focus on whether a State has placed a “substantial obstacle” on a woman seeking an abortion is “the sort of inquiry familiar to judges across a variety of contexts.” June Medical Services L. L. C. v. Russo, 591 U. S. ___, ___ (2020) (slip op., at 6) (ROBERTS, C. J., concurring in judgment). And it has given rise to no more conflict in application than many standards this Court and others unhesitatingly apply every day.

General standards, like the undue burden standard, are ubiquitous in the law, and particularly in constitutional adjudication. When called on to give effect to the Constitution’s broad principles, this Court often crafts flexible standards that can be applied case-by-case to a myriad of unforeseeable circumstances. See Dickerson, 530 U. S., at 441 (“No court laying down a general rule can possibly foresee the various circumstances” in which it must apply). So, for example, the Court asks about undue or substantial burdens on speech, on voting, and on interstate commerce. See, e.g., Arizona Free Enterprise Club’s Freedom Club PAC v. Bennett, 564 U. S. 721, 748 (2011); Burdick v. Takushi, 504 U. S. 428, 433–434 (1992); Pike v. Bruce Church, Inc., 397 U. S. 137, 142 (1970). The Casey undue burden standard is the same. It also resembles general standards that courts
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And the undue burden standard has given rise to no unusual difficulties. Of course, it has provoked some disagreement among judges. Casey knew it would: That much “is to be expected in the application of any legal standard which must accommodate life’s complexity.” 505 U. S., at 878 (plurality opinion). Which is to say: That much is to be expected in the application of any legal standard. But the majority vastly overstates the divisions among judges applying the standard. We count essentially two. The Chief Justice disagreed with other Justices in the June Medical majority about whether Casey called for weighing the benefits of an abortion regulation against its burdens. See 591 U. S., at ___–___ (slip op., at 6–7); ante, at 59, 60, and n. 53.10 We agree that the June Medical difference is a difference—but not one that would actually make a difference in the result of most cases (it did not in June Medical), and not one incapable of resolution were it ever to matter. As for lower courts, there is now a one-year-old, one-to-one Circuit split about how the undue burden standard applies to state laws that ban abortions for certain reasons, like fetal abnormality. See ante, at 61, and n. 57. That is about it, as far as we can see.11 And that is not much. This Court

10 Some lower courts then differed over which opinion in June Medical was controlling—but that is a dispute not about the undue burden standard, but about the “Marks rule,” which tells courts how to determine the precedential effects of a divided decision.

11 The rest of the majority’s supposed splits are, shall we say, unim-
mostly does not even grant certiorari on one-year-old, one-to-one Circuit splits, because we know that a bit of disagreement is an inevitable part of our legal system. To borrow an old saying that might apply here: Not one or even a couple of swallows can make the majority’s summer.

Anyone concerned about workability should consider the majority’s substitute standard. The majority says a law regulating or banning abortion “must be sustained if there is a rational basis on which the legislature could have thought that it would serve legitimate state interests.” Ante, at 77. And the majority lists interests like “respect for and preservation of prenatal life,” “protection of maternal health,” elimination of certain “medical procedures,” “mitigation of fetal pain,” and others. Ante, at 78. This Court will surely face critical questions about how that test applies. Must a state law allow abortions when necessary to protect a woman’s life and health? And if so, exactly when? How much risk to a woman’s life can a State force

pressive. The majority says that lower courts have split over how to apply the undue burden standard to parental notification laws. See ante, at 60, and n. 54. But that is not so. The state law upheld had an exemption for minors demonstrating adequate maturity, whereas the ones struck down did not. Compare Planned Parenthood of Blue Ridge v. Camblos, 155 F. 3d 352, 383–384 (CA4 1998), with Planned Parenthood of Ind. & Ky., Inc. v. Adams, 937 F. 3d 973, 981 (CA7 2019), cert. granted, judgment vacated, 591 U. S. ___ (2020), and Planned Parenthood, Sioux Falls Clinic v. Miller, 63 F. 3d 1452, 1460 (CA8 1995). The majority says there is a split about bans on certain types of abortion procedures. See ante, at 61, and n. 55. But the one court to have separated itself on that issue did so based on a set of factual findings significantly different from those in other cases. Compare Whole Woman’s Health v. Paxton, 10 F. 4th 430, 447–453 (CA5 2021), with EMW Women’s Surgical Center, P.S.C. v. Friedlander, 960 F. 3d 785, 798–806 (CA6 2020), and West Ala. Women’s Center v. Williamson, 900 F. 3d 1310, 1322–1324 (CA11 2018).

Finally, the majority says there is a split about whether an increase in travel time to reach a clinic is an undue burden. See ante, at 61, and n. 56. But the cases to which the majority refers predate this Court’s decision in Whole Woman’s Health v. Hellerstedt, 579 U. S. 582 (2016), which clarified how to apply the undue burden standard to that context.
her to incur, before the Fourteenth Amendment’s protection of life kicks in? Suppose a patient with pulmonary hypertension has a 30-to-50 percent risk of dying with ongoing pregnancy; is that enough? And short of death, how much illness or injury can the State require her to accept, consistent with the Amendment’s protection of liberty and equality? Further, the Court may face questions about the application of abortion regulations to medical care most people view as quite different from abortion. What about the morning-after pill? IUDs? In vitro fertilization? And how about the use of dilation and evacuation or medication for miscarriage management? See generally L. Harris, Navigating Loss of Abortion Services—A Large Academic Medical Center Prepares for the Overturn of Roe v. Wade, 386 New England J. Med. 2061 (2022).

Finally, the majority’s ruling today invites a host of questions about interstate conflicts. See supra, at 3; see generally D. Cohen, G. Donley, & R. Rebouché, The New Abortion Battleground, 123 Colum. L. Rev. (forthcoming 2023), https://ssrn.com/abstract=4032931. Can a State bar women from traveling to another State to obtain an abortion? Can a State prohibit advertising out-of-state abortions or helping women get to out-of-state providers? Can a State inter-

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BREYER, SOTOMAYOR, and KAGAN, JJ., dissenting.

Fere with the mailing of drugs used for medication abortions? The Constitution protects travel and speech and interstate commerce, so today’s ruling will give rise to a host of new constitutional questions. Far from removing the Court from the abortion issue, the majority puts the Court at the center of the coming “interjurisdictional abortion wars.” Id., at ___ (draft, at 1).

In short, the majority does not save judges from unwieldy tests or extricate them from the sphere of controversy. To the contrary, it discards a known, workable, and predictable standard in favor of something novel and probably far more complicated. It forces the Court to wade further into hotly contested issues, including moral and philosophical ones, that the majority criticizes Roe and Casey for addressing.

