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## *WESTERLY ARC STATEMENT ON EFFECT OF ROE V. WADE DECISION ON CIVIL RIGHTS, 5 JULY 2022*

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*On June 28th, as concerned members of society and residents of Westerly, RI, Westerly ARC shared a statement in full support of safe and free reproductive healthcare for women in our town, state, country, and the world. You can read our full statement [here](#).*

Since the Supreme Court overturned *Roe v. Wade*, many citizens, groups, elected leaders and members of the press have expressed grave concerns about the Court overturning other landmark civil rights decisions. These decisions specifically ensure the right to obtain contraception, the right to same-sex marriage, and the right to same-sex intimacy. Concerns they are in jeopardy are centered on three critical points:

1) **Supreme Court Justice Thomas asserted these rights should be reconsidered.** Justice Thomas, in his concurring *Roe* opinion, wrote that this decision should prompt the Court to reconsider all of the other “substantive due process” precedents. He explicitly called on the Court to apply the same rationale to overrule the three landmark decisions - *Griswold v. Connecticut*, *Lawrence v. Texas*, and *Obergefell v. Hodges* - that established the civil rights stated above.

Justice Alito’s majority opinion states that the decision “concerns the Constitutional right to abortion and no other right,” and that “nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion”. In a rare joint dissent, Justices Breyer, Sotomayor, and Kagan warn that despite these assurances, “no one should be confident that this majority is done with its work.” The right to an abortion at the core of *Roe*, the dissenters explain, is “part of the same Constitutional fabric” as the rights to contraception and same-sex intimacy and marriage. “Either the mass of the majority’s opinion is hypocrisy or additional Constitutional rights are under threat. It is one or the other”.

2) **Unenumerated Constitutional rights are unworthy of Constitutional protection.** Central to Justice Alito’s majority opinion is his argument that the “Constitution makes no mention of abortion”

and since it is not specifically listed in the Constitution, it does not exist and is unworthy of Constitutional protection. This tenet seems contrary to the 9th Amendment, which states that enumerated Constitutional rights should not be used to “deny or disparage” other (i.e. unenumerated) rights.<sup>1</sup> Justice Alito further argues that unenumerated rights will be respected *only* if they are deeply rooted in the Nation’s “history and traditions”. The phrase “history and tradition” are used again and again in the critical Supreme Court decisions this week, not just on abortion, but also on gun safety. This raises the question of whose “history” and whose “tradition”? And how does the Court apply these two questions? Same-sex marriage is not deeply rooted in this nation’s history and tradition and contraception is not deeply rooted.

3) **Overturing precedent supported by the majority of Americans.** In overturning, the Supreme Court reversed 50 years of precedent that had made abortion a health right in this Country. The majority of Americans support abortion rights and disagree that states alone should dictate access.<sup>2</sup>

The majority opinion argued that reversing *Roe* does not outlaw abortion in the U.S., but leaves it to the people and their state representatives to determine. The Court argues this strengthens democracy: each state sets its own policy as opposed to imposing a single abortion solution on the Nation.

Reversing *Roe* has not strengthened our democracy; it has polarized it. Almost half the states have already issued sweeping laws criminalizing abortion. And state governments want to encroach on interstate travel and other states’ laws by punishing travel for abortion. These states’ aggressive moves to remake American Constitutional law is anti-democratic.

There is so much complexity in this decision and how it affects our freedoms and our lives, especially for the most vulnerable among us. To protect our democracy and fix the mistakes of generations past and present, we need to work together with compassion and respect to make sense of these complicated realities and ensure our democracy - and our country thrives.

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<sup>1</sup> Written in the Constitution as the Ninth Amendment - “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.” In short, unenumerated rights get the same respect as enumerated ones.

<sup>2</sup> Opinion polls conducted by the Associated Press-NORC Center for Public Affairs Research, NPR/PBS NewsHour/Marist Poll, Pew Research Center, and others [opinion polls](#).

