

RECONTEXTUALIZATION OF RUTH BADER GINSBURG:
TEXTUAL TRAJECTORIES AND MEANING IN SOCIAL MEDIA POSTS ABOUT
ROE V. WADE

VICTORIA R. MICHELS

218837419

SUSAN L. EHRLICH

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Abstract

In this exploratory study, I investigate how Justice Ruth Bader Ginsburg's texts about the *Roe v. Wade* case are recontextualized into news and social media discourse on abortion following the Supreme Court's decision to overturn *Roe v. Wade*. Using Critical Discourse Analysis with data collected from Twitter and American news media outlets, I consider the trajectories and meanings of Ginsburg's texts when they are recontextualized into new discursive contexts. My analysis found that both pro-choice and anti-abortion discourse recontextualize her texts, focusing on different aspects to support one of the two positions on abortion. I conclude that the trajectory of Ginsburg's texts into pro-choice discourse may contribute to gender empowerment by referencing Ginsburg's advocacy for individual autonomy and choice for women whereas the trajectory into anti-abortion discourse may perpetuate gender inequality by focusing on state rights and her criticisms of the decision while diminishing her support of choice and autonomy.

Keywords: *Roe v. Wade*, Ginsburg, Critical Discourse Analysis, abortion, text trajectories

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1. Introduction

The topic of abortion and the right to abortion services in the United States (U.S.) is a highly contentious issue in the political, legal, religious, and social spheres. Since the Supreme Court's decision on the *Roe v. Wade* (1973) court case, which declared medical abortion to be protected by the American Constitution, opposing political and ideological movements have emerged to advocate either for or against abortion (Munson 2018). There is generally a lot of inconsistency in the discourse and literature as to what these opposing groups are called, but for the purpose of this paper, I will refer to them as *pro-choice* and *anti-abortion*. Arguments in favour of abortion typically involve gender and human rights, individual autonomy, the possibility of pregnancy from sexual assault, and the financial burdens that can accompany childbirth (Cockrill & Nack 2013; Ginsburg 1984). On the opposite side of the ideological debate, arguments for banning abortion frequently refer to questions of constitutionality, morality, fetal personhood, and religious principles (Lake 1984; Saurette & Gordon 2016). While these kinds of arguments over abortion have been present in U.S. political and public discourse over decades, recent events have provoked a substantial escalation in the production and frequency of academic and public discourse devoted to the debate. Increased engagement in the abortion debate was initially instigated by the publication of a leaked Supreme Court draft opinion document in May 2022 (Gerstein & Ward 2022), which declared an intent to overturn the *Roe v. Wade* ruling and remove the constitutional protection of the right to abortion (Huberfeld & McClain 2022; Tanne 2022). The debate was further incited the following month by the Court's decision on *Dobbs v. Jackson Women's Health Organization* (2022), which ultimately overturned the legal protection granted by the *Roe v. Wade* ruling (Vogue, Sneed, Duster, & Cole 2022).

The form that discourse about abortion takes is quite diverse, ranging from academic articles and commentaries by legal professionals (Ely 1972; Heymann & Barzelay 1973; Regan 1979) to social media posts by celebrities (Emmanuele 2022, Aug 3) and private citizens. One notable participant, the late Justice Ruth Bader Ginsburg, was a constant and prominent voice in the abortion debate from the 70s (Ginsburg 1975; 1977) until her death in 2020. She was an especially vocal critic of the Supreme Court's ruling on *Roe v. Wade*, at the same time that she strongly defended women's rights and gender equality throughout the nearly three decades in which she sat on the bench as a Supreme Court Justice. Ginsburg made a significant contribution to the public and academic discourse on abortion and on *Roe v. Wade* and these contributions took the form of journal articles, legal reviews, interviews, and lectures. In fact, because Ginsburg produced so many publications and critical texts on the topic of *Roe v. Wade* from the perspective of a legal professional and an advocate for women's and gender rights, she and her texts are a frequent subject of reference and citation in other's contributions to the abortion debate, particularly in relation to *Roe v. Wade* (Averbach 2020; Garrow 1998; Ziegler 2014).

As such, in the current context, with the recent overturning of the *Roe v. Wade* ruling, Ginsburg's texts are finding themselves popular guests in the discursive contributions of others as they write and talk about the ruling. Online media, one of the largest contributors to discourse on *Roe v. Wade*, boasts many recent publications on the topic that specifically cite texts produced by Ginsburg, if not revolve around them. From news sites to social media posts, producers of discourse about *Roe v. Wade* are drawing from Ginsburg's criticisms and remarks to construct their own arguments and opinions regarding *Roe v. Wade*. Thus, it is important to consider the ways in which Ginsburg's texts are being used by others or, stated differently, how they are taken from their original occasions of production and recontextualized in online media

discourse? This paper explores this question along with the issues of authority and social power related to the recontextualizations of Ginsburg's texts in news media publications and on Twitter.

The next chapter provides some background on the issue of abortion and *Roe v. Wade* in the U.S. in order to contextualize Ginsburg's texts as well as the discourse that uses her texts. I first describe the legal history of *Roe v. Wade* (1973) followed by a brief description of print media reactions to the Court ruling as well as academic reviews and responses. I go on to discuss *Planned Parenthood v. Casey* (1992), which was largely decided on the precedent set by *Roe v. Wade* and overturned alongside *Roe v. Wade*. The second part of chapter 2 provides a general overview of public reaction to the initial draft opinion leak and the subsequent overturning of *Roe v. Wade* in academic journals, news media, and social media. Chapter 3 is a literature review in which I discuss work that has focused on the political divide in the United States, the relationship of American politics to the issue of abortion, and social media as a facilitator of political participation. Chapter 4 is my methodology chapter in which I explain my process of data collection as well as the origin and application of my methods of data analysis.

In Chapter 5, I present the data I have collected including summaries of Ginsburg's original texts, descriptions of her texts used in news media publications, and examples of both Ginsburg's texts and news media recontextualizations of her texts that appear on Twitter. The next two chapters provide analysis and discussion of the data from chapter 5. In chapter 6, I discuss the textual trajectories of Ginsburg's texts, i.e., their movement from their original source into new discursive contexts. Based on the political and ideological divide discussed in the literature review, I differentiate between texts depending on which side of the abortion debate they appear to be supporting. For the second facet of the discussion, chapter 7 builds on the previous chapter and considers how Ginsburg's texts and their meanings contribute to

expressions of power and authority in the context of the media discourse. The final chapter reiterates the main discussion points and proposes areas of improvement and further research.

2. Background

2.1 A Brief History of *Roe v Wade*

The legal case *Roe v Wade*, 410 U.S. 113 (1973) first appeared as a lawsuit in the U.S. District Court for the Northern District of Texas in 1970 when plaintiff Norma McCorvey, using the pseudonym “Jane Roe”, filed a federal class action against Henry Wade, the district attorney of Dallas County, Texas (The Editors of Encyclopaedia Britannica 2022). Roe was a single pregnant woman who was attempting to secure the legal right for women to terminate their pregnancies as desired, thereby challenging the constitutionality of Texas’ criminal abortion laws, which she argued violated Amendment rights (*Roe v. Wade* 1973). Dr. James Hallford, a licensed physician in Texas who had two pending state abortion prosecutions against him, was permitted to intervene in Roe’s action, arguing that the Texas abortion statutes were vague and violated both his and his patients’ privacy and Amendment rights. Additionally, a married couple, John and Mary Doe, filed a companion complaint with the intention to sue, declaring similar constitutional deprivations (*Roe v. Wade* 1973).

The *Roe v Wade* case was argued in the District Court in June 1970, where the 3-judge panel unanimously ruled in favour of Roe and Hallford, stating that they “presented justiciable controversies” and thus were granted declaratory relief. However, an injunction was not granted, meaning that Roe was unable to seek abortion services, and the Does were found not to have standing to sue (*Roe v. Wade* 1973). Both sides appealed the ruling, and the case was then argued in the Supreme Court of the United States in December 1971, reargued in October 1972, and finally decided on the 22nd of January 1973. Ultimately, the Supreme Court determined that Hallford as well as the Does were lacking standing but ruled in favour of Roe (*Roe v. Wade* 1973). In a 7-2 decision, the Supreme Court agreed that the state criminal laws disallowing abortion—with the exception of critical life-saving situations—were vague and infringed on the

Ninth Amendment and the right to privacy protected by Due Process Clause of the Fourteenth Amendment (*Roe v. Wade* 1973).

Despite its decision in favour of Roe, the Supreme Court disagreed with Roe's argument that abortion should be available for any reason and at any time, concluding that the State still has an interest in protecting the potentiality of human life. Thus, the primary holding of *Roe v Wade* (1973) is as follows:

“A person may choose to have an abortion until a fetus becomes viable, based on the right to privacy contained in the Due Process Clause of the Fourteenth Amendment. Viability means the ability to live outside the womb, which usually happens between 24 and 28 weeks after conception.”

In accordance with the above holding, the decision and effectuation of an abortion during the first trimester “must be left to the medical judgment of the pregnant woman's attending physician”, while second trimester abortions were subject to some regulations in relation to the health of the mother (*Roe v Wade* 1973: 164). In the third trimester, after the stage of viability, the State retains the power to regulate and/or disallow abortions in the interest of preserving the life of the fetus, unless where medically necessary for the health of the mother (*Roe v Wade* 1973:164-165). In sum, the Supreme Court ruled that women had a constitutionally protected right to abortion within certain medical and legal parameters.

News of the Supreme Court decision made headlines across the country. On the same day as the Court ruling, the front page of the *Los Angeles Times* featured an article titled, “Abortion Ruling: Mother Knows Best” (1973, January 22), describing the decision and its implications for state and federal abortion statutes. The *Boston Herald's* front-page article came out the following day, stating “Supreme Court Eases Abortion Curbs: Bars Restrictions During First Three Months of Pregnancy” (1973, January 23), with a brief summary of the ruling which continued on page

eleven. And CBS's *Evening News* anchorman led the January 22nd, 1973 broadcast by stating that "the anti-abortion laws of 46 states were rendered unconstitutional" by the Supreme Court decision (Miller 2019, May 16).

Later that same year, in the Winter issue of *Family Law Quarterly*, a legal journal published by the American Bar Association, Marilyn Cane wrote that "Roe v Wade is likely to become one of the most controversial decisions ever handed down by the United States Supreme Court" (1973: 1)—a sentiment that has been echoed and affirmed by many over the following decades (Balkin 2007; Myers 2014; Regan 1979; Smith 1983). The Court decision in favour of abortion rights has attracted considerable support from pro-choice advocates, i.e., those arguing for the right to choose abortion, as well as equal opposition from anti-abortion advocates, i.e., those arguing for the right to life of the fetus and hence against abortion. Naturally, many people have also voiced perspectives that lie between the two poles; some supported *Roe* as far as it pertained to removing State control over private health, but did not support abortion, while others supported the right to abortion but not the contents of the *Roe v Wade* opinion. Justice Ruth Bader Ginsburg (1984), in a very well-known critique, criticized the Court's decision, arguing that the decision would have been more secure and subject to less criticism had the judges justified it on the grounds of the right to gender equality rather than the right to privacy. While the majority of support for and against the ruling remained in the realm of public and academic discourse, the decision of *Roe v Wade* inevitably returned to the Supreme Court in 1992 in relation to the case *Planned Parenthood of Southeastern Pa. v. Casey* (91-744), 505 U.S. 833 (1992). In this landmark case, the non-profit reproductive healthcare organization, Planned Parenthood, along with other petitioners filed a lawsuit, with Governor Robert P. Casey Sr. named as the defendant, to challenge five provisions of the Pennsylvania Abortion Control Act

of 1982 which they claimed were unconstitutional according to the decision of *Roe v Wade* (*Planned Parenthood of Southeastern Pa. v. Casey* 1992). These provisions included: § 3205, requiring women to give informed consent and medical professionals to provide information about the potential detriments of abortion procedures; § 3209, requiring women to sign a declaration that they had informed their husband prior to the procedure; § 3206, requiring minors to have parental consent prior to the procedure; § 3202, which defines a ‘medical emergency’ that excuses one from other requirements; §§ 3207(b), 3214(a), and 3214(f), which describe reporting requirements on facilities that provide abortion services (*Planned Parenthood of Southeastern Pa. v. Casey* 1992).

The Pennsylvania District Court ruled that the above provisions were unconstitutional in accordance with the decision of *Roe v Wade* and entered an injunction against them. The case then entered the Court of Appeals as the state argued that the decision of *Roe v Wade* was wrongly decided and ought to be repealed. The Court of Appeals for the Third Circuit—the federal appellate court with jurisdiction over the districts of Delaware, New Jersey, and Eastern, Middle, and Western Pennsylvania—upheld four of the five provisions, only striking down provision § 3209, the requirement to inform one’s husband (*Planned Parenthood of Southeastern Pa. v. Casey* 1992). The Supreme Court held the same ruling as the District Court and additionally wrote a plurality opinion that rejected the call to overturn the *Roe v Wade* decision, although it adjusted some of the guidelines, stating:

“A person retains the right to have an abortion, established by *Roe v. Wade*, but the state’s compelling interest in protecting the life of an unborn child means that it can ban an abortion of a viable fetus under any circumstances except when the health of the mother is at risk. Also, laws restricting abortion should be evaluated under an undue burden standard rather than a strict scrutiny analysis.” (*Planned Parenthood of Southeastern Pa. v. Casey* 1992)

The Court's decision here did away with the trimester framework set in place with *Roe v. Wade* and replaced it with a framework that focuses on viability of the fetus to determine whether to grant the woman the right to seek abortion services. However, the Supreme Court was very divided on the issue; only three judges were in agreement with the plurality opinion, while the other 10 judges authored a total of four concurring/dissenting in part opinions, allowing for future challenges to the *Roe v. Wade* decision (*Planned Parenthood of Southeastern Pa. v. Casey* 1992).

2.2. The Public Reaction to Overturning *Roe v. Wade*

On the 2nd of May 2022, the political journalism company, *Politico*, based in the U.S. state of Virginia, published an exclusive article titled “Supreme Court has voted to overturn abortion rights, draft opinion shows” (Gerstein & Ward 2022). The content of this article summarized an initial draft majority opinion for *Dobbs v. Jackson Women's Health Organization* that had been written by Supreme Court Justice Samuel Alito and obtained by *Politico*. The opinion suggested that the Supreme Court was seeking to overturn their previous rulings on *Planned Parenthood v. Casey* and more critically on *Roe v. Wade*, which would remove the constitutional protection of the right to abortion (Huberfeld & McClain 2022; Tanne 2022). This resulted in a media frenzy, with other news media sites rushing to verify and comment on the leaked article. Immediately following the leak, *The Washington Post* wrote that the “Supreme Court is to strike down *Roe v. Wade*” (Barnes & DeBonis 2022, May 2), NPR stated the leaked draft “suggests the Supreme Court will overturn *Roe v. Wade*” (The Associated Press 2022, May 2), and Bloomberg published an opinion piece titled “Abortion Case Leak Shows That the Supreme Court Is Broken” (Feldman 2022, May 3).