B

When overruling constitutional precedent, the Court has almost always pointed to major legal or factual changes undermining a decision’s original basis. A review of the Appendix to this dissent proves the point. See infra, at 61–66. Most “successful proponent[s] of overruling precedent,” this Court once said, have carried “the heavy burden of persuading the Court that changes in society or in the law dictate that the values served by stare decisis yield in favor of a greater objective.” Vasquez, 474 U. S., at 266. Certainly, that was so of the main examples the majority cites: Brown v. Board of Education, 347 U. S. 483 (1954), and West Coast Hotel Co. v. Parrish, 300 U. S. 379 (1937). But it is not so today. Although nodding to some arguments others have made about “modern developments,” the majority does not really rely on them, no doubt seeing their slimness. Ante, at 33; see ante, at 34. The majority briefly invokes the current controversy over abortion. See ante, at 70–71. But it has to acknowledge that the same dispute has existed for
decades: Conflict over abortion is not a change but a constant. (And as we will later discuss, the presence of that continuing division provides more of a reason to stick with, than to jettison, existing precedent. See infra, at 55–57.) In the end, the majority throws longstanding precedent to the winds without showing that anything significant has changed to justify its radical reshaping of the law. See ante, at 43.

1

Subsequent legal developments have only reinforced Roe and Casey. The Court has continued to embrace all the decisions Roe and Casey cited, decisions which recognize a constitutional right for an individual to make her own choices about “intimate relationships, the family,” and contraception. Casey, 505 U. S., at 857. Roe and Casey have themselves formed the legal foundation for subsequent decisions protecting these profoundly personal choices. As discussed earlier, the Court relied on Casey to hold that the Fourteenth Amendment protects same-sex intimate relationships. See Lawrence, 539 U. S., at 578; supra, at 23. The Court later invoked the same set of precedents to accord constitutional recognition to same-sex marriage. See Obergefell, 576 U. S., at 665–666; supra, at 23. In sum, Roe and Casey are inextricably interwoven with decades of precedent about the meaning of the Fourteenth Amendment. See supra, at 21–24. While the majority might wish it otherwise, Roe and Casey are the very opposite of “obsolete constitutional thinking.” Agostini v. Felton, 521 U. S. 203, 236 (1997) (quoting Casey, 505 U. S., at 857).

Moreover, no subsequent factual developments have undermined Roe and Casey. Women continue to experience unplanned pregnancies and unexpected developments in pregnancies. Pregnancies continue to have enormous physical, social, and economic consequences. Even an uncompli-
Breyer, Sotomayor, and Kagan, JJ., dissenting

cated pregnancy imposes significant strain on the body, unavoidably involving significant physiological change and excruciating pain. For some women, pregnancy and childbirth can mean life-altering physical ailments or even death. Today, as noted earlier, the risks of carrying a pregnancy to term dwarf those of having an abortion. See supra, at 22. Experts estimate that a ban on abortions increases maternal mortality by 21 percent, with white women facing a 13 percent increase in maternal mortality while black women face a 33 percent increase.13 Pregnancy and childbirth may also impose large-scale financial costs. The majority briefly refers to arguments about changes in laws relating to healthcare coverage, pregnancy discrimination, and family leave. See ante, at 33–34. Many women, however, still do not have adequate healthcare coverage before and after pregnancy; and, even when insurance coverage is available, healthcare services may be far away.14 Women also continue to face pregnancy discrimination that interferes with their ability to earn a living. Paid family leave remains inaccessible to many who need it most. Only 20 percent of private-sector workers have access to paid family leave, including a mere 8 percent of workers in the bottom

13 See L. Harris, Navigating Loss of Abortion Services—A Large Academic Medical Center Prepares for the Overturn of Roe v. Wade, 386 New England J. Med. 2061, 2063 (2022). This projected racial disparity reflects existing differences in maternal mortality rates for black and white women. Black women are now three to four times more likely to die during or after childbirth than white women, often from preventable causes. See Brief for Howard University School of Law Human and Civil Rights Clinic as Amicus Curiae 18.

quartile of wage earners.\textsuperscript{15}

The majority briefly notes the growing prevalence of safe haven laws and demand for adoption, see ante, at 34, and nn. 45–46, but, to the degree that these are changes at all, they too are irrelevant.\textsuperscript{16} Neither reduces the health risks or financial costs of going through pregnancy and childbirth. Moreover, the choice to give up parental rights after giving birth is altogether different from the choice not to carry a pregnancy to term. The reality is that few women denied an abortion will choose adoption.\textsuperscript{17} The vast majority will continue, just as in \textit{Roe} and \textit{Casey}'s time, to shoulder the costs of childrearing. Whether or not they choose to parent, they will experience the profound loss of autonomy and dignity that coerced pregnancy and birth always impose.\textsuperscript{18}


\textsuperscript{16} Safe haven laws, which allow parents to leave newborn babies in designated safe spaces without threat of prosecution, were not enacted as an alternative to abortion, but in response to rare situations in which birthing mothers in crisis would kill their newborns or leave them to die. See Centers for Disease Control and Prevention (CDC), R. Wilson, J. Klevens, D. Williams, & L. Xu, Infant Homicides Within the Context of Safe Haven Laws—United States, 2008–2017, 69 Morbidity and Mortality Weekly Report 1385 (2020).

\textsuperscript{17} A study of women who sought an abortion but were denied one because of gestational limits found that only 9 percent put the child up for adoption, rather than parenting themselves. See G. Sisson, L. Ralph, H. Gould, & D. Foster, Adoption Decision Making Among Women Seeking Abortion, 27 Women’s Health Issues 136, 139 (2017).

\textsuperscript{18} The majority finally notes the claim that “people now have a new appreciation of fetal life,” partly because of viewing sonogram images. Ante, at 34. It is hard to know how anyone would evaluate such a claim and as we have described above, the majority’s reasoning does not rely on any reevaluation of the interest in protecting fetal life. See supra, at 26, and n. 7. It is worth noting that sonograms became widely used in
Mississippi’s own record illustrates how little facts on the ground have changed since Roe and Casey, notwithstanding the majority’s supposed “modern developments.” Ante, at 33. Sixty-two percent of pregnancies in Mississippi are unplanned, yet Mississippi does not require insurance to cover contraceptives and prohibits educators from demonstrating proper contraceptive use.19 The State neither bans pregnancy discrimination nor requires provision of paid parental leave. Brief for Yale Law School Information Society Project as Amicus Curiae 13 (Brief for Yale Law School); Brief for National Women’s Law Center et al. as Amici Curiae 32. It has strict eligibility requirements for Medicaid and nutrition assistance, leaving many women and families without basic medical care or enough food. See Brief for 547 Deans, Chairs, Scholars and Public Health Professionals et al. as Amici Curiae 32–34 (Brief for 547 Deans). Although 86 percent of pregnancy-related deaths in the State are due to postpartum complications, Mississippi rejected federal funding to provide a year’s worth of Medicaid coverage to women after giving birth. See Brief for Yale Law School 12–13. Perhaps unsurprisingly, health outcomes in Mississippi are abysmal for both women and children. Mississippi has the highest infant mortality rate in the country,

the 1970s, long before Casey. Today, 60 percent of women seeking abortions have at least one child, and one-third have two or more. See CDC, K. Kortsmit et al., Abortion Surveillance—United States, 2019, 70 Morbidity and Mortality Weekly Report 6 (2021). These women know, even as they choose to have an abortion, what it is to look at a sonogram image and to value a fetal life.

