

Roe v. Wade

I. Facts: Jane Roe, in addition to other unnamed individuals, brought a class action suit challenging the constitutional validity of Texas laws making abortion (except those which were necessary to save the life of the mothers) a crime.

II. Issues: Whether states have the authority to ban all abortions except those aimed at protecting the health of the mother.

III. Holding: The Court found that the anti-abortion laws of Texas violated the personal liberty guaranteed to individuals by the Due Process Clause of the Fourteenth Amendment as determined to exist by the Court in past cases. Further, the Court held that a woman, for the period prior to the end of her first trimester, may seek an abortion and it is up to her physician, without regulation by the state, to determine whether or not an abortion should be performed. After the end of the first trimester, states may "regulate the abortion procedure to the extent that the regulation reasonably relates to the preservation and protection of maternal health." Once viability has been reached (the point when a fetus can survive outside of the womb), the State may regulate and even proscribe abortion except when it is necessary for the preservation of the life or health of the mother.

IV. Reasoning: The Court in this case relied on examination of both legal and medical histories concerning abortion. In determining its holding, the Court believed that a state's interest in protecting the health of the mother does not override a woman's right to privacy as guaranteed by the Due Process Clause of the Fourteenth Amendment as determined by past precedents, until the end of the first trimester, when the statistics no longer support the idea that abortion is safer than childbirth in terms of mortality. It is during this period (between the first trimester and viability) that a state's interest in the health of the mother justifies state regulation of abortion. Following viability, a state's interest in protecting the potential life of the unborn child becomes compelling enough to justify further state regulation, even allowing a proscription of abortion practices.

V. Concurring and Dissenting Opinions: (a) Douglas concurred in Doe v. Bolton (the companion case to Roe), arguing that anti-abortion laws have such a far reaching affect on the freedoms of individuals that they must be subject to strict scrutiny by the Court. He found that the Georgiastate laws failed to meet this scrutiny. Stewart concurred in the Court's ruling arguing that the right to choose whether or not to have a child is protected by the Due Process Clause of the Fourteenth Amendment and that this makes sense considering the court had has used the "freedom of personal choice in matters of marriage and family life" that exists under Due Process Clause to protect rights of much less significance and personal intimacy. (b) Rehnquist dissented; arguing that the right to privacy relied on by the Court is not applicable in this case. Additionally, he rebuts the Courts use of strict scrutiny in determining whether state interests overrule an individual's right to privacy, believing that the rational argument examination should be applied. Also, Rehnquist believes that the Court's ruling is more judicial legislation than it is an understanding of the Fourteenth Amendment (which he believes was not created with the intent of limiting state regulation of abortions).

VI. Significance: The Court expanded the sphere of privacy that it created in previous cases (eg. Griswold v Connecticut, etc.) to include the right to choose whether or not to have a child.