Academic publications and opinion pieces written in response to the leaked draft began questioning the effects that the overturning of *Roe v. Wade* might have on the exacerbation of gender inequality and the potential for erosion of other rights for women in the United States. *The British Medical Journal* published a brief editorial, arguing that overturning *Roe v. Wade* would not only violate individual autonomy and the right to equal protection, but subsequent abortion restrictions would “fall disproportionately on women of colour, young women, those on low incomes or living in rural areas, and those in abusive relationships” (Gostin 2022:1). In another example, Boston University’s news website, *BU Today*, published an opinion piece by one of their law faculty just days after the draft leak in which the author writes that “[Alito’s] draft suggests a number of reasons to be concerned the current court could target other rights” (Tsai 2022:3). And, in taking a different perspective on the issue, an article published in the *Journal of the American Medical Association* considered the impact on the healthcare system and medical professionals were *Roe v. Wade* to be overturned, such as the need for professionals to weigh legal risk versus health risk and the requirement for trauma therapy for individuals experiencing unwanted pregnancies (Rubin, Abbasi & Suran 2022).

As for social media discourse, the day after *Politico* leaked the draft, the top trending topics on twitter were ‘#RoevWade’, ‘Supreme Court’ and ‘SCOTUS’. Other topics that trended that day include ‘Wade’, ‘#AbortionRights’, ‘#WomensRights’, ‘Constitution’, ‘Alito’, ‘#RoeOverturned’, ‘Planned Parenthood’, ‘Pro-Life’, ‘Abortions’ and ‘Women’s Health Protection Act’, just to name a few (Getdaytrends 2022). Google Trends data also shows a considerable increase in searches for the term ‘Roe v. Wade’ in the week following the draft leak, then maintaining a slightly higher than usual search frequency until the first week of June. Slightly over a month after the draft leak, on June 24th, the Supreme Court made their decision on *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. ____ (2022), a case in which an

abortion clinic, Jackson Women’s Health Organization, and one of its doctors challenged the constitutionality of a state law in Mississippi that banned the induction of an abortion after fifteen weeks. The final decision on *Dobbs v. Jackson Women's Health Organization* 597 U.S. ____ (2022) ultimately overruled the previous Court decisions on the constitutional protection of abortion as determined by *Roe v. Wade* and reiterated in *Planned Parenthood v. Casey*, stating,

“The Constitution does not confer a right to abortion; *Roe* and *Casey* are overruled; and the authority to regulate abortion is returned to the people and their elected representatives.” (8-79)

The opinion written by Justice Alito had concurrence from Justices Roberts, Kavanaugh, and Thomas, and dissent from Justice Kagan (Skelton 2022). Like the media explosion after the leaked draft opinion, the overturning of *Roe v. Wade* immediately became front page news across the U.S. and internationally. The news stirred a media maelstrom of articles announcing the historic decision from the Supreme Court to end the federal constitutional right to abortion which had been upheld for 50 years since *Roe v. Wade*. The news of the decision sparked celebrations and rejoicing from anti-abortion advocates and protests and tears from pro-choice supporters (Gornstein 2022, Jun 27).

Celebrities and political figures also lent their voices in support of, or disagreement with, the ruling. For example, Meghan Markle, Duchess of Sussex, Michelle Obama, actors Jessica Chastain and Viola Davis, musicians Lizzo, Kendrick Lamar, and Pearl Jam, and comedian John Oliver were among those who publicly expressed their disapproval of the Court’s decision, through social media posts, interviews, and performances (Emmanuele 2022, Aug 3). And once again, Google search trends showed a huge increase in searches for ‘Roe v. Wade’ the week of the Court decision and tapering off into mid-July. The social media discourse on Twitter also

reflected the trends appearing following the leaked draft opinion; some of the top trending topics for June 24th include ‘#RoeVsWade’, ‘Supreme Court’, ‘#SCOTUS’, ‘#Dobbs’, ‘#MyBodyMyChoice’, ‘#AbortionRightsAreHUMANRights’, ‘Praise God’, ‘Praise the Lord’, ‘Casey’, ‘Obergefell’, ‘Griswold’, ‘Lawrence’ and ‘LOVING’ (Getdaytrends 2022a). As a point of interest, the latter four trending topics all refer to other Supreme Court case decisions about constitutional protection: *Obergefell v. Hodges* ruled that all states must recognize and perform same-sex marriage, *Griswold v. Connecticut* ruled that the government cannot intervene in married couples purchasing contraceptives, *Lawrence v. Texas* ruled that criminal punishment for those who engage in non-procreative sexual activity is unconstitutional, and *Loving v. Virginia* ruled that bans on interracial marriage are unconstitutional. These social media topics reflect concerns expressed in the academic literature following the initial draft opinion leak that the overturning of *Roe v. Wade* might set an unfortunate precedent for the overturning of other such personal autonomy related rulings. By contrast, the topics ‘Praise God’ and ‘Praise the Lord’ demonstrate some of the jubilant attitudes from religious communities associated with the overturning of *Roe v. Wade* and these were also mentioned in a few news media articles.

3. Literature Review

3.1. The American Political Divide

Anderson describes a phenomenon which he names the “imagined community”, defined as any community “larger than primordial villages of face-to-face contact” (2006: 6). These are groups of people with shared interests, shared hobbies, shared ideals or ideologies, etc. that are not

constrained by a necessity of physical proximity. While Anderson conceived of imagined communities within the parameter of states or nations, his explanation that they are “conceived as a deep, horizontal comradeship” (2006: 7) applies just as well to any abstract group of people connected by some shared or perceived shared quality. With this in mind, we can begin to conceptualize the ideological supporters of political parties within this framework of smaller imagined communities within the context of the larger imagined community of the nation. In the context of the U.S., the two major political parties and thus the political imagined communities are the Republican Party and the Democratic Party. These parties represent and are represented by politicians, political activists, and voting citizens in all 50 U.S. states, comprising the vast majority of American voters.

However, an unfortunate side-effect of the establishment of these two political imagined communities is the extent of their opposition to each other. In the U.S., the politics of their twoparty system appear to be quite polarized. Poole and Rosenthal, for example, argued in the 80s that the political positions of the Republican and Democratic parties were on the extreme ends of the American political scale (1984: 1061). Yet, 20 years after Poole and Rosenthal’s publication,

Layman, Carsey & Horowitz (2006) noted that the political and ideological polarization in the United States continues to escalate. Almost a decade later, Hare & Poole write of the U.S. Congress that it “is now more polarized than at any time since the end of the Civil War” (2014: 415), and others suggest that the political polarization shows no signs of cooling in the present or near future (Baker & Edmonds 2021; Lee 2022).

3.2. Abortion Politics and Rhetorical Strategies

Abortion in the United States has evolved rapidly over the decades from a healthcare issue to a political ideology. Hout describes the process of the politicization of abortion in this way: a movement beginning with women and encompassing questions of values and morality, with a pro-choice movement emerging as “integral to the women’s movement” (1999: 4) and counterbalanced by the anti-abortion movement. The issue of morality in attitudes towards abortion decisions is a well-documented facet of the political divide (Cannold, 2000; Dellapenna 1978), yet Kreitzer (2015) argues that morality politics has a much larger role in shaping and producing anti-abortion attitudes and legal policies than pro-choice attitudes and policies. On the other hand, autonomy for individuals also appears to play an important role in abortion politics. Cook, Jelen, and Wilcox’s (2019) study of the political and ideological divide on American abortion attitudes highlights the significant influence of the perceived right to personal autonomy that is ingrained in American political culture. The concept of autonomy in choice is also discussed by scholars such as Hewson (2001), Jackson (2000), and Cohen, the latter of whom places reproductive autonomy in the context of feminism and maintains that even the “private domain of intimacy is legally constructed, culturally defined, and the site of power relations” (1997: 136). In fact, the politics of abortion and autonomy are frequently articulated in academic literature alongside gender and feminist theories of personhood and rights (Cannold 2000; Doyle 2009; Markowitz 1990; Smyth 2022). In an analysis of abortion voting, Rolfes-Haase and Swers (2022) identify a relationship between gender and partisanship where gender can be a significant predictor of voting behaviour, particularly on issues of autonomy. Both Republican and Democratic men are more likely than women to vote anti-abortion in agreement with public opinion, whereas Republican and Democratic women are more likely to vote for policies that favour individual autonomy, even if it means defecting from their party’s position. However, they

found that this gender difference in the Republican party is shrinking as strongly antiabortion women are replacing the more ambivalent members (2022: 478).

America's two opposing political parties have come to hold rather different political ideologies around the issue of abortion rights. In a historical assessment of the politics of abortion in the United States, McKeegan (1993) notes that throughout the 70s into the 80s, while Americans in general were becoming more pro-choice, two anti-abortion presidents were elected who pushed for anti-abortion political agendas. As American fundamentalist Christians became incensed by the *Roe v. Wade* ruling, they shifted towards the Republican party who, in return, crafted policies to please the large anti-abortion voter base. In fact, the Pew Research Center states that, as of 2022, only 38% of Republicans and Republican leaning voters say that abortion should be legal. On the other hand, upwards of 80% of Democrats and Democratic leaning voters say that abortion ought to be legal (Hartig 2022, May 6). Nonetheless, the Democratic party has not fully supported abortion rights and access to abortion; Braunstein, Whitehead and Burge (2022) write that the Democratic Party historically supported the Hyde Amendment, which prohibited the use of federal funds such as Medicaid to pay for abortions unless in critical circumstances. Nevertheless, they also note that in 2019, Democratic President Joe Biden publicly reconsidered his support for Hyde and the party has similarly adjusted their general stance on the issue. Although there are certainly variations in opinion within each party, the general trends show pro-/anti-abortion ideologies aligning with partisan ideologies, with much greater support for abortion rights and the pro-choice ideology in the Democratic party, and much more support for pro-life and anti-abortion political ideologies in the Republican party.

Turning to the subject of abortion discourse, there has been a significant body of work that has examined the rhetorical strategies used by anti-abortion advocates (Farhat & Grossman 2021; Lake & Pickering 1998; Miller 2020). Woliver's (1996) analysis of anti-abortion discourse

found that one of the most common rhetorical techniques is the use of humanizing language, such as replacing terms like ‘fetus’ with ‘unborn child’ or ‘pre-natal life’, in an attempt to emphasize the living qualities of a fetus. Interestingly, Sambaiga et al. (2019) determined that pro-choice discourse frequently uses this kind of anti-abortion rhetoric but shifts the focus of ‘life’ from pro (fetal) life to pro-life of women. Newell’s (2019) analysis of the American antiabortion narrative shows an opposite shift, where feminist discourse is appropriated by antiabortion advocates who frame their cause as ‘pro-woman’ in the sense that it protects women from abortion trauma (Rose 2011; Saurette & Gordon 2015). However, she argues that this kind of appropriation is hardly feminist given that it serves to “reinforce complementary, traditional gender norms of passivity, motherhood, and victimhood” (Newell 2019:43). As can be seen, discourse about abortion on both sides of the political divide commonly uses a rhetorical strategy whereby language from the opposing side is recycled and transformed. As a further example, Ntontis’ (2020) analysis of anti-abortion discourse shows how positive psychological responses that may result from being able to have an abortion, such as relief, are transformed in antiabortion discourse into negative perspectives on abortion, such as the difficulty of making the choice or the pain of the procedure (525). On the other hand, Bouvier (2019) demonstrates that it can go the other way as well, where pro-choice discourse on Twitter has transformed the unfortunate situation of having to travel across-state lines to procure abortion services into an experience of support, solidarity, and strength among women with the hashtag #twowomentravel. The common rhetorical strategy seen in all of these studies is a form of recontextualization. Likewise, recontextualization is a recurring rhetorical strategy in the context of news and social media discourse about *Roe v. Wade*, as this paper will demonstrate in relation to Ruth Bader Ginsburg’s commentary on the case.

3.3. Political Participation and Divide on Social Media

There has been a large body of literature concerning the *Roe v. Wade* decision, especially from a legal perspective (Gibson 2008; Ginsburg 1985; Schoen 2000; Ziegler 2009), but there is rather little work about the discourse on *Roe v. Wade* produced on social media. The global and interconnected nature of social media allows for the average citizen to gain information and engage with other individuals, which Gil de Zúñiga, Jung, and Valenzuela argue can “foster norms of reciprocity and trust and, therefore, create opportunities for civic and political engagement” (2012: 331). In fact, social media has had an enormous impact on political discourse in general due to the ease of access to political information and the increased exposure to other discourse participants afforded by social media platforms (Darshan & Suresh 2019; Kushin & Kitchener 2009; Stieglitz & Dang-Xuan 2013).

Much of the literature on the topic demonstrates that using social media for political expression and engagement positively correlates with increased political participation, especially among younger generations and those generally lacking the social capital to engage in traditional modes of political participation, i.e., rallies, campaigns, etc. (Effing, Hillegersberg & Huibers 2011; Yamamoto, Kushin & Dalisay 2015; Zain & Barrett 2012). Analytical studies of political discourse on social media have described the use of social media in the circulation of politically charged texts and soundbites, especially in political criticism (Joersz 2015; Parmelee 2014), and the significance of these social media platforms in contributing to the trajectories and recontextualizations of the texts (Bizon & Cavalcanti 2021; Makovicky, Trémon, & Zandonai 2019). When the use of social media for political discourse collides with partisanship in American politics, the literature argues that the divide is frequently exacerbated by social media engagement (Friedland et al. 2022; Suk et al. 2020). Content analysis studies of social media

discourse have found that social media platforms such as Twitter that encourage the production of and exposure to ‘pro-attitudinal’ content, meaning content aligning with one’s own ideology, may contribute to increasing polarization between the political in-group and out-group through facilitating the rapid spread of partisan rhetoric (Kubin & von Sikorski 2021; Levy 2021; Yarchi, Baden & Kligler-Vilenchik 2021). Thus, social media allows users the opportunity to gather new information and engage with various forms of political expression, but the content of some social media platforms may have the counter-effect of creating echo political chambers for the users, furthering political polarization (Levy 2021).