and some of the highest rates for preterm birth, low birthweight, cesarean section, and maternal death. It is approximately 75 times more dangerous for a woman in the State to carry a pregnancy to term than to have an abortion. See Brief for 547 Deans 9–10. We do not say that every State is Mississippi, and we are sure some have made gains since Roe and Casey in providing support for women and children. But a state-by-state analysis by public health professionals shows that States with the most restrictive abortion policies also continue to invest the least in women’s and children’s health. See Brief for 547 Deans 23–34.

The only notable change we can see since Roe and Casey cuts in favor of adhering to precedent: It is that American abortion law has become more and more aligned with other nations. The majority, like the Mississippi Legislature, claims that the United States is an extreme outlier when it comes to abortion regulation. See ante, at 6, and n. 15. The global trend, however, has been toward increased provision of legal and safe abortion care. A number of countries, including New Zealand, the Netherlands, and Iceland, permit abortions up to a roughly similar time as Roe and Casey set. See Brief for International and Comparative Legal Scholars as Amici Curiae 18–22. Canada has decriminalized abortion at any point in a pregnancy. See id., at 13–15. Most Western European countries impose restrictions on abor-

tion after 12 to 14 weeks, but they often have liberal exceptions to those time limits, including to prevent harm to a woman’s physical or mental health. See id., at 24–27; Brief for European Law Professors as Amici Curiae 16–17, Appendix. They also typically make access to early abortion easier, for example, by helping cover its cost. 21 Perhaps most notable, more than 50 countries around the world—in Asia, Latin America, Africa, and Europe—have expanded access to abortion in the past 25 years. See Brief for International and Comparative Legal Scholars as Amici Curiae 28–29. In light of that worldwide liberalization of abortion laws, it is American States that will become international outliers after today.

In sum, the majority can point to neither legal nor factual developments in support of its decision. Nothing that has happened in this country or the world in recent decades undermines the core insight of Roe and Casey. It continues to be true that, within the constraints those decisions established, a woman, not the government, should choose whether she will bear the burdens of pregnancy, childbirth, and parenting.

2

In support of its holding, see ante, at 40, the majority invokes two watershed cases overruling prior constitutional precedents: West Coast Hotel Co. v. Parrish and Brown v. Board of Education. But those decisions, unlike today’s, responded to changed law and to changed facts and attitudes that had taken hold throughout society. As Casey recognized, the two cases are relevant only to show—by stark contrast—how unjustified overturning the right to choose is. See 505 U. S., at 861–864.

West Coast Hotel overruled Adkins v. Children’s Hospital

adkins had found a state minimum-wage law unconstitutional because, in the Court’s view, the law interfered with a constitutional right to contract. 261 U. S., at 554–555. But then the Great Depression hit, bringing with it unparalleled economic despair. The experience undermined—in fact, it disproved—Adkins’s assumption that a wholly unregulated market could meet basic human needs. As Justice Jackson (before becoming a Justice) wrote of that time: “The older world of laissez faire was recognized everywhere outside the Court to be dead.” The Struggle for Judicial Supremacy 85 (1941). In West Coast Hotel, the Court caught up, recognizing through the lens of experience the flaws of existing legal doctrine. See also ante, at 11 (ROBERTS, C. J., concurring in judgment). The havoc the Depression had worked on ordinary Americans, the Court noted, was “common knowledge through the length and breadth of the land.” 300 U. S., at 399. The laissez-faire approach had led to “the exploiting of workers at wages so low as to be insufficient to meet the bare cost of living.” Ibid. And since Adkins was decided, the law had also changed. In several decisions, the Court had started to recognize the power of States to implement economic policies designed to enhance their citizens’ economic well-being. See, e.g., Nebbia v. New York, 291 U. S. 502 (1934); O’Gorman & Young, Inc. v. Hartford Fire Ins. Co., 282 U. S. 251 (1931). The statements in those decisions, West Coast Hotel explained, were “impossible to reconcile” with Adkins. 300 U. S., at 398. There was no escaping the need for Adkins to go.

Brown v. Board of Education overruled Plessy v. Ferguson, 163 U. S. 537 (1896), along with its doctrine of “separate but equal.” By 1954, decades of Jim Crow had made clear what Plessy’s turn of phrase actually meant: “inherent[ ] [i]nequal[ity].” Brown, 347 U. S., at 495. Segregation
was not, and could not ever be, consistent with the Reconstruction Amendments, ratified to give the former slaves full citizenship. Whatever might have been thought in Plessy’s time, the Brown Court explained, both experience and “modern authority” showed the “detrimental effect[s]” of state-sanctioned segregation: It “affect[ed] [children’s] hearts and minds in a way unlikely ever to be undone.” 347 U. S., at 494. By that point, too, the law had begun to reflect that understanding. In a series of decisions, the Court had held unconstitutional public graduate schools’ exclusion of black students. See, e.g., Sweatt v. Painter, 339 U. S. 629 (1950); Sipuel v. Board of Regents of Univ. of Okla., 332 U. S. 631 (1948) (per curiam); Missouri ex rel. Gaines v. Canada, 305 U. S. 337 (1938). The logic of those cases, Brown held, “appl[ied] with added force to children in grade and high schools.” 347 U. S., at 494. Changed facts and changed law required Plessy’s end.

The majority says that in recognizing those changes, we are implicitly supporting the half-century interlude between Plessy and Brown. See ante, at 70. That is not so. First, if the Brown Court had used the majority’s method of constitutional construction, it might not ever have overruled Plessy, whether 5 or 50 or 500 years later. Brown thought that whether the ratification-era history supported desegregation was “[a]t best . . . inconclusive.” 347 U. S., at 489. But even setting that aside, we are not saying that a decision can never be overruled just because it is terribly wrong. Take West Virginia Bd. of Ed. v. Barnette, 319 U. S. 624, which the majority also relies on. See ante, at 40–41, 70. That overruling took place just three years after the initial decision, before any notable reliance interests had developed. It happened as well because individual Justices changed their minds, not because a new majority wanted to undo the decisions of their predecessors. Both Barnette and Brown, moreover, share another feature setting them apart from the Court’s ruling today. They protected individual
rights with a strong basis in the Constitution’s most fundamental commitments; they did not, as the majority does here, take away a right that individuals have held, and relied on, for 50 years. To take that action based on a new and bare majority’s declaration that two Courts got the result egregiously wrong? And to justify that action by reference to *Barnette*? Or to *Brown*—a case in which the Chief Justice also wrote an (11-page) opinion in which the entire Court could speak with one voice? These questions answer themselves.

