

World

Abortion in peril says Roe v Wade lawyer

United States

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Sarah Weddington was 26 when she first appeared as a lawyer before the nine male judges of the Supreme Court to argue for a woman's right to end her pregnancy. When judgment in the case of *Roe v Wade* was handed down more than a year later in 1973 she thought that the fight was over.

She told *The Times* this week: "It never occurred to me that almost 50 years later I would still be talking and working on this issue."

It is in greater peril now than at any point since the Supreme Court legalised abortion 45 years ago. A combination of moral misgivings among many Americans, aggressive organising by the religious right and shrewd calculations by conservative electoral strategists has ensured that abortion became and remains a defining schism in US political and cultural life.

Pro-choice campaigners fear that President Trump is now close to engineering the judicial transformation that they have feared: shaping a Supreme Court that will dismantle that decision and pave the way for abortion to become illegal in most states.

Having already made one strongly conservative appointment to the court last year, Mr Trump has promised to name his preferred nominee on Monday to replace Anthony Kennedy, the retiring justice who had served as a decisive bulwark against the most socially conservative jurists. Mr Trump has said he would "probably not" ask potential candidates directly about their views on *Roe v Wade* but added that he thought that the question of abortion "could very well end up with the states at some point" — another way of saying that the reshuffled court would scrap the national protection conferred by the ruling.

On the campaign trail Mr Trump

Trump's shortlist

Brett Kavanaugh, 53, a former clerk to the retiring Anthony Kennedy. Dissented on a decision that allowed an immigrant teenager an abortion.

Raymond Kethledge, 51, ruled last year against action taken by the Internal Revenue Service against conservative political groups.

Amy Coney Barrett, 46. Suggested that the *Roe v Wade* decision may have been "erroneous" and has criticised the birth control benefit in the Affordable Care Act as an "assault on religious liberty".

made clear trail that it would be a goal of his presidency to produce that result. Asked then if he wanted to see the court overturn *Roe v Wade*, he replied: "Well, if we put another two or perhaps three justices on... that will happen automat-

ically in my opinion because I am putting pro-life justices on the court."

Dr Weddington, 73, still lives in Texas, where the legal fight that became *Roe v Wade* began, and she continues to write and speak about the freedom that she won for women. She has never been more worried about its future. "I think this is the most concerning time that there has been since the decision. I've always said what I worry about is if one of the judges retired, who would it be and who would be replacing them?"

Mr Justice Kennedy, 81, was appointed by Ronald Reagan. He is no liberal. He provided the crucial fifth vote over the Florida recount in 2000 that secured the presidency for George W Bush.

Yet on social issues, including gay rights, affirmative action, the death penalty and abortion rights, his swing vote led to progressive outcomes. "He's been a very important justice," Dr Weddington said. She is disappointed that he is retiring, given Mr Trump's agenda.

Polls have shown that most Americans oppose the repeal of *Roe v Wade* and a survey published this week suggested that the public backed the court's decision two to one. The depth of Mr Trump's conviction on the subject is unclear, however. He described himself as "very pro-choice" in 1999 and stumbled over the difference between "pro-life" and "pro-choice" during a campaign interview in 2015.

Yet he knows that the cause has emotional appeal to a key slice of his vote, particularly the religious conservatives who overlooked their distaste for his past philandering in 2016 because the future balance of the court was at stake.

Dr Weddington expects a hard-fought Senate confirmation battle followed by a delay while cases testing revived abortion bans at state level are fought in the Supreme Court. Does she then expect *Roe v Wade* to be overturned? "Yes. I hope that's not the case but that's what I think will happen."