Given how recently the current discourse on the SCOTUS draft document and the decision to overturn *Roe v Wade* has emerged, there is yet little written about the nature of the current *Roe v Wade* discourse, particularly with the added factor of social media, which was not present when the case originally went to court in the 70s. While Bivens and Cole (2018) do consider social media discourse in relation to *Roe v Wade*, their research addressed political discourse through what they call ‘the grotesque protest’, i.e., discourse around gender-based rights with reference to bodily fluids. Other articles have similarly discussed the contribution of social media platforms to the abortion rights discourse (Pedagno 2013; Vogel & Duong 2022); however, social media texts were not the central focus of these publications. Thus, I intend to fill this gap in the literature by using the framework of entextualization to explore the various contexts of Justice Ginsburg’s texts which are cited and recontextualized in news media and social media discourse on *Roe v Wade*, with special attention paid to the meanings that are created through the trajectories of these texts.

4. Methodology and Theoretical Framework

4.1. Data Collection

For the purposes of this study, I analyze online news media articles, opinion pieces, and publications that discuss texts produced by Ginsburg in relation to *Roe v. Wade* as well as publicly available posts published on the Twitter platform, i.e., tweets, that contain direct

reference to texts produced by Ginsburg, links to the previously mentioned news media publications, and comments or responses to other Twitter posts that reference texts from Ginsburg. I collected the discourse and textual data from online news media and Twitter primarily by means of key word searches relevant to the content of Ginsburg's texts on *Roe v Wade*. In terms of the online news media data, I performed a Google search of news stories with the key words 'Ginsburg Roe v. Wade'. I considered publications from several prominent publishers in the United States, such as *The Washington Post*, *The New York Times*, and *Newsweek*, which have all published articles explicitly discussing Ginsburg's opinion on *Roe v Wade*. For some news publishers there were multiple relevant publications whereas for others I only considered one article for the purposes of this paper.

As for the social media data, I used the search term "ginsburg roe" to filter tweets that include reference to both Ginsburg and *Roe v. Wade*. I gathered a sample of 147 tweets, published after the overturning of *Roe v. Wade*, between the 4th to the 13th of July. They include reference(s) to Ginsburg's publicized opinions and criticisms, i.e., her texts, in discourse about the *Roe v. Wade* decision. Due to the nature of social media platformization, there is likely enough exchange of data between the various platforms to allow me to gather a sufficient sample of online discourse from Twitter alone. Helmond describes this process of platformization as "the extension of social media platforms into the rest of the web and their drive to make external web data 'platform ready'" (2015: 1). This means that the data on social media platforms are not stored exclusively within a single platform, but rather are decentralized and dispersed across the web. Helmond provides the example of YouTube widgets, like the 'share' button, which encourages the distribution of YouTube content outside of YouTube and to other social media platforms and websites (7). These features are common across most, if not all, major social media

platforms, facilitating the distribution and sharing of data created or hosted on a single platform (7). Thus, I worked under the assumption that social media platforms are mutually influential and integrated (Pearce et al. 2020) in terms of their data and content, and the information—and discourses—found on one platform may be just as likely to be found on others. For this reason, the data collected from Twitter are likely to be representative of general trends in social media discourse in relation to Ginsburg’s texts on *Roe v Wade*.

The form of the data I considered was different depending on the form of the media. News media data includes the headlines and text of the news articles whereas the Twitter data can include multiple forms of data, including the written content of the tweet, the hashtags, headlines or key words in shared links, and even text appearing on images.

Lastly, for the purposes tracking the potential meaning transformations that occur as the Ginsburg texts moved out of their original occasion of production, I also consider the original texts produced by Ginsburg. These texts primarily consist of two law journal articles in which she explicitly outlines and describes her criticisms of the *Roe v. Wade* decision, as well as her ideas on how the case should have been decided in the context of previous legal decisions relating to gender and civil rights. I also consider texts that originated from a talk Ginsburg gave at the New York University Law School in which she discusses multiple topics related to her judicial career, including her thoughts and professional opinions on *Roe v. Wade*. Lastly, I consider an article published by the University of Chicago Law School that summarizes and explains the content of a recent talk she gave at the law school.

4.2. Methods of Analysis and Theoretical Framework

I examine the trajectory of Ginsburg’s texts as they circulate in news and social media in relation to discourse on *Roe v. Wade* using the interdisciplinary methodological approach of Critical

Discourse Analysis (CDA). CDA is a methodological/theoretical approach to analyzing discourse, i.e., speech, text, etc., that focuses on what Van Dijk calls the “discourse dimensions of power abuse” and the resulting dynamics of inequality (1992: 252). This means that the primary concern of CDA is the investigation and understanding of social issues and injustices as they emerge through language (Blommaert & Bulcaen 2000; Fairclough 2013; Wodak 2014). The news media and social media platforms provide an interesting space for examining both the entextualization and the social circulation of texts such as political messages, quotes, or other short opinion pieces because the forms of the publications—attention-grabbing news pieces or brief and informal social media posts—largely necessitate transformations, i.e., entextualizations, of the original text into something more consumable and transferable within the media network.

To explore the use of Ginsburg’s texts in the discourse surrounding *Roe v Wade* and abortion rights in the United States, I will be making use of Kristeva’s notion of ‘intertextuality’, defined as a “mosaic of quotations” (1980: 66), to conceptualize of a quotation or a slogan as a ‘text’, i.e., “an objectified unit of discourse” (Gal 2006:178). A text is created, or entextualized, when it is extracted from its original occasion of production, for example, through the process of quotation, and moves into another context, i.e., is recontextualized. And a text can be transformed as it moves into new discourse contexts (Hodges 2015; Silverstein 2005), while still maintaining reference to previous instantiations of itself (Fairclough 1992). The movement of a text from its original context into a new context is described by Ehrlich and Romaniuk (2021), following Blommaert (2005), as a textual trajectory. In adopting a textual trajectory approach to their data (Maybin 2017; Blommaert 2005), Ehrlich and Romaniuk trace the meaning transformations that occur as ‘texts’ move across various contexts, for example, from trial contexts into judicial opinions, and from broadcast news interviews into the mainstream media.

Using the text trajectory approach laid out by Ehrlich and Romaniuk, I investigate the evolution of meaning that occurs when Ginsburg's 'texts' about *Roe v Wade* move into online discourse. However, rather than only looking at how these meaning transformations contribute to the perpetuation of gendered inequalities and discriminatory ideologies as Ehrlich and Romaniuk did, I also explore how they might contribute to gender empowerment and equality. In other words, I consider how the words of Justice Ruth Bader Ginsburg are decontextualized and subsequently recontextualized into political discourses that both advocate for and argue against women's rights to abortion, and the different meanings that are created and conveyed in the various contexts in which the texts are being used.

The two concepts, intertextuality and text trajectories, as indicated, are an integral part of the overarching framework of entextualization, first developed by Bauman and Briggs (1990). Indeed, Blommaert (1995:47) argues that the concept of entextualization "turns intertextuality into an empirical research programme." In implementing this kind of research program, the first consideration is the transformational process a text undergoes, i.e., what meanings are maintained and what meanings are ascribed in the trajectories of the text (Bauman & Briggs 1990:75; Hodges 2014:75). This includes attending to the framing, the function, and the genre of the text in its various instantiations. The second consideration involves looking at the social contexts the texts become embedded within, including the power dynamics and authority relations that surround them, and the political economy of the texts, which is especially important given the highly politicized context of discourse on *Roe v Wade* (Bauman & Briggs 1990:76). In using Bauman and Briggs' framework of entextualization, coupled with Blommaert's notion of text trajectories, then, I examine the way that the meaning of the texts under consideration is altered and transformed in a highly gendered and politicized context.

5. Ginsburg and *Roe v. Wade* in the Media

*5.1 Ginsburg's Texts on *Roe v. Wade**

Over the course of her academic and professional career, Justice Ruth Bader Ginsburg produced texts in the form of articles, speeches, interviews, etc., that exemplified both her personal and professional orientation towards women's rights, sex equality, and sex-based categorization/discrimination in American legislation and the social sphere. Examples of such texts include "Women, Equality, and the Bakke Case" (1977) published in the *Tulane Law*

Review, “Sex Equality and the Constitution” (1978) from the *Washington University Law Quarterly*, and “Sexual Equality Under the Fourteenth and Equal Rights Amendments” (1979) in the *Civil Liberties Review*. She even partnered with the American Civil Liberties Union in the 1970s to draft briefs for federal cases involving gender-based discrimination—one case disadvantaging women, the other disadvantaging men (Smentkowski & Houck 2022).

Given her proclivity for advocating on behalf of sex equality and women’s rights in the United States, it was inevitable that Ginsburg would also address the issue of abortion, which came to national attention when *Roe v. Wade* reached the Supreme Court in 1973. Perhaps the most widely cited of her texts come from two articles which explicitly address her thoughts on the *Roe v. Wade* opinion. The first article I will be discussing, titled “Some Thoughts on Autonomy and Equality in Relation to *Roe v. Wade*” (1984), was published in the *North Carolina Law Review* a decade after the 1973 decision in the case. In this article, Ginsburg describes her legal perspective on the outcome of *Roe v. Wade*, most notably that she does not agree with the Supreme Court’s justification for the decision, nor the breadth of the decision in regard to abortion rights and services across the United States. I summarize her central arguments in the following paragraph.

It is important to note that although Ginsburg criticizes the Supreme Court’s opinion in her 1984 article, she was certainly not opposed to the the goal of the decision, that is, to protect abortion rights, as evidenced by her previously mentioned work where she advocates for gender equality and reproductive rights. That being said, she begins this article with the assertion that the “shape of the law” on reproductive autonomy influences women’s abilities to participate in social, political, and economic spheres on an equal footing with men (Ginsburg 1984:375). For this reason, she argues that it is important to understand that the issues of reproductive autonomy as raised in *Roe v. Wade* are inherently tied to issues of sex-based classification and

discrimination against women. However, according to Ginsburg, in its justification of its decision on *Roe v. Wade*, the Supreme Court did not argue for the constitutional protection of abortion on the basis of gender discrimination, but rather on the basis of “personal autonomy derived from the due process guarantee” (381). Ginsburg suggests that this incomplete justification of the decision, coupled with it being simultaneously too far reaching as well as too detailed in its definition of constitutionally protected abortion practices, ultimately contributed to academic criticism of the decision, push-back against the decision in Congress and state legislatures, and the “mobilization of a right-to-life movement” (381). She notes that she can appreciate the deviating opinions on the “moral question” of abortion, and thus cannot fairly describe it simply as birth control. However, she reaffirms her point that the issue at stake with respect to abortion rights is “a woman’s autonomous charge of her full life’s course” (383). Ginsburg’s final blow against the Supreme Court’s justification addresses issues of class inequality made evident through limited access to abortion services, even where legally permitted. It is hard to describe her argument any more concisely than Ginsburg herself, so I will simply quote her directly:

“Generally, constitutional claims to government benefits on behalf of the poor have prevailed only when tied to another bark—a right to travel interstate, discrimination because of out-of-wedlock birth, or gender-based discrimination. If the Court had acknowledged a woman’s equality aspect, not simply a patient-physician autonomy constitutional dimension to the abortion issue, a majority perhaps might have seen the public assistance cases as instances in which, borrowing a phrase from Justice Stevens, the sovereign had violated its ‘duty to govern impartially’.” (385)

Here, Ginsburg claims that because the Court’s justification is grounded in patient-physician autonomy, it affords state governments the opportunity to indirectly withhold abortion services from many citizens by simply not providing financial assistance and/or affordable services. Hence, she believes that grounding the justification in issues of gender equality and

discrimination would likely have been a benefit to a greater number of otherwise disadvantaged people and would have solidified abortion more strongly as a sex-based equality right rather than solely a medical right. Furthermore, such a justification would perhaps have even generated an expectation of government to provide equal access to abortion services. However, the Court focused their opinion on medical autonomy rather than equality and Ginsburg concludes her article reaffirming that this was ultimately a fatal flaw in the *Roe v. Wade* decision.

Ginsburg later produced a second article revisiting her criticisms of the *Roe v. Wade* decision, “Speaking in a Judicial Voice” (1992), published in the *New York University Law Review* shortly after the Supreme Court ruling on the *Planned Parenthood v. Casey* case, a case that made frequent reference to the *Roe v. Wade* decision. In comparison to her 1984 article, which primarily described the weakness of the Court’s justification, “Speaking in a Judicial Voice” takes a closer look at how the *Roe v. Wade* opinion was too wide ranging, contextualizing the case in a series of other equality and anti-discrimination-based cases that went to the Supreme Court prior to and around the same time as *Roe v. Wade*. Ginsburg begins with a brief but relevant introduction to the social and political contexts that framed the writing of the constitution and the limited perception of the intended recipients of protected rights; however, she rightfully points out that a considerable portion of the history of the Constitution is characterised by the expansion of rights to previously excluded persons, such as women and racial minorities.

With this foundation laid, Ginsburg reiterates the central argument from her 1984 article, asserting that *Roe v. Wade* may have been less controversial had the Court focused on women’s equality, i.e., expanding the application of the Constitution to a previously excluded group, and had not made such a bold, over-reaching decision. Ginsburg expands on this second point, that the *Roe v. Wade* decision did too much, too quickly, proposing instead that they should have

ruled only the extreme Texas law as unconstitutional and later introduced reproductive autonomy incrementally through other cases based on sex equality. In fact, she notes that a different case was going through the Court around the same time, *Struck v. Secretary of Defense* (1972), in which a then-pregnant Air Force Captain Struck brought a case against the U.S. Secretary of Defense over an Air Force regulation that saw active duty members discharged if they became pregnant and chose not to seek an abortion. According to Ginsburg, this case could have been used as a bridge to “[link] reproductive choice to disadvantageous treatment of women on the basis of their sex” (1200), although it was ultimately declared moot as the Air Force repealed Struck’s discharge before a decision was made. However, subsequent cases did directly address issues of sex discrimination, including but not limited to *Frontiero v. Richardson* (1973), ruling that married women in the military should be granted the same housing allowance and family medical assistance as married men; *Taylor v. Louisiana* (1975), ruling that jury selection cannot exclude women as a class; and *Mississippi University for Women v. Hogan* (1982), ruling that men cannot be excluded from admission to state nursing colleges. In each of these cases, Ginsburg argues that “the Supreme Court wrote modestly, it put forward no grand philosophy; but by requiring legislative reexamination of once customary sex-based classifications, the Court helped to ensure that laws and regulations would ‘catch up with a changed world’” (1205). Unfortunately, in the *Roe v. Wade* opinion, the Court ruling was too detailed and simultaneously too broadly applied, which did not allow any room for dialogue with Congress and legislators, and left almost no state with laws that conformed to the Court’s interpretation of acceptable abortion regulations (1205).

