

World without Roe? The politics of abortion: The politics of abortion

by [David Heim](#) in the [August 9, 2005](#) issue

Gearing up for a battle over the next appointment to the Supreme Court, groups like NARAL Pro-Choice America and the National Organization for Women have been warning of the imminent collapse of *Roe v. Wade*. *Roe* hangs by a thread, they assert, and a one-vote shift on the court will dismantle the 1973 ruling that defined abortion as a constitutional right.

The prospect of a world without *Roe* does concentrate the mind. But not just in the ways that the pro-choice groups imagine. A world without *Roe* might actually be one of the best things that could happen to liberal politics.

Consider: A world without *Roe* would mean that liberals would no longer feel compelled to defend abortion as an absolute right—a position that is hard to defend morally, politically and constitutionally. At a time when abortion laws were being reformed, *Roe* issued the sweeping judgment that abortion is a constitutional right at all stages of pregnancy and for whatever reason. *Roe* allowed abortion to be regulated in the third trimester, but only for the sake of the health of the mother, not for the sake of the fetus. It asserted this right on the basis of a “right of privacy” said to be implicit in the Bill of Rights. The court was vague about the source of this right of privacy, and silent as to how privacy could be plausibly extended to the case of abortion.

A world without *Roe* would free politics from the sterile debate of the past three decades, which pits the rights of women against the rights of the fetus, as if those sets of interests are fundamentally opposed. Opinion polls regularly show that Americans don’t have absolutist views on abortion. They are opposed to “abortion on demand,” but they don’t want it outlawed altogether. In other words, they want some kind of balance between protecting women’s health and protecting unborn life. Where that balance should be struck—in differentiating between early- and late-term abortions, for example, or in defining the conditions under which abortion is

permitted—is obviously highly debatable, and many people aren't sure themselves how to do it. But the sheer existence of *Roe* has precluded attempts by legislators to strike such a balance.

A world without *Roe* would free liberals from having to appear aggressively indifferent to the value of the fetus. Fearful that attributing any value to the fetus would erode the logic of *Roe*, liberal politicians and pro-choice groups resist any evidence about fetal sensitivity to pain or about the decreasing age of fetal viability outside the womb. Those who voice such concerns, liberals complain, are merely serving to undermine *Roe*. But do liberals really want to be in the position of having to change the subject whenever concern for the fetus is expressed?

A world without *Roe* would relieve liberals of the debilitating rhetoric of “choice.” Asking “Who gets to decide?” has been effective politics, but this embrace of individual choice has carried with it a cost. It has meant ceding to conservatives the language of moral values and moral formation.

In *Bearing Right: How the Conservatives Won the Abortion War* (2004), William Saletan describes how abortion rights activists decided in the 1980s, on the basis of experience in places like Missouri and Virginia, that abortion could be defended only by appealing to anti-government sentiments. In other words, they adopted the same rhetoric on abortion that conservatives use to oppose gun control or environmental regulation: Keep the government off my back. Let the individual decide.

Although this strategy succeeded in some ways, Saletan points out, it did nothing to mobilize broader government support for the health of women and children. It also set the stage for eliminating government funding for abortions. After all, if abortion is an individual decision, then why should the government be involved at all?

Politically, the emphasis on an individual's “right to choose” has made it seem that liberalism is indifferent to public morality and is devoted to individualism. Quite the opposite is the case on most other topics, such as corporate responsibility, environmental policy, health care and Social Security. On those issues liberals are the first to say that government regulation should be used to create a common culture and that individuals must limit their choices for the sake of a better society for all. But on one crucial moral point, liberals have betrayed the wisdom of their own tradition.

Morally, the rhetoric of choice is empty. Obviously some choices are better than others. Pro-choice advocates have to admit as much when they confront the selective abortion of female children in India and China or (as in a notorious case in Great Britain) the decision to abort a fetus because it has a (medically fixable) cleft palate. Surely, in such cases, liberals want to do more than affirm the right to choose.