*Ccasey* itself addressed both *West Coast Hotel* and *Brown*, and found that neither supported *Roe’s* overruling. In *West Coast Hotel*, *Casey* explained, “the facts of economic life” had proved “different from those previously assumed.” 505 U. S., at 862. And even though “*Plessy* was wrong the day it was decided,” the passage of time had made that ever more clear to ever more citizens: “Society’s understanding of the facts” in 1954 was “fundamentally different” than in 1896. *Id.*, at 863. So the Court needed to reverse course. “In constitutional adjudication as elsewhere in life, changed circumstances may impose new obligations.” *Id.*, at 864. And because such dramatic change had occurred, the public could understand why the Court was acting. “[T]he Nation could accept each decision” as a “response to the Court’s constitutional duty.” *Ibid.* But that would not be true of a reversal of *Roe—*“[b]ecause neither the factual underpinnings of *Roe’s* central holding nor our understanding of it has changed.” 505 U. S., at 864.

That is just as much so today, because *Roe* and *Casey* continue to reflect, not diverge from, broad trends in American society. It is, of course, true that many Americans, including many women, opposed those decisions when issued and do so now as well. Yet the fact remains: *Roe* and *Casey* were the product of a profound and ongoing change in women’s roles in the latter part of the 20th century. Only a dozen years before *Roe*, the Court described women as “the center
of home and family life,” with “special responsibilities” that precluded their full legal status under the Constitution. Hoyt v. Florida, 368 U. S. 57, 62 (1961). By 1973, when the Court decided Roe, fundamental social change was underway regarding the place of women—and the law had begun to follow. See Reed v. Reed, 404 U. S. 71, 76 (1971) (recognizing that the Equal Protection Clause prohibits sex-based discrimination). By 1992, when the Court decided Casey, the traditional view of a woman’s role as only a wife and mother was “no longer consistent with our understanding of the family, the individual, or the Constitution.” 505 U. S., at 897; see supra, at 15, 23–24. Under that charter, Casey understood, women must take their place as full and equal citizens. And for that to happen, women must have control over their reproductive decisions. Nothing since Casey—no changed law, no changed fact—has undermined that promise.

C

The reasons for retaining Roe and Casey gain further strength from the overwhelming reliance interests those decisions have created. The Court adheres to precedent not just for institutional reasons, but because it recognizes that stability in the law is “an essential thread in the mantle of protection that the law affords the individual.” Florida Dept. of Health and Rehabilitative Servs. v. Florida Nursing Home Assn., 450 U. S. 147, 154 (1981) (Stevens, J., concurring). So when overruling precedent “would dislodge [individuals’] settled rights and expectations,” stare decisis has “added force.” Hilton v. South Carolina Public Railways Comm’n, 502 U. S. 197, 202 (1991). Casey understood that to deny individuals’ reliance on Roe was to “refuse to face the fact[s].” 505 U. S., at 856. Today the majority refuses to face the facts. “The most striking feature of the [majority] is the absence of any serious discussion” of how
its ruling will affect women. *Ante*, at 37. By characterizing *Casey*’s reliance arguments as “generalized assertions about the national psyche,” *ante*, at 64, it reveals how little it knows or cares about women’s lives or about the suffering its decision will cause.

In *Casey*, the Court observed that for two decades individuals “have organized intimate relationships and made” significant life choices “in reliance on the availability of abortion in the event that contraception should fail.” 505 U. S., at 856. Over another 30 years, that reliance has solidified. For half a century now, in *Casey*’s words, “[t]he ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives.” *Ibid.*; see *supra*, at 23–24. Indeed, all women now of childbearing age have grown up expecting that they would be able to avail themselves of *Roe*’s and *Casey*’s protections.

The disruption of overturning *Roe* and *Casey* will therefore be profound. Abortion is a common medical procedure and a familiar experience in women’s lives. About 18 percent of pregnancies in this country end in abortion, and about one quarter of American women will have an abortion before the age of 45.22 Those numbers reflect the predictable and life-changing effects of carrying a pregnancy, giving birth, and becoming a parent. As *Casey* understood, people today rely on their ability to control and time pregnancies when making countless life decisions: where to live, whether and how to invest in education or careers, how to allocate financial resources, and how to approach intimate and family relationships. Women may count on abortion access for when contraception fails. They may count on abortion access for when contraception cannot be used, for

example, if they were raped. They may count on abortion for when something changes in the midst of a pregnancy, whether it involves family or financial circumstances, unanticipated medical complications, or heartbreaking fetal diagnoses. Taking away the right to abortion, as the majority does today, destroys all those individual plans and expectations. In so doing, it diminishes women’s opportunities to participate fully and equally in the Nation’s political, social, and economic life. See Brief for Economists as Amici Curiae 13 (showing that abortion availability has “large effects on women’s education, labor force participation, occupations, and earnings” (footnotes omitted)).

The majority’s response to these obvious points exists far from the reality American women actually live. The majority proclaims that “‘reproductive planning could take virtually immediate account of any sudden restoration of state authority to ban abortions.’” Ante, at 64 (quoting Casey, 505 U. S., at 856).23 The facts are: 45 percent of pregnancies in the United States are unplanned. See Brief for 547 Deans 5. Even the most effective contraceptives fail, and effective contraceptives are not universally accessible.24 Not all sexual activity is consensual and not all contraceptive choices are made by the party who risks pregnancy. See Brief for Legal Voice et al. as Amici Curiae 18–19. The Mississippi law at issue here, for example, has no exception for rape or incest, even for underage women. Finally, the

23 Astoundingly, the majority casts this statement as a “concession” from Casey with which it “agree[s].” Ante, at 64. In fact, Casey used this language as part of describing an argument that it rejected. See 505 U. S., at 856. It is only today’s Court that endorses this profoundly mistaken view.