Like the weak medical autonomy justification, which Ginsburg argued left the *Roe v. Wade* decision open to criticism, she concludes that the breadth and detail of the opinion contributed to resistance from Congress and to the creation of a vocal right-to-life movement “turning the legislative tide in the opposite direction” (1205). Additionally, Ginsburg states that *Planned Parenthood v. Casey*, mentioned above, which should have also contributed to the creation of legislation recognizing sex equality in reproductive autonomy, actually “retreats from *Roe*” (1208) and serves to “further exclude” women who are unable to “surmount burdensome legislation” (1208). Ultimately, in “Speaking in a Judicial Voice”, Ginsburg suggests that, had the details of the *Roe* decision been implemented incrementally, abortion legislation would likely be facing less opposition in both the legal and public sphere.

The final two texts in which Ginsburg publicly explicates her legal opinion regarding *Roe v. Wade* are both talks given at university law schools. The first is a 2013 talk at the University of Chicago Law School, the summary of which was published by the law school in an article titled “Justice Ruth Bader Ginsburg Offers Critique of *Roe v. Wade* During Law School Visit” (Heagney 2013, May 15). The article summarizes Ginsburg’s talk at the University of Chicago and includes many direct quotes from both the talk and Ginsburg’s other texts which she referenced or alluded to during her talk (Heagney 2013, May 15). The author of the article, Heagney, also contextualizes some of Ginsburg’s comments and criticisms expressed during her talk by describing a few of her other texts and articles as well as the case of *Struck v. Secretary of Defence* court case. The second talk was hosted in 2018 by the New York University School of Law and is posted on their YouTube channel under the title *Justice Ruth Bader Ginsburg in conversation with Kenji Yoshino*. In addition to discussing a plethora of other subjects, Ginsburg refers to the arguments of both her 1984 and 1992 articles during this talk. Firstly, having been explicitly asked about “Speaking in a Judicial Voice” (1992), she states again that incrementally

rewriting abortion legislation would likely have resulted in very different public reactions, particularly in relation to decisions about the Medicaid coverage of abortion (NYU School of Law 2018). She suggests that the Court should have taken the approach of Justice Thurgood Marshall, who argued such cases as *Brown v. Board of Education* (1954), which found segregated schools unconstitutional and stimulated future changes in legislation leading to the Civil Rights Act of 1964 (Ginsburg 1992:1207). A few minutes later, Ginsburg refers to a critique she made in “Some Thoughts on Autonomy and Equality in Relation to *Roe v. Wade*” (1984), i.e., that abortion legislation **not** being based in sex equality disproportionately disadvantages marginalized women. She states that “the only women who are genuinely affected by restrictive abortion laws are poor women, voiceless women”, and this is especially so if *Roe v. Wade* were to be overturned (NYU School of Law 2018: 11:45-11:54).

5.2 Ginsburg in the News Media

The topics of abortion rights, *Roe v. Wade* and the texts of Justice Ruth Bader Ginsburg have by no means been unpopular in news media and current event magazines over the decades since the 1973 decision. However, the recent events leading up to, and including, the overturning of *Roe v. Wade* have led to an explosion of articles and opinion pieces discussing the criticisms Ginsburg made against *Roe v. Wade*, likely due to her reputation for being adamantly pro-choice. The majority of these news articles summarize and explain Ginsburg’s criticisms of the *Roe v. Wade* opinion with references to speeches and articles in which she discusses the case. There are also a few opinion pieces which recontextualize Ginsburg’s texts as support for the author’s personal views on *Roe v. Wade*.

The Washington Post, in particular, has published a few articles dedicated to Ginsburg’s criticisms. The first example, titled “Antiabortion activists at Supreme Court cite an unlikely

authority for overturning *Roe v. Wade*: Ruth Bader Ginsburg”, was published in August 2021, predating the anti-abortion activism stemming from the SCOTUS draft document leak (Barnes 2021, Aug 7). Barnes provides a concise summation of Ginsburg’s criticisms of *Roe v. Wade*, incorporating several direct quotes from her articles, her university talks, interviews, and even from her answers at her 1993 confirmation hearings. Barnes also asserts that, despite her criticisms, Ginsburg saw overturning *Roe v. Wade* as a “worst case scenario”, quoting her 2018 speech at the NYU Law School. More recently, *The Washington Post* published two other articles, “Justice Ginsburg thought *Roe* was the wrong case to settle abortion issue” (Frommer 2022, May 6), published three days after the draft document leak, and “What Ruth Bader Ginsburg really said about *Roe v. Wade*” (Blake 2022, June 27), published three days after SCOTUS overturned *Roe v. Wade*. Like Barnes’ piece, these articles also provide explanations of Ginsburg’s criticisms and how they fit into her broader legal opinions. As suggested by the title, Frommer focuses on what Ginsburg said about the scope of *Roe v. Wade*, explaining her argument that *Struck v. Secretary of Defence* would have been a better case by which to settle abortion and citing several of her texts in the process. Blake, on the other hand, addresses the use of Ginsburg’s texts by parties on both sides of the abortion debate, stating:

“For some on the left, Friday’s decision is the regrettable but predictable outcome of Ginsburg not retiring when she could have been replaced by a Democratic president and Senate...On the right, Ginsburg has served an entirely different purpose: as a supposed vindicator of what the Supreme Court just did”.

Like Frommer and Barnes, Blake also summarizes Ginsburg’s arguments with large sections of text from her 2018 NYU speech in addition to providing quotes from her various other texts, including a quote from a speech given at the University of Chicago Law School in 2013: “*Roe* isn’t really about the woman’s choice, is it? It’s about the doctor’s freedom to practice. ... It wasn’t woman-centered, it was physician-centered” (Heagney 2013, May 15).

This text also appears in an article titled “What Ruth Bader Ginsburg really thought of the *Roe v. Wade* decision” from *Deseret News* and the article also quotes the same ‘physiciancentered’ text, along with asserting that Ginsburg wanted reproductive autonomy for women, but also an equal balance of power between levels of government in making abortion legislation (Selcho 2022, June 28). Like many of the other articles already discussed, Selcho describes *Struck v. Secretary of Defence* and includes many quotes from Ginsburg’s talk at the University of Chicago that describe her opinion on the *Roe* decision as having been too extreme in its sweep and detail. One quote in particular that Selcho cites, “My criticism of *Roe* is that it seemed to have stopped the momentum on the side of change” (Ginsburg cited in Selcho 2022, June 28), is also quoted in the University of Chicago Law School article (as Ginsburg used the phrase during her talk at the university (Heagney 2013, May 15)), as well as in the second of *The Washington Post* articles mentioned (Frommer 2022, May 6).

An article published by *Time* magazine on the day *Roe v. Wade* was overturned, “Ruth Bader Ginsburg Wishes This Case Had Legalized Abortion Instead of *Roe v. Wade*” (Waxman 2022, June 24), explicitly addresses Ginsburg’s argument about the suitability of *Struck v. Secretary of Defense* over *Roe v. Wade* as a means to establish the constitutional protection of abortion rights. Waxman quotes large portions of text from Ginsburg’s New York University lecture that addresses Ginsburg’s criticism of the scope of *Roe v. Wade*, and also quotes from a speech made to the Senate Judiciary Committee, explaining her argument that “sex discrimination includes discrimination because of pregnancy”, as demonstrated by *Struck v. Secretary of Defense*. Other cited texts include quotes from Ginsburg’s confirmation hearing and from her book *My Own Words* (Ginsburg 2018). References to *Struck* also appeared in *The New York Times* article “Why Ruth Bader Ginsburg Wasn’t All That Fond of *Roe v. Wade*”, published shortly after her passing (Gupta 2020, Sept 21). Gupta outlined the points Ginsburg

made in “Speaking in a Judicial Voice” with a considerable portion of the article dedicated to explaining the *Struck* case and Ginsburg’s thoughts on it. Gupta also addresses the fact that Ginsburg attracted some criticism from feminist activists, but maintains that her “skepticism of *Roe v. Wade* wasn’t driven by a disapproval of abortion access at all, but by her wholehearted commitment to it”. Here Gupta incorporates quotes from Ginsburg’s New York University lecture and from a talk at Georgetown Law School earlier that year.

These six articles all reference Ginsburg and her texts with headlines that draw attention to her criticisms of *Roe v. Wade* and claim to describe what she really thought, said, or wished of the legal case. The subsequent contents of the articles cite Ginsburg’s texts, often using the same quotes, to carry through on the promise of explaining her criticisms. However, it is important to note that in each of the articles the authors do not present Ginsburg’s criticisms of *Roe v. Wade* as criticisms of abortion as might be assumed from the headline alone. Rather, the authors describe her texts as critical of the legal decision itself. In fact, Barnes (2021, Aug 7), Selcho (2022, June 28), Gupta (2020, Sept 21), and Waxman (2022, June 24) are explicit in asserting Ginsburg’s advocacy for abortion rights despite her vocal criticisms of the *Roe v. Wade* decision. Frommer (2022, May 6) and Blake (2022, June 27) are less direct in maintaining Ginsburg’s prochoice stance, yet they both describe Ginsburg as critical of *Roe v. Wade* because she believed that it negatively affected the process of protecting abortion. That is, all six articles convey the message that her criticisms of *Roe v. Wade* are not about the legalization of abortion, but about the way in which *Roe v. Wade* legalized it. Thus, despite the article headlines that focus on Ginsburg’s criticisms or disapproval of *Roe v. Wade*, the authors recontextualize her texts in the bodies of the articles to demonstrate that her criticisms of *Roe v. Wade* are not criticisms of abortion and do not detract from her advocacy for the protection of abortion rights.

A few news media sites also published opinion pieces that reference Ginsburg and recontextualize her texts in ways that differ from those I have just described. The *Philadelphia Inquirer*, for example, references Ginsburg's criticism of *Roe v. Wade* in an article titled "Why overturning *Roe v. Wade* strengthens American democracy" (Stefano 2022, Jul 4), which includes direct quotes from "Speaking in a Judicial Voice" (Ginsburg 1992). Stefano acknowledges that "[i]t's impossible to think Ginsburg would have struck down *Roe* if she were on the court today" but she also quotes Ginsburg in saying: "Roe, she said, 'invited no dialogue with legislators. Instead, it seemed entirely to remove the ball from the legislators' court.' *Roe* removed the voice of the people from the process — the court's decision to reverse the ruling has taken steps to restore it". The article provides little of the information that is present in previously mentioned articles regarding Ginsburg's opinions, arguments, and texts on *Roe v. Wade* and abortion rights. Although she acknowledges that Ginsburg supported abortion, Stefano recontextualizes Ginsburg's criticisms of the *Roe v. Wade* case as justification for why overturning the decision is a good thing, i.e., returning legal power to the individual states. This is directly counter to the point made by Barnes (2021, Aug 7) that Ginsburg saw overturning *Roe v. Wade* as the "worst case scenario". In another opinion piece, the magazine *The Federalist* directly quotes Ginsburg once in their article "Roe V. Wade Did Not Empower Women, It Lied To Them" (Waggoner & Hawley 2022, Jul 12). The article addresses the faults of *Roe v. Wade*, and by extension *Planned Parenthood v. Casey*, stating that it was "terrible constitutional law" (2022, Jul 12: Para. 2) and not a "pro-woman opinion" (Para. 8). Unlike the previous news articles that focus more extensively on Ginsburg's opinions and arguments, Waggoner & Hawley refer to Ginsburg in only one short paragraph with a quote that we have seen already in articles from the University of Chicago, *The Washington Post*, and *Deseret News*; "as the late-Justice

Ruth Bader Ginsburg noted, *Roe* was ‘physician-centered’” (2022, Jul 12: Para. 9). Like Stefano, Waggoner and Hawley recontextualize a quote from Ginsburg’s criticisms of *Roe v. Wade* in an article that strongly supports overturning the decision, again, in opposition to the point made in Barnes’ article. However, Waggoner and Hawley are more assertive than Stefano in their antiabortion views, making no mention of Ginsburg’s opinions on abortion outside of her criticism of *Roe v. Wade* and only quoting her text to support their anti-abortion opinion.

Lastly, a couple of news articles discuss the presence of Ginsburg’s texts in the recent abortion commentary *both* in support of and in opposition to *Roe v. Wade*, in keeping with the argument I am making in this paper. In the article “Ruth Bader Ginsburg’s Warning About *Roe v. Wade* Came True” published by *Newsweek*, Palmer (2022, May 3) quotes from a few of Ginsburg’s texts, including her “Speaking in a Judicial Voice” lecture (1992), her book *My Own Words* (2018), and her talk at the University of Chicago (Heagney 2013, May 15), to summarize her criticisms of the *Roe v. Wade* decision, taking care to mention Ginsburg’s argument concerning the inaccessibility of abortion services for the poor. He also references *The Washington Post*’s article, noting that “a number of anti-abortion activists have since used Ginsburg’s comments” to support the overturning of *Roe v. Wade* (Para. 14), as we we have seen in the articles from Stefano and Waggoner and Hawley. Another article from *Newsweek*, titled “Ruth Bader Ginsburg’s Abortion Comments During 1993 Confirmation Go Viral”, describes a video of Ginsburg’s 1993 Confirmation hearing that gained popularity on social media following the overturning of *Roe v. Wade* (Mayer 2022, Jun 27). The article includes the barely twominute-long clip showing Ginsburg’s response upon being asked about abortion rights, and reprints some of the text from the video transcript. Mayer gives an overview of the public responses that accompanied the virality of the video, stating that “[m]ost of those commenting on her

arguments were those who supported Ginsburg's position" (Para. 15), i.e., in favour of protecting abortion, yet "others disagreed with Ginsburg" (Para. 18), likely due to conflicting opinions on abortion rights. These two articles touch on the different recontextualizations of Ginsburg's texts on the two sides of the abortion discourse, specifically noting that even antiabortion supporters reference Ginsburg's criticisms of *Roe v. Wade* to support their views or to refute the pro-choice advocates.