These criticisms of *Roe* should not shock mainline Protestants. Judging from their official statements, at least, mainliners have never regarded abortion as a fundamental right, the exercise of which is essential to human dignity. While conceding that abortion should be legal in some cases, mainline churches have viewed abortion as a tragic decision acceptable under some circumstances.

So, for example, the Presbyterian Church (U.S.A) declares in a 1991 statement that “the strong Christian presumption is that . . . all life is precious to God [and so] we are to preserve and protect it.” For that reason, “abortion ought to be an option of last resort.” While not specifying what constitutes a last resort, the Presbyterians make it clear that abortion for purposes of gender selection or birth control is not what they have in mind.

The Evangelical Lutheran Church in America takes a similar stand. Discussions of abortion, it advises, “should ignore neither the value of unborn life nor the value of the woman and her other relationships. . . . Nor is it helpful to use the language of ‘rights’ in absolute ways that imply that no other significant moral claims intrude. A developing life in the womb does not have an absolute right to be born, nor does a pregnant woman have an absolute right to terminate a pregnancy” (from a 1991 statement of the Churchwide Assembly). The ELCA document posits a moral presumption in favor of preserving unborn life and contends that the closer a fetus comes to full term the more serious is the decision to abort.

The United Methodists’ statement of social principles declares that “our belief in the sanctity of unborn life makes us reluctant to approve abortion.” It acknowledges “tragic conflicts of life with life that may justify abortion” and says that “in such cases we support the legal option of abortion,” but adds that “we cannot affirm abortion as an acceptable means of birth control and we unconditionally reject it as a means of gender selection.”

Though these pronouncements are compromise statements, laboriously crafted to articulate a middle ground in divided denominations, they are not without substance. They clearly distance mainline churches from the arguments routinely offered by pro-choice groups. One can peruse the literature of groups like NARAL and NOW without finding any mention of the “value of unborn life,” any acknowledgment of “tragic conflicts” or any hesitation in asserting that the right to abortion is absolute. For that reason, it’s hard to see how mainline Christians can wholeheartedly endorse their cause—or enthusiastically defend *Roe*.

A world without *Roe* would also offer practical political advantages. As long as *Roe* prevails, conservatives can fly the “pro-life” flag, talk about the “culture of life” and contrast themselves with “abortion-on-demand” liberals—without ever having to offer a concrete alternative to present policies.

It’s not obvious that the majority of Republicans are eager to criminalize abortion, though they are more than happy to rail against “pro-abortion” Democrats. The tenor of political discussion would shift when candidates had to answer specific questions. Those who want to criminalize abortion would be put on the defensive. What range of abortions would they deny and how would they do it? Are criminal penalties to be imposed on doctors who perform abortions or on women who have them?

Finally, a world without *Roe* would allow a liberal pro-life movement to get off the ground. After a generation of defending abortion as a right, liberals could focus on making the conditions for seeking an abortion rare. They could emphasize education, contraception, health care and day care—and thereby provide real choices to pregnant women, and to all women. Such a movement would leave it to the conservatives to talk, if they want, about criminal penalties.

A liberal pro-life movement is not entirely an exercise of the imagination. A form of it has taken shape in an organization called Democrats for Life. DFL is promoting a plan it says will reduce the number of abortions by 95 percent in ten years. The plan is focused not on overturning *Roe* or on criminalizing abortion but on funding day care, encouraging adoption, requiring health insurance companies to cover pregnancy, fully funding the federal WIC nutrition program for mothers and infants, and expanding access to contraception.

The 95-10 initiative has been introduced in Congress and has had some success in state legislatures. One can imagine the DFL agenda expanded to include liberal

causes such as comprehensive health care reform and parental leave. With the politics of abortion no longer defined by *Roe*, the goal of making abortions rare could make possible the forging of a new coalition on behalf of the poor and vulnerable. That seems like something liberals should want.