24 See Brief for 547 Deans 6–7 (noting that 51 percent of women who terminated their pregnancies reported using contraceptives during the month in which they conceived); Brief for Lawyers’ Committee for Civil Rights Under Law et al. as Amici Curiae 12–14 (explaining financial and geographic barriers to access to effective contraceptives).
majority ignores, as explained above, that some women decide to have an abortion because their circumstances change during a pregnancy. See *supra*, at 49. Human bodies care little for hopes and plans. Events can occur after conception, from unexpected medical risks to changes in family circumstances, which profoundly alter what it means to carry a pregnancy to term. In all these situations, women have expected that they will get to decide, perhaps in consultation with their families or doctors but free from state interference, whether to continue a pregnancy. For those who will now have to undergo that pregnancy, the loss of *Roe* and *Casey* could be disastrous.

That is especially so for women without money. When we “count[] the cost of [Roe’s] repudiation” on women who once relied on that decision, it is not hard to see where the greatest burden will fall. *Casey*, 505 U. S., at 855. In States that bar abortion, women of means will still be able to travel to obtain the services they need.25 It is women who cannot afford to do so who will suffer most. These are the women most likely to seek abortion care in the first place. Women living below the federal poverty line experience unintended pregnancies at rates five times higher than higher income women do, and nearly half of women who seek abortion care live in households below the poverty line. See Brief for 547 Deans 7; Brief for Abortion Funds and Practical Support Organizations as Amici Curiae 8 (Brief for Abortion Funds).

25 This statement of course assumes that States are not successful in preventing interstate travel to obtain an abortion. See *supra*, at 3, 36–37. Even assuming that is so, increased out-of-state demand will lead to longer wait times and decreased availability of service in States still providing abortions. See Brief for State of California et al. as Amici Curiae 25–27. This is what happened in Oklahoma, Kansas, Colorado, New Mexico, and Nevada last fall after Texas effectively banned abortions past six weeks of gestation. See *United States v. Texas*, 595 U. S. ___, ___ (2021) (SOTOMAYOR, J., concurring in part and dissenting in part) (slip op., at 6).
Even with Roe’s protection, these women face immense obstacles to raising the money needed to obtain abortion care early in their pregnancy. See Brief for Abortion Funds 7–12. After today, in States where legal abortions are not available, they will lose any ability to obtain safe, legal abortion care. They will not have the money to make the trip necessary; or to obtain childcare for that time; or to take time off work. Many will endure the costs and risks of pregnancy and giving birth against their wishes. Others will turn in desperation to illegal and unsafe abortions. They may lose not just their freedom, but their lives.27

Finally, the expectation of reproductive control is integral to many women’s identity and their place in the Nation. See Casey, 505 U. S., at 856. That expectation helps define

26The average cost of a first-trimester abortion is about $500. See Brief for Abortion Funds 7. Federal insurance generally does not cover the cost of abortion, and 35 percent of American adults do not have cash on hand to cover an unexpected expense that high. Guttmacher Institute, M. Donovan, In Real Life: Federal Restrictions on Abortion Coverage and the Women They Impact (Jan. 5, 2017), https://www.guttmacher.org/gpr/2017/01/real-life-federal-restrictions-abortion-coverage-and-women-they-impact#:~:text=Although%20the%20Hyde%20Amendment%20bars,provide%20abortion%20coverage%20to%20enrollees; Brief for Abortion Funds 11.

27Mississippi is likely to be one of the States where these costs are highest, though history shows that it will have company. As described above, Mississippi provides only the barest financial support to pregnant women. See supra, at 41–42. The State will greatly restrict abortion care without addressing any of the financial, health, and family needs that motivate many women to seek it. The effects will be felt most severely, as they always have been, on the bodies of the poor. The history of state abortion restrictions is a history of heavy costs exacted from the most vulnerable women. It is a history of women seeking illegal abortions in hotel rooms and home kitchens; of women trying to self-induce abortions by douching with bleach, injecting lye, and penetrating themselves with knitting needles, scissors, and coat hangers. See L. Reagan, When Abortion Was a Crime 42–43, 198–199, 208–209 (1997). It is a history of women dying.
a woman as an “equal citizen[],” with all the rights, privileges, and obligations that status entails. *Gonzales*, 550 U. S., at 172 (Ginsburg, J., dissenting); see *supra*, at 23–24. It reflects that she is an autonomous person, and that society and the law recognize her as such. Like many constitutional rights, the right to choose situates a woman in relationship to others and to the government. It helps define a sphere of freedom, in which a person has the capacity to make choices free of government control. As *Casey* recognized, the right “order[s]” her “thinking” as well as her “living.” 505 U. S., at 856. Beyond any individual choice about residence, or education, or career, her whole life reflects the control and authority that the right grants.

Withdrawing a woman’s right to choose whether to continue a pregnancy does not mean that no choice is being made. It means that a majority of today’s Court has wrenched this choice from women and given it to the States. To allow a State to exert control over one of “the most intimate and personal choices” a woman may make is not only to affect the course of her life, monumental as those effects might be. *Id.*, at 851. It is to alter her “views of [herself]” and her understanding of her “place[] in society” as someone with the recognized dignity and authority to make these choices. *Id.*, at 856. Women have relied on *Roe* and *Casey* in this way for 50 years. Many have never known anything else. When *Roe* and *Casey* disappear, the loss of power, control, and dignity will be immense.

The Court’s failure to perceive the whole swath of expectations *Roe* and *Casey* created reflects an impoverished view of reliance. According to the majority, a reliance interest must be “very concrete,” like those involving “property” or “contract.” *Ante*, at 64. While many of this Court’s cases addressing reliance have been in the “commercial context,” *Casey*, 505 U. S., at 855, none holds that interests must be analogous to commercial ones to warrant *stare de-
This unprecedented assertion is, at bottom, a radical claim to power. By disclaiming any need to consider broad swaths of individuals’ interests, the Court arrogates to itself the authority to overrule established legal principles without even acknowledging the costs of its decisions for the individuals who live under the law, costs that this Court’s *stare decisis* doctrine instructs us to privilege when deciding whether to change course.

The majority claims that the reliance interests women have in *Roe* and *Casey* are too “intangible” for the Court to consider, even if it were inclined to do so. *Ante*, at 65. This is to ignore as judges what we know as men and women. The interests women have in *Roe* and *Casey* are perfectly, viscerally concrete. Countless women will now make different decisions about careers, education, relationships, and whether to try to become pregnant than they would have when *Roe* served as a backstop. Other women will carry pregnancies to term, with all the costs and risk of harm that involves, when they would previously have chosen to obtain an abortion. For millions of women, *Roe* and *Casey* have been critical in giving them control of their bodies and their lives. Closing our eyes to the suffering today’s decision will impose will not make that suffering disappear. The majority cannot escape its obligation to “count[ ] the cost[s]” of its decision by invoking the “conflicting arguments” of “contending sides.” *Casey*, 505 U. S., at 855; *ante*, at 65. *Stare decisis* requires that the Court calculate the costs of a decision’s repudiation on those who have relied on the decision.