Generally, the first six news media articles that I have discussed above appear to accurately summarize and represent Ginsburg's texts and incorporate a considerable number of direct quotes from her articles and speeches. Some of the most frequently cited texts in these articles originate from Ginsburg's "Speaking in a Judicial Voice" lecture and her 2013 University of Chicago Law School talk. The two opinion pieces, on the other hand, quote Ginsburg much more sparingly and recontextualize the texts in support of the authors' opinions. Nevertheless, the opinion pieces still draw from the same popular text sources as the arguably more 'unbiased' news media articles. This being said, the fact that the news articles provide more comprehensive overviews of Ginsburg's texts does not mean that they are free from the political views that are more clearly expressed in the opinion pieces. The first six news articles, Barnes, Frommer, Blake, Selcho, Waxman, and Gupta, are from left-leaning news media outlets. They all use headlines that indicate a presentation of Ginsburg's negative opinions about *Roe v. Wade*, which they surely do include in their articles, but they dedicate considerable attention to describing her pro-choice opinions which she articulated alongside her criticisms. The articles appear, then, to use her criticisms of *Roe v. Wade* as a means to express her left-leaning views on abortion, which presumably are views shared by the authors and their respective left-leaning news media outlets.

5.3 Referencing Ginsburg on Twitter

Since the draft opinion leak and the subsequent overturning of *Roe v. Wade*, many Twitter users have been engaging in political discourse on the social media platform to discuss and express their opinions about abortion rights and *Roe v. Wade*. And just as Justice Ginsburg and her criticisms of *Roe v. Wade* are a popular topic of discussion in news media and opinion articles, so too do references to her opinions and texts frequently appear in twitter posts discussing the *Roe v. Wade* decision and abortion rights in the United States.

While most of the news articles and opinion pieces chose to directly quote excerpts from texts written or spoken by Ginsburg, only 20 tweets included direct quotes or paraphrased quotes, a small minority of the 147 total posts. Of the tweets that quoted Ginsburg, the most frequently occurring quote came from her 2013 lecture at the University of Chicago Law School: “‘Roe isn't really about the woman's choice, is it?’ Ruth Bader Ginsburg told the University of Chicago Law School in May 2013. ‘It's about the doctor's freedom to practice...it wasn't woman-centered, it was physician-centered’” (Palmer 2022).

This text appeared multiple times as quoted text, such as by Twitter users Shenfield (2022, Jul 4) and Pelleggi (2022, Jul 9), and paraphrased, as user Diane (2022, Jul 10) tweeted,

“...CJ Ruth Bader Ginsburg thought *Roe v Wade* was a faulty decision. It wasn't about women's choice. Wasn't women centered, was physician centered...”.

The second most frequently quoted text, appearing in 3 tweets, also comes from her Chicago lecture, “My criticism of *Roe* is that it seemed to have stopped the momentum on the side of change” (Ginsburg 2013), quoted in full by user American Patriot Jack 867 (2022, Jul 8), and paraphrased by two others. Eleven other unique texts were quoted, such as in Ramirez's (2022,

Jul 12) and Diane’s (2022, Jul 10) tweets, which both quoted Ginsburg calling *Roe v. Wade* a “faulty decision” (coming from her Chicago lecture), and Rose’s (2022, Jul 13) reply to a previous tweet,

“‘Abortion prohibition by the State, however, controls women & denies them full autonomy & full equality with men. That was the idea I tried to express....’ – RBG, I suggest you read the article so you’re clear about RBG’s stance on abortion and RvW.”

The latter tweet also included a link to the *Time* magazine article “Ruth Bader Ginsburg Wishes This Case Had Legalized Abortion Instead of *Roe v. Wade*” (Waxman 2022, June 24), from which the quote came.

In fact, Rose’s (2022, Jul 13) tweet also provides an example of a much more common occurrence, which is the linking of other sources, e.g., news articles and videos, that cite Ginsburg’s texts. Forty-nine of the 147 tweets contained links to news stories, videos, or articles about, or that reference, Ginsburg’s criticisms of *Roe v. Wade*. This is a much larger number of tweets than the number that directly quote Ginsburg’s texts. The two most popularly linked articles, both linked eight times each, are the articles “Ruth Bader Ginsburg’s Warning About *Roe v. Wade* Came True” (Palmer 2022, May 3) from *Newsweek* and “Justice Ginsburg thought *Roe* was the wrong case to settle abortion issue” (Frommer 2022, May 6) from *The Washington Post*. Examples of other popularly linked pieces include the University of Chicago Law School article “Justice Ruth Bader Ginsburg Offers Critique of *Roe v. Wade* During Law School Visit” (Heagney 2013, May 15), linked six times, the YouTube video interview “Justice Ginsburg Says She Was Not 100% Supportive of *Roe v. Wade* Ruling” (Rubenstein 2020, Jul 17), also linked six times. Other linked news sources and/or magazine articles that concern or include texts from Ginsburg’s criticisms of *Roe v. Wade* include *The New York Times* (Gupta 2020, Sept 21), CNN (de Vogue 2020, Feb 10), *The Spring Magazine* (Chen 2022, May 11), *C3 Newsmag* (Hart 2022,

Jul 1), and another of the articles from *The Washington Post* (Blake 2022, June 27).

Additionally, some tweets included images and gifs in addition to the main text of the tweet; some example images are shown below.

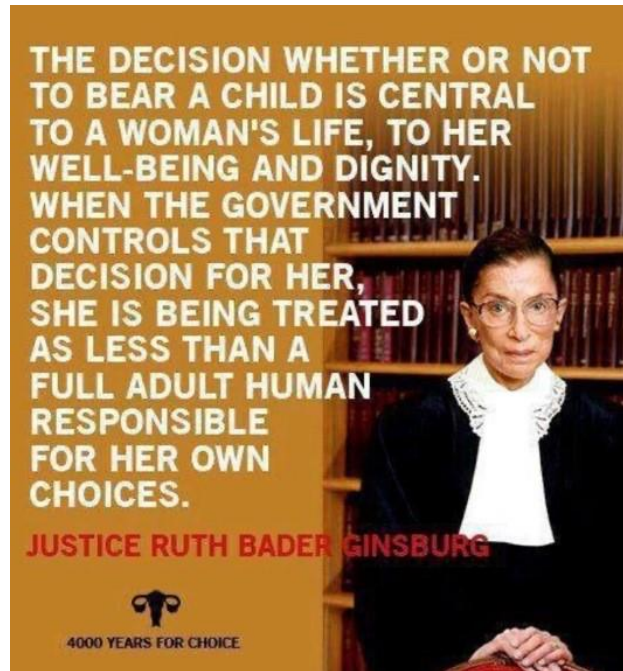


Figure 1

Figure 1 depicts a picture of Ginsburg in her Supreme Court judicial robes overlaid with text quoted from Ginsburg's 1993 speech to the Senate Judiciary Committee. The image was included in the tweet alongside the text "How times have changed. Democrats respect all women, Republicans don't. The part of lean government want [sic] big government to control women" (ps 2022, Jul 7). The author uses the main text of the tweet to express their own criticisms of the Republican party and government intervention in abortion rights and uses figure 1 to cite Ginsburg's texts in support of their criticisms. Presenting Ginsburg's texts in this way, recontextualized into a multimedia image of Ginsburg, makes it unambiguous that these are her words. Additionally, because she appears in the image dressed in her judicial robes, it explicitly

illustrates her position as a Supreme Court judge and legal expert, giving legitimacy to the opinions expressed in the quoted text.

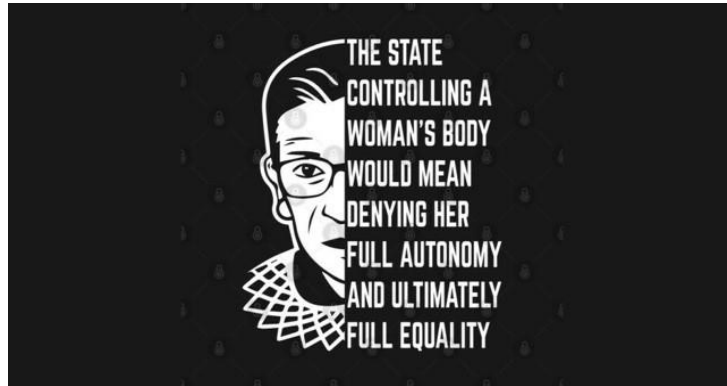


Figure 2

Twitter user Cool Designs (2022, Jul 10), included as figure 2, in a tweet along with the text “RBG Ruth Bader Ginsburg Defend Roe V Wade Pro Choice Abortion Rights Feminism by seaside” and a link to buy t-shirts with the image. The image shows a digitally rendered image of half of Ginsburg’s face with her famous white crochet jabot and text quoted from her 1993 Senate confirmation hearing. The author of the tweet is not necessarily making any explicit critical comments about the anti-abortion movement; in fact they are posting the tweet as an advertisement for clothing. Like figure 1, figure 2 also depicts Ginsburg in her judicial attire, emphasizing her position of power as a legal authority along with her quoted text advocating for individual autonomy. Although figure 2 is being advertised as a product rather than as support for an argument or criticism as in figure 1, it still expresses the same pro-choice opinion and cites Ginsburg’s text and professional image to support this opinion.

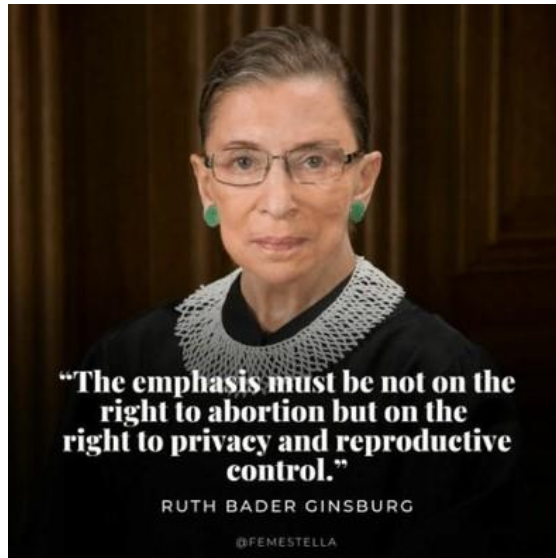


Figure 3

Lastly, figure 3 was posted by user Rosestars (2022, Jul 8) along with the tweet “[d]id you know as early as the 1990s Justice Ruth Bader Ginsburg warned that Roe could be overturned and gave advice on laws to pass? Nobody listened. The justices have made their decision that she warned about. Harassing them is a waste of time. Pass those laws”. The image shows a picture of Ginsburg in her Supreme Court judicial robes and text quoted from her 1974 correspondence with Ms. Magazine. Rosestars’ tweet alludes to Ginsburg’s criticisms of *Roe v. Wade* as being medically focused rather than autonomy focused and this idea is also expressed in the text in figure 3. Like figures 1 and 2, the image of Ginsburg in her judicial robes shows her as a Supreme Court Justice and thus professionally knowledgeable on abortion law.

Another interesting trend occurring in this sample of tweets is the frequent use of the word ‘even’ when referring to Ginsburg and her texts. I have included a few examples of such tweets below with the key “even” phrases bolded.

McSmith (2022, Jul 13)	All the SC ruling did was return the legality to the states. Even RBG questioned RvW. Each state has the right to decide for themselves now. If dems/leftist hadn’t taken this so far with using abortion as a form of birth control we might not be where we are today.
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Owen (2022, Jul 12)	It doesn't matter whether you support abortion or not, that's irrelevant to the fact that roe was a terribly argued case. Even Ginsburg agreed on that point. Abortion is still legal.
Royse (2022, Jul 12)	That's fine, but Roe was never protected by the Constitution. It was never amended. Ruth Bader Ginsburg, even disagreed on the initial ruling of Roe, she said it should've been up to each individual state to decide on Abortion laws.
@Christi41320145 (2022, Jul 12) [deleted account]	Actually, Roe v Wade was unconstitutional. Even Ruth Ginsburg knew it and expected it to be overturned soon.
Hill (2022, Jul 11)	It was such a poor legal decision that even RBG said it was bad. And the Democrats had 50 years to codify it into actual law and did NOTHING about it. Because even the top Democrats now were all against it for the last 50 years.
American Patriot Jack 867 (2022, Jul 9)	Look even Ginsburg new [sic] Roe V Wade was flawed
Ramirez (2022, Jul 12)	Even Ruth Bader Ginsburg said Roe was a "faulty decision". The Left in 2022 is unhinged and becoming more so very quickly.
Watrous (2022, Jul 12)	Even RBG thought Roe v Wade was bad legal decision #prolife
Ganja IS God's Medicine (2022, Jul 10)	Is thanksgiving another "Emanations of the Penumbra"? The way Roe V Wade was foisted on America 49 years ago. Even Justice Ruth Bader Ginsburg called Roe V Wade TERRIBLE LAW.
DankH2O (2022, Jul 5)	No SCOTUS struck down a ruling (Roe) about physicians [sic] rights, not women's. Even Justice Ginsburg said Roe was a bad decision and did nothing for women's rights.

Table 1: Examples of tweets including the phrase 'even Ginsburg' or a variant thereof. Emphasis is added in all examples.

In fact, 37 of the 147 sampled tweets contained a variation of the phrase 'even Ruth Bader Ginsburg', more than the number of tweets that quoted her texts directly. The use of the word 'even' in the contexts of the above examples suggests that the following statement is contrary to expectations. In these tweets, then, there is an attempt to bolster an argument in favour of overruling Roe v. Wade by drawing attention to the fact that, counter to expectations, the famously left-wing Justice Ruth Bader Ginsburg didn't like the *Roe v. Wade* ruling. As noted

above, support for *Roe v. Wade* comes largely from Democrats and the American political left more generally. Generally, then, despite the relative frequency of the phrase ‘even Ginsburg said/thought/knew that *Roe v. Wade* was bad’ and its variants in the Twitter abortion discourse, it appears to only be used as justification for overturning *Roe v. Wade* in the context of ostensibly anti-abortion discourse. The use of ‘even’ in this context allows anti-abortion advocates to emphasize the surprising fact that Ginsburg was critical of *Roe v. Wade*, but, of course, without any indication of the precise nature of that criticism.

I should also point out that a significant number of tweets referenced Ginsburg’s criticism of *Roe v. Wade* as a poorly grounded decision, as seen in some of the above examples. For example, some Twitter users quoted her Chicago Law School lecture where she called *Roe v. Wade* a ““faulty decision”” (Diane 2022, Jul 10; Ramirez 2022, Jul 12), while others offered approximate paraphrases of this opinion, saying she called it “wrongly decided” (Chilton 2022, Jul 12), “a bad decision” (DankH2O 2022, Jul 5; Hill 2022, Jul 11; Thinker 2022, Jul 12; Watrous 2022, Jul 12), “bad law” (Wolf 2022, Jul 9), “shit” (biglang 2022, Jul 9), and “terrible law” (Ganja IS God’s Medicine 2022, Jul 10).

