

GINSBURG, J., concurring

**SUPREME COURT OF THE UNITED STATES**

Nos. 01–1118 and 01–1119

JOSEPH SCHEIDLER, ANDREW SCHOLBERG,  
TIMOTHY MURPHY, AND THE PRO-LIFE  
ACTION LEAGUE, INC., PETITIONERS

01–1118

*v.*

NATIONAL ORGANIZATION FOR  
WOMEN, INC., ET AL.

OPERATION RESCUE, PETITIONER

01–1119

*v.*

NATIONAL ORGANIZATION FOR  
WOMEN, INC., ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SEVENTH CIRCUIT

[February 26, 2003]

JUSTICE GINSBURG, with whom JUSTICE BREYER joins,  
concurring.

I join the Court’s opinion, persuaded that the Seventh Circuit’s decision accords undue breadth to the Racketeer Influenced and Corrupt Organizations Act (RICO or Act). As JUSTICE STEVENS recognizes, “Congress has enacted specific legislation responsive to the concerns that gave rise to these cases.” *Post*, at 6 (dissenting opinion). In the Freedom of Access to Clinic Entrances Act of 1994, 18 U. S. C. §248, Congress crafted a statutory response that homes in on the problem of criminal activity at health care facilities. See *ante*, at 9–10, and n. 9 (noting petitioners’ acknowledgment that at least some of the protesters’ conduct was criminal, and observing that “[t]he crime of coercion [a separate, and lesser offense than extortion]

more accurately describes the nature of petitioners' actions"). Thus, the principal effect of a decision against petitioners here would have been on other cases pursued under RICO.\*

RICO, which empowers both prosecutors and private enforcers, imposes severe criminal penalties and hefty civil liability on those engaged in conduct within the Act's compass. See, e.g., §1963(a) (up to 20 years' imprisonment and wide-ranging forfeiture for a single criminal violation); §1964(a) (broad civil injunctive relief); §1964(c) (treble damages and attorneys' fees for private plaintiffs). It has already "evolv[ed] into something quite different from the original conception of its enactors," *Sedima, S. P. R. L. v. Imrex Co.*, 473 U. S. 479, 500 (1985), warranting "concern[s] over the consequences of an unbridled reading of the statute," *id.*, at 481. The Court is rightly reluctant, as I see it, to extend RICO's domain further by endorsing the expansive definition of "extortion" adopted by the Seventh Circuit.

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\*At oral argument, the Government was asked: "[D]o you agree that your interpretation would have been applicable to the civil rights sit-ins?" Tr. of Oral Arg. 25. The Solicitor General responded: "Under some circumstances, it could have if illegal force or threats were used to prevent a business from operating." *Ibid.*