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not on those who have disavowed it. See Casey, 505 U. S., at 855.

More broadly, the majority’s approach to reliance cannot be reconciled with our Nation’s understanding of constitutional rights. The majority’s insistence on a “concrete,” economic showing would preclude a finding of reliance on a wide variety of decisions recognizing constitutional rights—such as the right to express opinions, or choose whom to marry, or decide how to educate children. The Court, on the majority’s logic, could transfer those choices to the State without having to consider a person’s settled understanding that the law makes them hers. That must be wrong. All those rights, like the right to obtain an abortion, profoundly affect and, indeed, anchor individual lives. To recognize that people have relied on these rights is not to dabble in abstractions, but to acknowledge some of the most “concrete” and familiar aspects of human life and liberty. Ante, at 64.

All those rights, like the one here, also have a societal dimension, because of the role constitutional liberties play in our structure of government. See, e.g., Dickerson, 530 U. S., at 443 (recognizing that Miranda “warnings have become part of our national culture” in declining to overrule Miranda v. Arizona, 384 U. S. 436 (1966)). Rescinding an individual right in its entirety and conferring it on the State, an action the Court takes today for the first time in history, affects all who have relied on our constitutional system of government and its structure of individual liberties protected from state oversight. Roe and Casey have of course aroused controversy and provoked disagreement. But the right those decisions conferred and reaffirmed is part of society’s understanding of constitutional law and of how the Court has defined the liberty and equality that women are entitled to claim.

After today, young women will come of age with fewer
rights than their mothers and grandmothers had. The majority accomplishes that result without so much as considering how women have relied on the right to choose or what it means to take that right away. The majority’s refusal even to consider the life-altering consequences of reversing Roe and Casey is a stunning indictment of its decision.

D

One last consideration counsels against the majority’s ruling: the very controversy surrounding Roe and Casey. The majority accuses Casey of acting outside the bounds of the law to quell the conflict over abortion—of imposing an unprincipled “settlement” of the issue in an effort to end “national division.” Ante, at 67. But that is not what Casey did. As shown above, Casey applied traditional principles of stare decisis—which the majority today ignores—in reaffirming Roe. Casey carefully assessed changed circumstances (none) and reliance interests (profound). It considered every aspect of how Roe’s framework operated. It adhered to the law in its analysis, and it reached the conclusion that the law required. True enough that Casey took notice of the “national controversy” about abortion: The Court knew in 1992, as it did in 1973, that abortion was a “divisive issue.” Casey, 505 U. S., at 867–868; see Roe, 410 U. S., at 116. But Casey’s reason for acknowledging public conflict was the exact opposite of what the majority insinuates. Casey addressed the national controversy in order to emphasize how important it was, in that case of all cases, for the Court to stick to the law. Would that today’s majority had done likewise.

Consider how the majority itself summarizes this aspect of Casey:

“The American people’s belief in the rule of law would be shaken if they lost respect for this Court as an institution that decides important cases based on principle, not ‘social and political pressures.’ There is a special
danger that the public will perceive a decision as having been made for unprincipled reasons when the Court overrules a controversial ‘watershed’ decision, such as *Roe*. A decision overruling *Roe* would be perceived as having been made ‘under fire’ and as a ‘surrender to political pressure.’” *Ante*, at 66–67 (citations omitted).

That seems to us a good description. And it seems to us right. The majority responds (if we understand it correctly): well, yes, but we have to apply the law. See *ante*, at 67. To which *Casey* would have said: That is exactly the point. Here, more than anywhere, the Court needs to apply the law—particularly the law of *stare decisis*. Here, we know that citizens will continue to contest the Court’s decision, because “[m]en and women of good conscience” deeply disagree about abortion. *Casey*, 505 U. S., at 850. When that contestation takes place—but when there is no legal basis for reversing course—the Court needs to be steadfast, to stand its ground. That is what the rule of law requires. And that is what respect for this Court depends on.

“The promise of constancy, once given” in so charged an environment, *Casey* explained, “binds its maker for as long as” the “understanding of the issue has not changed so fundamentally as to render the commitment obsolete.” *Id.*, at 868. A breach of that promise is “nothing less than a breach of faith.” *Ibid.* “[A]nd no Court that broke its faith with the people could sensibly expect credit for principle.” *Ibid.* No Court breaking its faith in that way would deserve credit for principle. As one of *Casey*’s authors wrote in another case, “Our legitimacy requires, above all, that we adhere to *stare decisis*” in “sensitive political contexts” where “partisan controversy abounds.” *Bush v. Vera*, 517 U. S. 952, 985 (1996) (opinion of O’Connor, J.).

Justice Jackson once called a decision he dissented from a “loaded weapon,” ready to hand for improper uses. *Korematsu v. United States*, 323 U. S. 214, 246 (1944). We fear
that today’s decision, departing from *stare decisis* for no legitimate reason, is its own loaded weapon. Weakening *stare decisis* threatens to upend bedrock legal doctrines, far beyond any single decision. Weakening *stare decisis* creates profound legal instability. And as *Casey* recognized, weakening *stare decisis* in a hotly contested case like this one calls into question this Court’s commitment to legal principle. It makes the Court appear not restrained but aggressive, not modest but grasping. In all those ways, today’s decision takes aim, we fear, at the rule of law.

III

“Power, not reason, is the new currency of this Court’s decisionmaking.” *Payne*, 501 U. S., at 844 (Marshall, J., dissenting). *Roe* has stood for fifty years. *Casey*, a precedent about precedent specifically confirming *Roe*, has stood for thirty. And the doctrine of *stare decisis*—a critical element of the rule of law—stands foursquare behind their continued existence. The right those decisions established and preserved is embedded in our constitutional law, both originating in and leading to other rights protecting bodily integrity, personal autonomy, and family relationships. The abortion right is also embedded in the lives of women—shaping their expectations, influencing their choices about relationships and work, supporting (as all reproductive rights do) their social and economic equality. Since the right’s recognition (and affirmation), nothing has changed to support what the majority does today. Neither law nor facts nor attitudes have provided any new reasons to reach a different result than *Roe* and *Casey* did. All that has changed is this Court.