As for the discourse defending Ginsburg’s support of abortion, many of the tweets reference other aspects of her texts and criticisms, such as those mentioned earlier that quoted her comments about *Roe v. Wade* not being “about the woman’s choice” (Palmer 2022). I have provided a few examples of those tweets as well.

Cate Votes Blue (2022, Jul 12)	She fully supported women’s rights to bodily autonomy. Don’t twist it. She felt it wasn’t the best case to establish it and that the equal protection clause would have been more solid. Looks like she was right.
Democracy Soldier (2022, Jul 13)	I’m reading tweets about Ginsburg and her views on Roe. It’s ridiculous to say she wasn’t supportive of the Roe decision, she was. She wanted protections under the 14A to make it stronger. The GOP will use that same argument to ban abortion nationwide, protecting the fetus

Gandy (2022, Jul 12)	Marsha Blackburn is quoting Ginsburg about the deficiencies of Roe. Hey Marsha? That's because the right to abortion should be grounded in the equal protection clause not beacuse [sic] she thinks the right to abortion doesn't exist, you walking box of cheap wine.
Meltzer (2022, Jul 6)	The [sic] are a lot of right wing tweets, esp. bots, suggesting Justice Ginsburg had questions about Roe and Abortion. Ginsburg supported a woman's right to control her body. She did have some hesitations in how Roe was written.
Murphy (2022, Jul 9)	"But what she doesn't say is that there is no constitutional right to an abortion or that Roe was wrong. Indeed her comments take issue mostly in how it arrived at a conclusion she supported, and how sustainable it made that right."
Billevery (2022, Jul 8)	Except she wasn't anti-abortion. Her issue was that Roe's implementation wasn't durable and therefor easy to overturn, which clearly she was right. However, the current justices are very evidently anti-abortion and have no intention of mending it to last longer like she wished.
Tommie (2022, Jul 12)	It wasn't "unconstitutional" and RBG believed no such nonsense, she knew it was in danger because of the religious zealot conservative side of SCOTUS.

Table 2: Examples of tweets referencing Ginsburg's texts as critical of *Roe v. Wade* but supportive of abortion rights.

All of the above examples of quotes or references to Ginsburg's texts are tweets that were either posted as a direct reply to another tweet that references Ginsburg's texts or were more vaguely referring to a trend in tweets that reference her texts. See tweets by Meltzer (2022, Jul 6) and Democracy Soldier (2022, Jul 13) in table 2 for examples of the latter. While the tweets in Table 1 frequently recontextualized Ginsburg's criticisms of *Roe v. Wade* to support criticism and/or the overturning of *Roe v. Wade*, the tweets in table 2 recontextualize Ginsburg's texts to demonstrate her support of abortion rights despite her criticism of the *Roe v. Wade* decision. Not surprisingly, there is a dialogic quality to the tweets in table 2 as they are largely in response to those who have referenced Ginsburg's criticisms of *Roe v. Wade* in an attempt to support its overturning.

6. Textual Trajectories, Divergences, and the Evolution of Meaning

6.1. Meaning and Movement from the Original Context

Justice Ruth Bader Ginsburg authored many texts in which she criticized the *Roe v. Wade* decision and laid bare her professional opinion of the Supreme Court's ruling. Here I briefly review her texts discussed in the previous chapter. Ginsburg argued that the *Roe v. Wade* ruling was too broadly applied beyond the jurisdiction where the case was filed, too narrow in what it defined as constitutional abortion legislation, and had a weak physician-centric justification

rather than being based on gender discrimination. And Ginsburg argued that all of these problems with the decision inadvertently exacerbated the criticism and public opposition to the ruling and to the issue of abortion rights in general. Ginsburg believed that the processes of protecting abortion rights should have been instituted at a slower rate, in dialogue with state legislatures, and grounded in the constitutional protection of gender equality rather than medical privacy, as *Roe v. Wade* was. In the original contexts of Ginsburg's journal articles and public talks, the texts that she produced functioned as cautionary criticisms of what Ginsburg perceived as the shortcomings of the Supreme Court's *Roe v. Wade* ruling and the potential negative consequences of the decision. Her earlier articles, "Some Thoughts on Autonomy and Equality in Relation to *Roe v. Wade*" (1984) and "Speaking in a Judicial Voice" (1992), clearly defined the legal precedents on which the *Roe v. Wade* decision was made in contrast to the legal precedents on which Ginsburg believed the ruling *should* have been made. Her talks at the NYU and Chicago University Law Schools allowed her to reiterate and interpret her criticisms in an interpersonal and public venue. Although different in form, Ginsburg's original articles and talks served the unique purpose of illustrating how and why the *Roe v. Wade* ruling was more injurious than beneficial to the endeavour of securing the legal protection of abortion rights due to the form and justification of the legal opinion.

As I discussed in the previous chapter, units of text produced by Ginsburg have been extracted from their original contexts, i.e., entextualized, and recontextualized in news media articles and in social media many times over in discussions of the overturning of *Roe v. Wade*. In this chapter, I analyze Ginsburg's texts as they move through different contexts, from her original written and/or spoken texts, into news media articles, and finally into the social media platform, Twitter. As the texts move from their original occasions of production into the contexts of news media articles, much of the original text is shaved away, leaving only excerpts from

Ginsburg's speeches and articles that make the texts more palatable and consumable for their general readership. The texts are further recontextualized and often even further reduced when they are required to fit into the 240-character limit of tweets. Although the news media articles can insinuate certain ideological leanings through their recontextualizations of Ginsburg's texts, the comparatively shorter and more succinct tweets frequently demonstrate more conspicuous ideologies concerning abortion rights and the overturning of *Roe v. Wade*. Accordingly, the meanings of Ginsburg's texts may evolve from their original contexts as they move into the context of news media, but their recontextualization in social media posts on Twitter results in the greatest variations in the evolution of the texts' meanings. Ginsburg's texts are predominantly recontextualized on Twitter to demonstrate and support the ideological position of the animator of Ginsburg's words, sometimes forgoing the intentions of Ginsburg, the author and principal of the texts. According to Goffman (1981), the notion of 'speaker' can be divided into three roles: the first is the principal, who holds the beliefs, opinions, or views that are being expressed; the second is the author, who chooses the words and sentiments that contain the beliefs of the principal; and thirdly, the animator, who produces an utterance or says the words selected by the author. So, although Ginsburg is the principal, author, and original animator of her texts, once her texts are recontextualized, the person quoting her becomes the animator.

6.2. Trajectories and Meaning in Pro-Choice Discourse

The recontextualization of Ginsburg's texts in the news media, particularly in centre and centre left leaning media outlets such as *The Washington Post* and *Newsweek*, remain fairly true to the original presentation of the texts albeit summarized. In many of the articles described in chapter 5, the media sources draw in readers with attention grabbing titles like "What Ruth Bader Ginsburg really said about *Roe v. Wade*" (Blake 2022, June 27) and "Why Ruth Bader Ginsburg

Wasn't All That Fond of *Roe v. Wade*" (Gupta 2020, Sept 21), and begin their articles with Ginsburg's criticisms of *Roe v. Wade*. However, in spite of headlines that *might* suggest that Ginsburg is opposed to reproductive rights, the articles go on to provide rather extensive summations of her criticisms using texts that reveal her support of abortion, specifically, that she thought that the overturning of *Roe v. Wade* would be "worst case scenario", as Barnes asserted in his article "Antiabortion activists at Supreme Court cite an unlikely authority for overturning *Roe v. Wade*: Ruth Bader Ginsburg" (2021, Aug 7). In addition, they discuss her professional recommendations as to alternative cases that would have been better able to codify abortion rights, and her opinions on alternative legal justifications that may have improved attitudes towards the *Roe v. Wade* ruling. In fact, the two most commonly cited direct quotes, both taken from her lecture at the Chicago Law school, do just that. The first text, "'Roe isn't really about the woman's choice, is it?' Ginsburg said. 'It's about the doctor's freedom to practice...it wasn't woman-centered, it was physician-centered.'" (Heagney 2013, May 15), appears to be quoted directly by the news media authors to demonstrate exactly one of Ginsburg's biggest criticisms of *Roe v. Wade*, that it wasn't about women or gender rights as much as the rights of the medical professional. The second quote, "my criticism of *Roe* is that it seemed to have stopped the momentum on the side of change" (Heagney 2013, May 15), serves to succinctly explain the nature of Ginsburg's criticisms as not necessarily being critical of the goal of *Roe v. Wade*, i.e., to protect abortion rights, but rather critical of the effect of the ruling as slowing or even damaging what was, at the time, an ongoing process of codifying the right to abortion. The movement of Ginsburg's texts into the news media pieces generally appear to outline both her criticisms and arguments faithfully, and thus maintain the meanings of the texts as they appeared in their original contexts—critical of *Roe v. Wade* but supportive of abortion rights.

Similarly, the movement of Ginsburg's texts into the Twitter-verse, via links to and citations of

news sources, retains quite a lot of Ginsburg's original arguments and intentions with regards to her opinions on abortion rights. As discussed previously, relative to the news media, tweets generally contained more vague references to Ginsburg's texts in the form of paraphrases or allusions. Unlike the news articles which serve to provide comprehensive summaries of Ginsburg's texts to readers, the contexts of the tweets are quite different. The recontextualization of Ginsburg's texts into pro-choice tweets often came in the form of argumentative or oppositional replies to previous anti-abortion tweets which defend Ginsburg's support of abortion rights, notwithstanding her criticisms of *Roe*.

Some of the pro-choice tweets such as Meltzer (2022, Jul 6), copied below, allude to Ginsburg's texts without explicit quotation, and argue against a general trend in anti-abortion tweets that misconstrue Ginsburg's criticisms of *Roe v. Wade* as meaning she is opposed to reproductive rights for women. In this example tweet, the anti-abortion tweets are characterized as "right wing tweets".

"The [sic] are a lot of right wing tweets, esp. bots, suggesting Justice Ginsburg had questions about *Roe* and Abortion. Ginsburg supported a woman's right to control her body. She did have some hesitations in how *Roe* was written."

Meltzer's tweet asserts that Ginsburg's texts demonstrate her support of abortion and women's bodily autonomy, which they do, but with the implication that her texts were more focused on her approval of abortion rights rather than her criticisms of *Roe v. Wade*. His last sentence acknowledges that Ginsburg criticized *Roe v. Wade*, although it also appears to diminish the extent to which she criticized the ruling and rather implies that she was merely dissatisfied with its writing. Additionally, he includes a link to *The New York Times*' "Why Ruth Bader Ginsburg Wasn't All That Fond of *Roe v. Wade*" (Gupta 2020, Sep 21), ostensibly as a means of supporting his interpretations of Ginsburg's texts. Similarly, the tweet by Democracy Soldier

(2022, Jul 13), quoted below, also refutes claims that Ginsburg’s criticisms of *Roe v. Wade* make her anti-abortion.

“I’m reading tweets about Ginsburg and her views on *Roe*. *It’s ridiculous to say she wasn’t supportive of the Roe decision, she was* [italics added]. She wanted protections under the 14A to make it stronger. The GOP will use that same argument to ban abortion nationwide, protecting the fetus.”

Like Melzter’s tweet, twitter user Democracy Soldier reports Ginsburg as being supportive of abortion rights and accurately characterizes Ginsburg’s texts as stating that *Roe v. Wade* ought to have been grounded in the protection of equal rights. However, this tweet differs in that the author argues that Ginsburg’s texts demonstrate that she was perhaps more approving of *Roe v. Wade* than she actually was. The assertion that she was “supportive of the *Roe* decision” neglects the extent of Ginsburg’s criticisms of *Roe v. Wade*. In fact, her criticisms of *Roe v. Wade* are not included in this tweet at all despite their prevalence in her texts on the topic of abortion rights. With that being said, a greater number of the pro-choice tweets were made as direct replies to singular anti-abortion tweets. Cate Votes Blue penned her tweet, quoted below, as a direct response to a tweet linking the Chicago Law School article (Heagney 2013, May 15), along with the claim that “RBG thought *Roe* was wrong” (Gleason 2022, Jul 11).

She fully supported women’s rights to bodily autonomy. Don’t twist it. She felt it wasn’t the best case to establish it and that the equal protection clause would have been more solid. Looks like she was right. (Cate Votes Blue 2022, Jul 12)

Cate Votes Blue’s tweet addresses Ginsburg’s criticisms more directly and more accurately than those by Meltzer (2022, Jul 6) and Democracy Soldier (2022, Jul 13), and focuses on Ginsburg’s support of abortion services expressed via her criticisms of *Roe v. Wade*. The tweets by Billevery (2022, Jul 8), Tommie (2022, Jul 12), and Murphy (2022, Jul 9), as shown in table 2 from chapter 5 and reproduced below, were made as replies to tweets alleging that “RBG thought *Roe* was wrong” (Gleason 2022, Jul 11) or “RBG said the decision was shit” (biglang 2022, Jul 9).

Billevery (2022, Jul 8)	Except she wasn’t anti-abortion. Her issue was that <i>Roe</i> ’s implementation wasn’t durable and therefor easy to overturn, which clearly she was right. However, the current justices are very evidently anti-abortion and have no intention of mending it to last longer like she wished.
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Tommie (2022, Jul 12)	It wasn't "unconstitutional" and RBG believed no such nonsense, she knew it was in danger because of the religious zealot conservative side of SCOTUS.
Murphy (2022, Jul 9)	"But what she doesn't say is that there is no constitutional right to an abortion or that Roe was wrong. Indeed her comments take issue mostly in how it arrived at a conclusion she supported, and how sustainable it made that right."

Billevery referenced Ginsburg's criticism of *Roe v. Wade*'s justification as leaving the decision susceptible to overturning in an attempt to refute a previous tweet that claimed Ginsburg thought it to be unconstitutional (YouwontlikewhatIhavetosay 2022, Jul 8). Tommie's tweet similarly alluded to Ginsburg's concerns over the stability of *Roe v. Wade* when faced with criticism from anti-abortion advocates. This was also in response to a tweet declaring Ginsburg's opinion of *Roe v. Wade* as unconstitutional (@Christi41320145 2022, Jul 12). In the last example, Murphy both linked and quoted from *The Washington Post*'s "What Ruth Bader Ginsburg really said about *Roe v. Wade*", citing the line "...indeed her comments take issue mostly in how it arrived at a conclusion she supported, and how sustainable it made that right" (Blake 2022, June 27), which was in response to a tweet claiming that "RBG said the decision was shit" (biglang 2022, Jul 9).

