

The Truth About Legalized Abortion

What the 1973 Supreme Court decision means to us today.

By MICHELE BUCKINGHAM

Legalized abortion on demand—it's been the law of the land since 1973.

Usually we think of a law as something good, something which gives life, or defends life, or improves it. But since 1973, when the Supreme Court handed down its landmark *Roe v. Wade* decision, more than 18 million unborn babies have been legally aborted in the United States. That's more than 1.5 million a year, 4,100 a day, 171 an hour—or about three every minute.

What *Roe v. Wade* actually did was strike down all state abortion, effectively legalizing abortion nationwide. Prior to 1973 abortion was illegal in most states and carefully regulated in the rest. In the decade preceding *Roe*, some movement had been made toward less restrictive laws in a number of states, but the onus was still against abortion in virtually every area of the country.

The high court's rationale in *Roe* was based upon an individual's "right to privacy" which "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy" (*Roe v. Wade*, 410 U.S. 153 (1973)). However, a fundamental "right to privacy" is not mentioned anywhere in the Constitution. Rather, the justices extrapolated that right from the "personal liberty" concept

***Roe v. Wade* remains intact—even after 15 years of pro-life demonstrations regionally and in Washington.**

found in the 14th Amendment.

The court also determined that an unborn child is not a "person" under the Constitution and therefore has no rights of its own. In the Constitution, the justices noted, "the use of the word ['person'] is such that it has application only postnatally. None indicates, with any assurance, that it has any possible prenatal application."

As a result, the law now permits a woman of any age to have an abortion for virtually any reason, at any time during her pregnancy up until the actual birth.

Roe v. Wade divided pregnancy into

three stages, generally according to trimesters. In the first trimester, states cannot restrict or prohibit abortion in any way. In the second trimester, states can regulate abortion—but not prohibit it—if the regulation is deemed necessary to protect the health of the mother. In the third trimester, states can regulate or even ban abortion, unless the mother's health is affected.

That caveat, "unless the mother's health is affected," effectively ensures that states *cannot* ban abortions, even in the 40th week of pregnancy. In a companion case to *Roe*, known as *Doe v.*

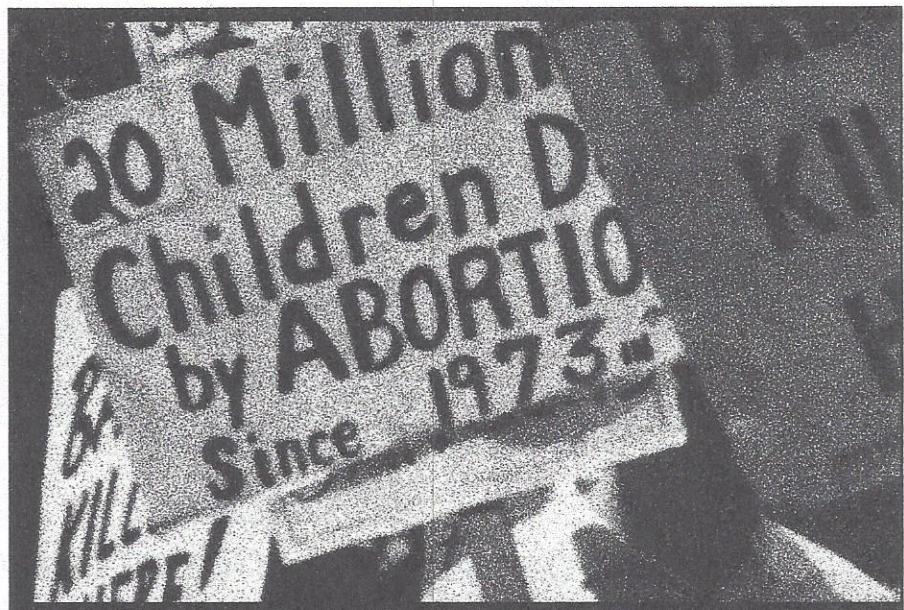


PHOTO BY CENTRAL FLORIDA RIGHT TO LIFE

Bolton, a mother's "health" was defined as either physical, psychological, emotional or familial—the latter three being totally subjective factors. Thus, if a nine-months-pregnant woman can find a doctor who'll agree to perform the abortion for the sake of her "health," no state can stop the procedure.

Other Supreme Court cases since *Roe* have added to the travesty. A pregnant teenager can have an abortion without the consent of her parents. A wife can have an abortion without the knowledge or consent of her husband. A state cannot enforce a 24-hour waiting period before an abortion is performed.

Doctors cannot be required to inform their patients about the medical risks of abortion versus those of carrying a baby to term, even though "informed consent" is necessary with other kinds of surgical procedures. And the medical risks of abortion—not to mention the psychological risks—are great.

Abortion proponents have likened getting an abortion to having a wisdom tooth pulled. But the fact is that a woman who has had an abortion in her first pregnancy has twice the chance of a miscarriage or a stillbirth later on; a three times better chance of giving birth to another baby prematurely; and is more likely to have difficulty in labor. Furthermore, 5 to 10 percent of all women who have abortions find that they have aborted the only baby they will ever conceive.

On the positive side, the Supreme Court has upheld laws allowing federal and state governments to restrict or prohibit the use of tax dollars to pay for abortions, as well as laws to require that a parent at least be notified before a minor daughter undergoes an abortion.

But much more must be done. The majority of Americans do not support current abortion policies in the United States. Seventy-seven percent of the American public is opposed to abortion performed for elective, non-medical reasons, even though 98 percent of all abortions are done without medical purpose—simply because the mother doesn't want the baby. And most doctors won't perform abortions. Of the approximately 300,000 physicians in the United States, only about 8,700, or less than 3 percent, will provide abortions for their patients.

How can the law be changed? The Supreme Court could reverse itself in a future ruling. *Roe v. Wade* was decided by a 7-2 margin. More recent abortion

Abortion continued on page 75

Abortion continued from page 53

decisions have seen a much closer 5-4 split. The appointment of one additional pro-life judge could provide the vote needed to overturn *Roe*.

The Constitution could be amended. Since 1973, two types of constitutional amendments have been introduced in virtually every session of Congress. The first type would simply return the law to its pre-1973 status, allowing the individual states to decide their own abortion policies. With that freedom restored, some states would undoubtedly ban abortions; others might not.

The second type of amendment would guarantee constitutional rights and protections to unborn children. Neither approach has been successful thus far.

There have also been attempts to limit abortion by statute—some without success (a bill to define human life as that which begins at conception), and some with much success (amendments to ban federal spending on abortion and to defund government-supported groups which promote abortion).

The momentum, most would agree, is on the side of changing the law. As Justice Sandra Day O'Connor wrote in 1983: "The *Roe* framework is clearly on a collision course with itself." ■

Michele Buckingham is a free-lance writer and author who lives in Palm Bay, Florida. She wrote the January 1986 *Charisma* cover story on praying for missing children.