Mississippi—and other States too—knew exactly what they were doing in ginning up new legal challenges to *Roe* and *Casey*. The 15-week ban at issue here was enacted in 2018. Other States quickly followed: Between 2019 and 2021, eight States banned abortion procedures after six to
eight weeks of pregnancy, and three States enacted all-out bans. Mississippi itself decided in 2019 that it had not gone far enough: The year after enacting the law under review, the State passed a 6-week restriction. A state senator who championed both Mississippi laws said the obvious out loud. “[A] lot of people thought,” he explained, that “finally, we have” a conservative Court “and so now would be a good time to start testing the limits of *Roe.*” In its petition for certiorari, the State had exercised a smidgen of restraint. It had urged the Court merely to roll back *Roe* and *Casey,* specifically assuring the Court that “the questions presented in this petition do not require the Court to overturn” those precedents. Pet. for Cert. 5; see ante, at 5–6 (ROBERTS, C. J., concurring in judgment). But as Mississippi grew ever more confident in its prospects, it resolved to go all in. It urged the Court to overrule *Roe* and *Casey.* Nothing but everything would be enough.

Earlier this Term, this Court signaled that Mississippi’s stratagem would succeed. Texas was one of the fistful of States to have recently banned abortions after six weeks of pregnancy. It added to that “flagrantly unconstitutional” restriction an unprecedented scheme to “evade judicial

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scrutiny.” *Whole Woman’s Health v. Jackson*, 594 U. S. ___, ___ (2021) (SOTOMAYOR, J., dissenting) (slip op., at 1). And five Justices acceded to that cynical maneuver. They let Texas defy this Court’s constitutional rulings, nullifying *Roe* and *Casey* ahead of schedule in the Nation’s second largest State.

And now the other shoe drops, courtesy of that same five-person majority. (We believe that THE CHIEF JUSTICE’s opinion is wrong too, but no one should think that there is not a large difference between upholding a 15-week ban on the grounds he does and allowing States to prohibit abortion from the time of conception.) Now a new and bare majority of this Court—acting at practically the first moment possible—overrules *Roe* and *Casey*. It converts a series of dissenting opinions expressing antipathy toward *Roe* and *Casey* into a decision greenlighting even total abortion bans. See ante, at 57, 59, 63, and nn. 61–64 (relying on former dissents). It eliminates a 50-year-old constitutional right that safeguards women’s freedom and equal station. It breaches a core rule-of-law principle, designed to promote constancy in the law. In doing all of that, it places in jeopardy other rights, from contraception to same-sex intimacy and marriage. And finally, it undermines the Court’s legitimacy.

*Casey* itself made the last point in explaining why it would not overrule *Roe*—though some members of its majority might not have joined *Roe* in the first instance. Just as we did here, *Casey* explained the importance of *stare decisis*; the inappositeness of *West Coast Hotel* and *Brown*; the absence of any “changed circumstances” (or other reason) justifying the reversal of precedent. 505 U. S., at 864; see supra, at 30–33, 37–47. “[T]he Court,” *Casey* explained, “could not pretend” that overruling *Roe* had any “justification beyond a present doctrinal disposition to come out differently from the Court of 1973.” 505 U. S., at 864. And to overrule for that reason? Quoting Justice Stewart, *Casey*
explained that to do so—to reverse prior law “upon a ground no firmer than a change in [the Court’s] membership”—would invite the view that “this institution is little different from the two political branches of the Government.” Ibid. No view, Casey thought, could do “more lasting injury to this Court and to the system of law which it is our abiding mission to serve.” Ibid. For overruling Roe, Casey concluded, the Court would pay a “terrible price.” 505 U. S., at 864.

The Justices who wrote those words—O’Connor, Kennedy, and Souter—they were judges of wisdom. They would not have won any contests for the kind of ideological purity some court watchers want Justices to deliver. But if there were awards for Justices who left this Court better than they found it? And who for that reason left this country better? And the rule of law stronger? Sign those Justices up.

They knew that “the legitimacy of the Court [is] earned over time.” Id., at 868. They also would have recognized that it can be destroyed much more quickly. They worked hard to avert that outcome in Casey. The American public, they thought, should never conclude that its constitutional protections hung by a thread—that a new majority, adhering to a new “doctrinal school,” could “by dint of numbers” alone expunge their rights. Id., at 864. It is hard—no, it is impossible—to conclude that anything else has happened here. One of us once said that “[i]t is not often in the law that so few have so quickly changed so much.” S. Breyer, Breaking the Promise of Brown: The Resegregation of America’s Schools 30 (2022). For all of us, in our time on this Court, that has never been more true than today. In overruling Roe and Casey, this Court betrays its guiding principles.

With sorrow—for this Court, but more, for the many millions of American women who have today lost a fundamental constitutional protection—we dissent.
This Appendix analyzes in full each of the 28 cases the majority says support today’s decision to overrule Roe v. Wade, 410 U. S. 113 (1973), and Planned Parenthood of Southeastern Pa. v. Casey, 505 U. S. 833 (1992). As explained herein, the Court in each case relied on traditional *stare decisis* factors in overruling.