While the recontextualization of Ginsburg's criticisms of *Roe v. Wade* in the news media did not greatly alter the meaning of her texts, the recontextualization from news media into prochoice tweets demonstrates a retention of Ginsburg's support of personal bodily autonomy, but sometimes sacrificing her genuine criticisms. Ginsburg's texts certainly do not suggest that she was anti-abortion, but she was very critical of many aspects of the *Roe v. Wade* decision that are not always translated into the recontextualizations of her texts in pro-choice tweets. Some twitter users only softened the extent of Ginsburg's criticisms of the *Roe v. Wade* justification

(she advocated for a better justification to protect the decision against criticism), while others, like Democracy Soldier (2022, Jul 13), claimed that she in fact approved of the *Roe v. Wade* decision, thus disregarding many of Ginsburg's criticisms. These shifts in meanings that occur across the trajectories of Ginsburg's texts in pro-choice media are not necessarily harmful in their alterations of her intentions; nevertheless, it is important to acknowledge that some of the recontextualizations, particularly on Twitter, frequently ignore or bridle the extent of her criticisms in favour of aggrandizing the portions of her texts that express her support of abortion rights. This is presumably done as a way of further bolstering Twitter users' own pro-choice views.

6.3. Trajectories and Meaning in Anti-Abortion Discourse

Despite Ginsburg being such a vocal advocate for gender equality and personal bodily autonomy, as *The Washington Post* (Barnes 2021, Aug 7) and *Newsweek* (Palmer 2022, May 3) pointed out, there are yet many members of the anti-abortion, or at the very least, anti-*Roe* ideological camp who choose to utilise Ginsburg's criticisms as bolstering their arguments in support of overturning the *Roe v. Wade* decision. As we have seen, most of the popular news media sources which reference Ginsburg's texts do so by including *both* her criticisms of *Roe v. Wade* and her support for gender equality and abortion rights. However, this is not the case with all of the news media articles. Recalling *The Philadelphia Inquirer* opinion piece "Why overturning *Roe v. Wade* strengthens American democracy" (Stefano 2022, Jul 4) and *The Federalist* opinion piece "Roe V. Wade Did Not Empower Women, It Lied To Them" (Waggoner & Hawley 2022, Jul 12) discussed in chapter 5, the former news outlet typically leans left while the latter outlet leans right. Even so, both media sources recontextualized Ginsburg's texts in articles plainly

supporting the overturning of *Roe v. Wade*, the very event over which Ginsburg had expressed concern. *The Philadelphia Inquirer* article, like many of the other left leaning news media outlets, acknowledged that Ginsburg was pro-choice and critical of the divisive nature of the *Roe v. Wade* ruling. But, although Ginsburg's original texts contextualized her criticisms of *Roe v. Wade* in an argument for stronger protections of women's rights, Stefano recontextualized her texts as advocating for returning the right to self-governance on the issue of abortion rights to the jurisdiction of the individual states. *The Federalist* article recontextualized only a single quote from Ginsburg into a much more fiercely pro-life or anti-abortion frame; Waggoner and Hawley use the same "physician-centred" quote as some of the left leaning news articles (Heagney 2013, May 15) but, they argue that it supports their assertion that *Roe v. Wade* was not in favour of women's rights but rather patriarchal and deceptive.

Interestingly, when Ginsburg's texts are recontextualized in pro-life Twitter discourse, the Twitter users from the sample data did not cite these pro-life/anti-abortion articles in their tweets, but rather used the same left leaning news media sources as the pro-choice discourse participants did. Twitter user Joe Badin replied to a long thread of tweets concerning various bipartisan issues by including a link to Newsweek's article "Ruth Bader Ginsburg's Warning About *Roe v. Wade* Came True" (Palmer 2022, May 3), along with text that alludes to Ginsburg's criticisms of *Roe v. Wade* and sarcastically claims she liked the decision, suggesting that she would have voted against it.

"And let's not forget what a big fan of RvW she was. Hell, if she was still alive she might have voted with Clarence!!" (Badin 2022, Jul 12).

The same article was also linked by user @Christi41320145 (2022, Jul 12) who quoted from it, "While it may seem unlikely, Ginsburg, the pioneering advocate for women's rights who died in September 2020 at age 87, was a frequent critic of *Roe v. Wade*, especially its framing and the

speed in which it was pushed through” (Palmer 2022, May 3). This was in response to user Tommie’s (2022, Jul 12) tweet that Ginsburg “believed no such nonsense” that *Roe v. Wade* was unconstitutional.

Ginsburg’s Chicago Law School talk also proved to be a popular text among the pro-life advocates. Twitter user AC Gleason linked the article in a reply to a pro-choice tweet, using Ginsburg’s criticisms as a reason to “give up on bad court decisions” (2022, Jul 11) and user Brandin Ramirez linked the article, calling the political left “unhinged” (2022, Jul 12) in a reply to a tweet condemning the “intolerance and orthodoxy” of liberal professors’ responses to the SCOTUS overruling (Turley 2022, Jul 12). The article also appeared linked and paraphrased in a reply to a pro-choice tweet about the detrimental effect of the decision on women's health (BrooklynDad_Defiant! 2022, Jul 5). The tweet asserts the failure of *Roe v. Wade*,

“No SCOTUS struck down a ruling (Roe) about physicians rights, not women’s. Even Justice Ginsburg said Roe was a bad decision and did nothing for women’s rights.” (DankH2O 2022, Jul 5)

Other articles about Ginsburg’s texts that are linked in pro-life tweets include *The Washington Post*’s “Justice Ginsburg thought Roe was the wrong case to settle abortion issue” (Frommer 2022, May 6) and *The New York Times* article “Why Ruth Bader Ginsburg Wasn’t All That Fond of *Roe v. Wade*” (Gupta 2020, Sept 21); the former is linked alongside the #prolife hashtag (Watrous 2022, Jul 12) and the latter is linked in a tweet arguing that the SCOTUS decision to overturn *Roe v. Wade* “followed the constitution” (Mistress of Truth 2022, Jul 4). The latter tweet was a reply to a thread criticizing the overturning of *Roe v. Wade*.

In addition to the tweets linking news articles, there are many pro-life and/or anti-*Roe v. Wade* tweets that paraphrase and recontextualize Ginsburg’s texts without a clear indication of the contextual paths taken to get there. This includes the large number of tweets stating

variations of “even Ginsburg knew *Roe v. Wade* was wrong”. In spite of paraphrasing Ginsburg’s words, however, the recontextualization of Ginsburg’s criticisms of *Roe v. Wade* in tweets that support the SCOTUS decision to overturn *Roe v. Wade*, especially in defence of the pro-life ideology, fundamentally transforms the meaning of Ginsburg’s texts. That is, they put forward an argument that was neither originally expressed nor intended by Ginsburg. While the prochoice Twitter discourse also chose to alter the meaning of Ginsburg’s texts (to emphasise her support of personal bodily autonomy), the recontextualization of her texts in pro-life Twitter discourse resulted in much greater transformations of meaning. By ignoring the pieces of Ginsburg’s texts that explicate the central argument of her criticisms, that is, that the medicalprivacy-centred justification for the *Roe v. Wade* decision would likely undermine the process of protecting of abortion rights, the anti-*Roe* discourse recasts her texts as disparagements of the goal of *Roe v. Wade*, i.e., constitutional protection of abortion rights.

There is certainly a shift in meaning in the recontextualization of Ginsburg’s texts in antiabortion news media articles, as *The Federalist* demonstrates; however, these right-leaning media opinion pieces haven’t been linked or referenced in the Twitter discourse as in the centre to left-leaning news media, which have shown themselves to be more transparent about the original meanings of the texts. Ultimately, the most significant changes in meaning in the trajectories of Ginsburg’s texts occurs when they are recontextualized in the social media discourse on Twitter, and this is true for both pro-choice and pro-life discourse. As Ehrlich and Romaniuk (2021) argued, it is important methodologically to trace the trajectories and recontextualizations of texts in order to understand where the problematic interpretations are occurring. When we follow the trajectories of Ginsburg’s texts from their original occasions of production into the popular news media, we can see that there is generally little alteration of her meanings and arguments in the news recontextualizations. This allows us to understand that the

major reinterpretations of her texts typically occur when they are recontextualized in social media; this is also the point in the texts' trajectories where divergent political ideologies become the most salient in the discourse.

7. Power and Authority Through Entextualization

7.1. Citations to Authority: Ginsburg's Texts in Media

The frequent citations and recontextualizations of Justice Ruth Bader Ginsburg's texts in current media discourse on *Roe v. Wade* is far from surprising given the number of articles and talks she produced on the topic throughout her legal career. Additionally, her advocacy for women's and gender rights (Ginsburg 1975, 1977, 1977a), human rights (Ginsburg & Merritt 1999), and the Equal Rights Amendment (Ginsburg 1978, 1979) means that Ginsburg is more often than not considered to have been a "pioneer for gender equality" in the United States (Pullman 2016). Given that *Roe v. Wade* is a legal case and Ginsburg was a Supreme Court Justice who produced many texts on the case as well as on other Supreme Court cases on similar issues (Ginsburg 1992), Ginsburg and her texts are recognized to be an authoritative voice, or at the very least, insightful commentary on the achievements and, in the case of *Roe v. Wade*, the failures of abortion legislation (Smith 2011; Tobin-Tyler 2020, October 8). This framing of Ginsburg as the unreserved legal expert on gender rights and abortion legislation does a lot to explain why so many people on both sides of the *Roe v. Wade* issue have chosen to cite her texts as a way of supporting their arguments and perspectives.

In a study of citations in legal decisions from the Supreme Court of New South Wales, Smyth and Nielsen (2008) note that most judgements contain citations to authority that

contextualize the judgement in a doctrine of precedent, also called *stare decisis*, which is defined by the Legal Information Institute (2021, December) as follows,

“When a court faces a legal argument, if a previous court has ruled on the same or a closely related issue, then the court will make their decision in alignment with the previous court’s decision”.

Smyth and Nielsen argue that these citations to authority, which may come in the form of previous legal decisions, journal articles, learned text, etc., “enhance [the judgement’s] persuasiveness and increases the likelihood that it will find favour with the courts” (2008:189). Essentially, citing what was said and decided about an earlier legal issue when considering a current legal issue encourages readers to view the current opinion as more legally sound and reasonable, provided it aligns with the perspective of the previous legal decision. In a similar, although much less legally influential context, news media authors and social media users look to Ginsburg’s texts in order to cite an authoritative figure when producing discourse on *Roe v. Wade*. Ginsburg is one of the central authoritative voices on *Roe v. Wade*; therefore, referencing her texts in their own writing allows the authors of tweets and/or news articles to borrow her legitimate authority to support, justify, or persuade others of their personal opinions about the validity of *Roe v. Wade*. Citations of Ginsburg’s texts in media are meant to prove to the readership that the opinions and/or criticisms presented by the author of the news article or tweet are not unique to the author, but rather have precedent in the work of an expert legal authority and are thus well-founded.

Another aspect of citation, outside of legal contexts, comprises what Greenberg (2009) describes as the phenomenon of “social citation”, which refers to the use of citation “for self-serving purposes or as a tool for persuasion” (6), i.e., to lend legitimacy to one’s arguments or assertions. In his study of citation in natural science publications, Greenberg uses the lens of

Social Network Theory to explore the ways that “distortions of the persuasive aspect of social citation may result in broad acceptance of unfounded claims as fact”, concluding that “citation distortions resulted in authority of the belief (acceptance of it)” (6). The data from Greenberg’s study included large networks of citations in academic contexts where repeated citations reaffirmed false or disputed claims as authoritative. While this is a rather different case than what we have seen with Ginsburg’s texts, we can nonetheless find citation distortion occurring in the media recontextualizations of her texts, especially in the context of Twitter posts. Specifically, the alterations in the meanings of Ginsburg’s texts when they were recontextualized in Twitter were significant, yet they were still attributed to Ginsburg. In Greenberg’s terms, this constitutes a considerable distortion of the social citation. As noted above, while the popular news media generally recontextualized Ginsburg’s texts in ways that retained her meanings, when her texts were relocated in Twitter, particularly in the anti-*Roe v. Wade* discourse, the recontextualized texts demonstrated an inauthenticity while at the same time exploiting Ginsburg’s voice to lend authority to the opinions and views expressed.

7.2. Citations of Gender Empowerment

As I have discussed in previous chapters, *Roe v. Wade*, the right to personal bodily autonomy, and the right to gender equality are legal and social issues in which women are the primary subjects—a segment of the population that has been historically, and even currently, a disadvantaged population (Malta et al. 2019; Markowitz 1990). For much of the history of the United States, women have been unable to have a hand in law and government, even in legislation pertaining to themselves. Women were not permitted to practice law in the United States until 1879 (Supreme Court of the United States 2020), they were not granted the right to vote until 1920 (National Archives 2022, February 8), and no woman acted as a Supreme Court

Justice until Sandra Day O'Connor took the bench in 1981 (Supreme Court of the United States 2020), almost a decade after the ruling on *Roe v. Wade*. Since Justice O'Connor, only five other women have been Supreme Court Justices, including Ginsburg, with four of them, Sotomayor, Kagan, Barrett, and Jackson currently sitting on the bench, having been appointed in 2009, 2010, 2020, and 2022, respectively (Supreme Court of the United States 2022). And in the legislative branch of government, the 2021 congressional elections saw a record number of women voted into office, but still only accounting for 120 out of 439 congressional seats—a little over a quarter of the seats (Blazina & DeSilver 2021, Jan 22). While women's political participation is certainly increasing and their voices are becoming more prominent in politics and law, they still lack the same level of representation and authority that men do in the political sphere (Conway 2001). However, with the advent of online and social media, women have been given more tools and opportunities to participate in political discourse and engage in discussions concerning their own legal rights. This can be seen quite clearly in the current social media discourse surrounding *Roe v. Wade* and abortion rights. Of particular significance in the social media discourse on *Roe v. Wade* is the fact that it is a woman, Ruth Bader Ginsburg, who is the authoritative figure whose words are repeatedly and consistently cited and recontextualized. In his book *Power/Knowledge: Selected Interviews and Writings* (1980), Foucault posits that the power of texts, their authority in discourse, is largely created by public interaction with texts and the ways in which the public use texts, move them, and recontextualize them into new frames and contexts, accompanied by transformation in meanings. The concept of text and power is also explored by Bauman and Briggs (1992) in their article "Genre, Intertextuality, and Social Power". They suggest that people who are socially disadvantaged in some respect because of their social identity, be it due to gender, race, economic class, etc., may participate in often

public acts of entextualization and recontextualization that allow them to produce texts that articulate and accentuate the “injustice of their situation” to a greater audience (158).