A great many of the overrulings the majority cites involve a prior precedent that had been rendered out of step with or effectively abrogated by contemporary case law in light of intervening developments in the broader doctrine. See *Ramos v. Louisiana*, 590 U. S. ___, ___ (2020) (slip op., at 22) (holding the Sixth Amendment requires a unanimous jury verdict in state prosecutions for serious offenses, and overruling *Apodaca v. Oregon*, 406 U. S. 404 (1972), because “in the years since *Apodaca*, this Court ha[d] spoken inconsistently about its meaning” and had undercut its validity “on at least eight occasions”); *Ring v. Arizona*, 536 U. S. 584, 608–609 (2002) (recognizing a Sixth Amendment right to have a jury find the aggravating factors necessary to impose a death sentence and, in so doing, rejecting *Walton v. Arizona*, 497 U. S. 639 (1990), as overtaken by and irreconcilable with *Apprendi v. New Jersey*, 530 U. S. 466 (2000)); *Agostini v. Felton*, 521 U. S. 203, 235–236 (1997) (considering the Establishment Clause’s constraint on government aid to religious instruction, and overruling *Aguilar v. Felton*, 473 U. S. 402 (1985), in light of several related doctrinal developments that had so undermined *Aguilar* and the assumption on which it rested as to render it no longer good law); *Batson v. Kentucky*, 476 U. S. 79, 93–96 (1986) (recognizing that a defendant may make a prima facie showing of purposeful racial discrimination in selection of a jury venire by relying solely on the facts in his case, and, based on subsequent developments in equal protection law, rejecting part of *Swain v. Alabama*, 380 U. S. 202 (1965), which had imposed a more demanding evidentiary...
burden); *Brandenburg v. Ohio*, 395 U. S. 444, 447–448 (1969) (*per curiam*) (holding that mere advocacy of violence is protected by the First Amendment, unless intended to incite it or produce imminent lawlessness, and rejecting the contrary rule in *Whitney v. California*, 274 U. S. 357 (1927), as having been “thoroughly discredited by later decisions”); *Katz v. United States*, 389 U. S. 347, 351, 353 (1967) (recognizing that the Fourth Amendment extends to material and communications that a person “seeks to preserve as private,” and rejecting the more limited construction articulated in *Olmstead v. United States*, 277 U. S. 438 (1928), because “we have since departed from the narrow view on which that decision rested,” and “the underpinnings of *Olmstead* . . . have been so eroded by our subsequent decisions that the ‘trespass’ doctrine there enunciated can no longer be regarded as controlling”); *Miranda v. Arizona*, 384 U. S. 436, 463–467, 479, n. 48 (1966) (recognizing that the Fifth Amendment requires certain procedural safeguards for custodial interrogation, and rejecting *Crooker v. California*, 357 U. S. 433 (1958), and *Cicenia v. Lagay*, 357 U. S. 504 (1958), which had already been undermined by *Escobedo v. Illinois*, 378 U. S. 478 (1964)); *Malloy v. Hogan*, 378 U. S. 1, 6–9 (1964) (explaining that the Fifth Amendment privilege against “self-incrimination is also protected by the Fourteenths Amendment against abridgment by the States,” and rejecting *Twining v. New Jersey*, 211 U. S. 78 (1908), in light of a “marked shift” in Fifth Amendment precedents that had “necessarily repudiated” the prior decision); *Gideon v. Wainwright*, 372 U. S. 335, 343–345 (1963) (acknowledging a right to counsel for indigent criminal defendants in state court under the Sixth and Fourteenth Amendments, and overruling the earlier precedent failing to recognize such a right, *Betts v. Brady*, 316 U. S.
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455 (1942));31 Smith v. Allwright, 321 U. S. 649, 659–662 (1944) (recognizing all-white primaries are unconstitutional after reconsidering in light of “the unitary character of the electoral process” recognized in United States v. Classic, 313 U. S. 299 (1941), and overruling Grovey v. Townsend, 295 U. S. 45 (1935)); United States v. Darby, 312 U. S. 100, 115–117 (1941) (recognizing Congress’s Commerce Clause power to regulate employment conditions and explaining as “inescapable” the “conclusion . . . that Hammer v. Dagenhart, [247 U. S. 251 (1918)],” and its contrary rule had “long since been” overtaken by precedent construing the Commerce Clause power more broadly); Erie R. Co. v. Tompkins, 304 U. S. 64, 78–80 (1938) (applying state substantive law in diversity actions in federal courts and overruling Swift v. Tyson, 16 Pet. 1 (1842), because an intervening decision had “made clear” the “fallacy underlying the rule”).


31 We have since come to understand Gideon as part of a larger doctrinal shift—already underway at the time of Gideon—where “the Court began to hold that the Due Process Clause fully incorporates particular rights contained in the first eight Amendments.” McDonald v. Chicago, 561 U. S. 742, 763 (2010); see also id., at 766.
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out core testimonial evidence, and overruling Ohio v. Roberts, 448 U. S. 56 (1980); Mapp v. Ohio, 367 U. S. 643, 651–652 (1961) (holding that the exclusionary rule under the Fourth Amendment applies to the States, and overruling the contrary rule of Wolf v. Colorado, 338 U. S. 25 (1949), after considering and rejecting “the current validity of the factual grounds upon which Wolf was based”).

Some cited overrulings involved both significant doctrinal developments and changed facts or understandings that had together undermined a basic premise of the prior decision. See Janus v. State, County, and Municipal Employees, 585 U. S. __, __, ___–___ (2018) (slip op., at 42, 47–49) (holding that requiring public-sector union dues from non-members violates the First Amendment, and overruling Abood v. Detroit Bd. of Ed., 431 U. S. 209 (1977), based on “both factual and legal” developments that had “eroded the decision’s underpinnings and left it an outlier among our First Amendment cases” (internal quotation marks omitted)); Obergefell v. Hodges, 576 U. S. 644, 659–663 (2015) (holding that the Fourteenth Amendment protects the right of same-sex couples to marry in light of doctrinal developments, as well as fundamentally changed social understanding); Lawrence v. Texas, 539 U. S. 558, 572–578 (2003) (overruling Bowers v. Hardwick, 478 U. S. 186 (1986), after finding anti-sodomy laws to be inconsistent with the Fourteenth Amendment in light of developments in the legal doctrine, as well as changed social understanding of sexuality); United States v. Scott, 437 U. S. 82, 101 (1978) (overruling United States v. Jenkins, 420 U. S. 358 (1975), three years after it was decided, because of developments in the Court’s double jeopardy case law, and because intervening practice had shown that government appeals from midtrial dismissals requested by the defendant were practicable, desirable, and consistent with double jeopardy values); Craig v. Boren, 429 U. S. 190, 197–199, 210, n. 23 (1976) (holding that sex-based classifications are subject to intermediate
scrutiny under the Fourteenth Amendment’s Equal Protection Clause, including because Reed v. Reed, 404 U. S. 71 (1971), and other equal protection cases and social changes had overtaken any “inconsistent” suggestion in Goesaert v. Cleary, 335 U. S. 464 (1948); Taylor v. Louisiana, 419 U. S. 522, 535–537 (1975) (recognizing as “a foregone conclusion from the pattern of some of the Court’s cases over the past 30 years, as well as from legislative developments at both federal and state levels,” that women could not be excluded from jury service, and explaining that the prior decision approving such practice, Hoyt v. Florida, 368 U. S. 57 (1961), had been rendered inconsistent with equal protection jurisprudence).

Other overrulings occurred very close in time to the original decision so did not engender substantial reliance and could not be described as having been “embedded” as “part of our national culture.” Dickerson v. United States, 530 U. S. 428, 443 (2000); see Payne v. Tennessee, 501 U. S. 808 (1991) (revising procedural rules of evidence that had barred admission of certain victim-impact evidence during the penalty phase of capital cases, and overruling South Carolina v. Gathers, 490 U. S. 805 (1989), and Booth v. Maryland, 482 U. S. 496 (1987), which had been decided two and four years prior, respectively); Seminole Tribe of Fla. v. Florida, 517 U. S. 44 (1996) (holding that Congress cannot abrogate state-sovereign immunity under its Article I commerce power, and rejecting the result in Pennsylvania v. Union Gas Co., 491 U. S. 1 (1989), seven years later; the decision in Union Gas never garnered a majority); Garcia v. San Antonio Metropolitan Transit Authority, 469 U. S. 528, 531 (1985) (holding that local governments are not constitutionally immune from federal employment laws, and overruling National League of Cities v. Usery, 426 U. S. 833 (1976), after “eight years” of experience under that regime showed Usery’s standard was unworkable and, in practice, undermined the federalism principles the decision sought

In sum, none of the cases the majority cites is analogous to today’s decision to overrule 50- and 30-year-old watershed constitutional precedents that remain unweakened by any changes of law or fact.