Furthermore, Bauman and Briggs argue that the act of entextualizing and/or recontextualizing can also be a means of achieving or claiming power through active social or political engagement involving the recontextualization of texts that contain or speak to the forms of power which the person is lacking.

For media authors, especially, but not necessarily, women, who are citing and recontextualizing Ginsburg’s texts in their arguments in favour of *Roe v. Wade* and women’s/gender rights, Ginsburg is crucially *a woman* who is an authoritative legal voice advocating for the importance of abortion rights and legislation on the grounds of gender equality and personal bodily autonomy. Indeed, one of her most significant criticisms of the *Roe v. Wade* decision was that it should have been grounded in a justification of gender equality and personal bodily autonomy. This point is argued by a few twitter users, notably Meltzer (2022, Jul 6) who tweeted that “Ginsburg supported *a woman’s* [emphasis added] right to control her body”, and Cate Votes Blue (2022, Jul 12) who similarly stated that “[Ginsburg] fully supported *women’s* [emphasis added] rights to bodily autonomy”. In both cases, the authors of the tweets didn’t simply say ‘a person’s right’, but they reference Ginsburg and her texts in the context of saying that it is an issue of ‘women’s rights’. This makes it clear that the right to access abortion services isn’t a question of “personal autonomy derived from the due process guarantee” (Ginsburg 1984:381), as Ginsburg criticized in the legal justification of *Roe v. Wade*, but rather an issue of “a woman’s autonomous charge of her full life’s course” (383). In the news media as well, we saw the repeated quotation of many of Ginsburg’s texts, such as the quote “[i]t’s about the doctor’s freedom to practice...it wasn’t woman-centered, it was physician-centered” from her Chicago Law School talk (Heagney 2013, May 15), appearing in articles in *The Washington Post*

(Blake 2022, June 27) and *Deseret News* (Selcho 2022, June 28). Although journalists citing Ginsburg in official news media publications is perhaps a less personally empowering action than private citizens citing her texts in social media posts, the inclusion of texts such as the above quote in popular news media draws explicit public attention to Ginsburg's focus on women, the autonomy of individuals, and the empowerment of women in the discussion and legislation of abortion rights.

Thus, citing or referencing excerpts from Ginsburg's texts on *Roe v. Wade* when making arguments in support of *Roe v. Wade* and/or in support of abortion rights in general authenticate a woman as the powerful voice of authority on abortion issues: her texts are used to emphasize the importance of giving autonomy and the power of choice to women. In this way, whether consciously or unconsciously, women who are referencing Ginsburg's pro-gender rights texts in their own news and social media publications are not only empowering women in general, but also empowering themselves and their own voices as members of the disproportionately disadvantaged population who have been under-represented relative to men in the political arena. I would also argue that other persons who reference Ginsburg's texts, even if they are not directly implicated in the legal scope of *Roe v. Wade* and the abortion issue, are also empowering women. Despite these not being issues that affect them personally to the same degree that they affect women, these media authors stand in solidarity with women by arguing in favour of gender rights and personal bodily autonomy which they, too, ground in the authoritative voice of one of the Supreme Court's most vocal advocates for the rights, autonomy, and empowerment of women.

7.3. Recontextualizing Power into Gender Inequality

Unfortunately, that which can empower a group of people in one context can, in a different context, disempower that very same group. As I have previously discussed, recontextualizations of Ginsburg's texts in anti-*Roe v. Wade* or pro-life discourse, such as the many tweet variations on 'even Ginsburg knew *Roe v. Wade* was bad', operate to shift the original meanings of her texts to meanings that align with the anti-*Roe v. Wade* sentiments. These recontextualizations remove Ginsburg's specific criticisms of the form and justification of *Roe v. Wade* as potentially harmful to the progress being made to protect abortion and gender rights and reconfigure them into criticisms of *Roe v. Wade* as "terrible constitutional law" (Waggoner & Hawley 2022, Jul 12). Many of the anti-*Roe v. Wade* media authors, especially on Twitter, frequently reference Ginsburg and her texts in their arguments against *Roe v. Wade*, such as the Twitter user who claims that it "did nothing for women's rights" (DankH2O 2022, Jul 5). Some Twitter users even recontextualize Ginsburg's criticisms into tweets that blame women themselves for the opposition to *Roe v. Wade*. An example of this can be seen in the tweet from Twitter user McSmith (2022, Jul 13),

"All the SC ruling did was return the legality to the states. Even RBG questioned RvW. Each state has the right to decide for themselves now. *If dems/leftist hadn't taken this so far with using abortion as a form of birth control we might not be where we are today* [emphasis added]."

Such a comment appears to insinuate that women—being the group of 'dems/leftists' most likely to make use of abortion services—exercising their reproductive rights and autonomy over their bodies is a significant cause of the *Roe v. Wade* controversy rather than the weak legal justification as suggested by Ginsburg. This type of discourse reflects a common social stereotype that "labels women who have abortions as irresponsible, promiscuous, and callous" (Nickerson, Manksi & Dennis 2014: 683). It is important to point out that this view of women who have abortions was not present in Ginsburg's texts.

Another, more common citation of Ginsburg in the anti-*Roe v. Wade* discourse, is in relation to the issue of constitutional protection versus state rights. Several twitter users made comments that the overturning of *Roe v. Wade* is solely about returning the right to make legal decisions to the states because, as McSmith (2022, Jul 13) declared, “each state has the right to decide for themselves now”. Other examples of similar tweets include, “Ruth Bader Ginsburg [...] said it should've been up to each individual state to decide on Abortion laws” (Royse 2022, Jul 12), “Ruth Bader Ginsburg wrote/spoke much about Roe v Wade and that it was wrong and should be constitutionally left to the states” (Newlife3.0 2022, Jul 11), “[Ginsburg] wanted a state by state approach” (Fensand 2022, Jul 8), and “abortion still lies w/power of the States. Every American has right 2 vote on abortion; SCJ Ruth Bader Ginsburg knew Roe vs Wade was unconstitutional” (U.S. Stolen by Our Govt 2022, Jul 8). The argument here, once again recontextualizing Ginsburg’s texts to support it, is that the problem with *Roe v. Wade* is not the absence of a gender equality justification, but rather the fact that state legislatures are not allowed to decide abortion legislation for themselves. While the pro-choice Twitter discourse cited Ginsburg’s texts to argue for the constitutional protection of abortion grounded in gender rights and equality, the anti-*Roe v. Wade* Twitter discourse makes little to no comment on recognizing and protecting women’s rights, but rather celebrates the states’ rights to decide their own legislation, seemingly regardless of whether or not the legislation is based on gender equality.

As I noted earlier, while the participation of women in U.S. politics is at an all-time high, women are still vastly outnumbered by men in politics and law who account for just under three quarters of U.S. Congressional seats. The representation of women in state legislatures is marginally better, but certainly not at gender parity; currently in 2022, only 31.1% of state

legislators are women (Center for American Women and Politics 2022), i.e., the people who will be creating state legislation on abortion. The 10 states with the lowest number of women in the legislature are West Virginia (13.4%), Mississippi (14.9%), Tennessee (15.2%), Alabama (16.4%), South Carolina (17.1%), Wyoming (17.8%), Louisiana (19.4%), Oklahoma (20.8%), North Dakota (22.0%), and Arkansas (23.0%) (The New York Times 2022, May 24).

Coincidentally or not, they are also all currently “Red States”, meaning that the majority of the voter base vote for the Republican party and/or they generally have conservative views (World Population Review 2022). A few of these Red States, Mississippi, Alabama, Oklahoma, and Arkansas, along with Texas, Missouri, South Dakota, and Wisconsin introduced abortion bans shortly after *Roe v. Wade* was overturned (The New York Times 2022, May 24), and this was likely done without giving every citizen—every *woman*—in their state the “right 2 vote on abortion”, as Twitter user U.S. Stolen by Our Govt (2022, Jul 8) claimed would be the case.

Abortion bans are also expected to be passed in Idaho and Tennessee and have been attempted but momentarily blocked in Louisiana, Arizona, Kentucky, North Dakota, Utah, West Virginia, and Wyoming (The New York Times 2022, May 24). Some states have as of yet only imposed strict gestational limits for abortion, Florida at 15 weeks, and Ohio, South Carolina, and Georgia at 6 weeks, and lastly, a number of states currently allow abortion but are seeing or expecting greater opposition, including Indiana, Iowa, Kansas, Michigan, Montana, Nebraska, North Carolina, Pennsylvania, and Virginia (The New York Times 2022, May 24).

Indeed, it appears to be the case that overturning *Roe v. Wade* to “return the legality to the states” (McSmith 2022, Jul 13) has not contributed to the protection of personal bodily autonomy given that many states immediately banned abortion services or are seeking to ban abortions, and therefore, are also not interested in establishing gender equality in healthcare legislation.

Although it is not the work of the anti-*Roe v. Wade* Twitter discourse that has led to these results,

the Twitter discourse praises the decision to overturn *Roe v. Wade* under the justification that it is better for the rights of states and presumably their citizens to make these decisions for themselves. However, what this fails to acknowledge is first, that these decisions about abortion and women's rights to choose abortion are happening in the state legislatures, they are not being decided by referendum, and secondly, that there is a lack of gender equality in the state legislatures with only one state out of 50, Nevada, having equal or a greater representation of women (Center for American Women and Politics 2022).

Transforming Ginsburg's texts into anti-*Roe v. Wade* discourse that values the rights of the individual states to make legal decisions over the rights of women to have personal bodily autonomy rejects the pro-gender equality argument that forms the central tenet of Ginsburg's criticisms of the *Roe v. Wade* decision. That is, the anti-*Roe v. Wade* discourse is taking texts that advocate for women's empowerment, produced by a woman who advocated for women's empowerment, and using them to argue for the disempowerment of women under the guise of returning rights to state legislatures. Twitter users reference Ginsburg's texts, saying that "Ginsburg knew [it] was unconstitutional" (U.S. Stolen by Our Govt 2022, Jul 8) as a way of justifying the argument that decisions about women's equal rights to bodily autonomy are better made, not by women themselves, but in male dominated state legislatures, a blatant misrepresentation of Ginsburg's original arguments.

8. Conclusion

As noted above, when Justice Ruth Bader Ginsburg's texts were recontextualized in various news media publications, they largely retained the meanings and intentions of the original texts through rather faithful summaries of Ginsburg's various criticisms of the Supreme Court's *Roe v. Wade* decision. A couple of media outlets published opinion pieces using her texts to support the overturning of *Roe v. Wade*, but these pieces were not linked or referenced in the Twitter discourse. Once the texts moved from the news media into tweets, the representation of their meanings diverges quite noticeably from the texts' original meanings and the discourse more generally is more conspicuous in its espousal of users' ideological perspectives regarding *Roe v. Wade*. This is not particularly surprising given the nature of Twitter and social media in general as an informal and personal mode of communication, whereas professional journalists are typically expected to maintain a neutral perspective in their publications. On the one hand, Ginsburg's texts are recontextualized in pro-choice Twitter discourse in ways that emphasize her advocacy for women's rights and bodily autonomy through references to her wish for the legal justification of *Roe v. Wade* to have been grounded in gender equality. Although this discourse tends to diminish the extent and sharpness of her criticisms of *Roe v. Wade*, the repeated references to Ginsburg as a female voice of authority, coupled with the accentuation of her insistence on gender equality for women, is empowering for women. By contrast, the recontextualization of her texts in anti-abortion Twitter discourse emphasizes Ginsburg's criticisms of *Roe v. Wade* to the point of exaggeration with claims that she believed the decision to be wrong, terrible, and/or unconstitutional. The anti-abortion discourse largely neglects her advocacy for individual autonomy and instead references her brief arguments in favour of dialogue with state legislatures in abortion decisions. In doing so, the anti-abortion discourse rejects the voices and power of women in the abortion issue and instead grants power and agency

to the nebulous body of male dominated state governments, creating a dynamic of inequality in women's representation and authority in abortion decisions.

This study revealed some interesting trends in the use of recontextualized texts across two different ideological camps. The discourse from both parties, pro-choice and anti-abortion, used the same or similar texts from Ginsburg but recontextualized them in support of conflicting arguments regarding the Supreme Court's overturning of *Roe v. Wade*. Although there isn't a large enough body of data to make definitive claims about the use of and meanings intended by the references to Ginsburg's texts on the two sides of the *Roe v. Wade* debate, there do appear to be some traceable patterns in the trajectories of Ginsburg's texts and the types of discourse into which the texts are recontextualized. As mentioned previously, the expectation of journalistic integrity means that the news media recontextualizations of Ginsburg's texts remain fairly neutral in their representation of her opinions and intentions. Yet, the trajectories of Ginsburg's texts onto Twitter reveal patterns of gender empowerment and inequality coinciding with the division of pro-choice and anti-abortion discourse. As determined by Ehrlich and Romaniuk's (2021) work on text trajectories, discussed in chapter 4, the movement of texts into new contexts can result in the loss of key details and create new meanings that perpetuate social, and specifically, gendered inequalities. I have found that this pattern emerges in the text trajectories of Ginsburg's texts as well. When her texts are recontextualized into anti-abortion discourse, the authors highlight her criticisms of *Roe v. Wade* as poorly decided and lose the details of her support for individual autonomy and freedom of choice for women. But I also believe that the recontextualizations into pro-choice discourse can contribute to the empowerment of women's voices as the use of Ginsburg's texts allow the authors to emphasize a powerful woman's advocacy for bodily and personal autonomy. This dynamic of gender empowerment versus inequality is perhaps the most significant finding from this study.

Given that this is a relatively small-scale research project, I was unable to perform a large survey of news media and social media discourse about the current *Roe v. Wade* debate and this ultimately limits the analysis and claims that I am able to make. Although the popular news media sites I looked at typically provide neutral to liberal leaning stances on political issues, further research in this subject area would greatly benefit from the exploration of the trajectories of Ginsburg's texts into more partisan news media sources. The study could also be improved by a comparison of the recontextualization of texts in other forms of social media, such as Instagram, Facebook, or WhatsApp. Furthermore, it would have been interesting to perform a study of the discourse over a longer period of time to see how the uses of Ginsburg's texts might change over time as the political context changes and, in particular, as individual states create their own abortion legislation, to the joy or despair of their citizens. It would also be interesting to see if there is variation in the references to Ginsburg as a legal authority in relation to gender, but this is not always feasible due to the affordance social media gives to anonymity. Overall, there are many potential avenues that could be followed for future research on Ginsburg's texts in online media.

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