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Documentation on the right to life . . .

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# DOCUMENTATION ON THE RIGHT TO LIFE AND ABORTION

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Documentation on  
THE RIGHT TO LIFE  
AND ABORTION

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CATHOLIC BISHOPS

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TESTIMONY OF UNITED STATES  
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ON CONSTITUTIONAL AMENDMENT  
PROTECTING UNBORN HUMAN LIFE  
BEFORE THE SUB-COMMITTEE ON  
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OF THE SENATE COMMITTEE  
ON THE JUDICIARY

March 7, 1974

On repeated occasions during the past ten years the National Conference of Catholic Bishops has spoken on the security of life, the right of each individual to life, and on the morality of abortion. Perhaps the most succinct expression of these repeated statements is contained in the Second Vatican Council's *Pastoral Constitution on the Church in the Modern World*, addressed to all mankind:

For God, the Lord of life, has conferred on men the surpassing ministry of safeguarding life—a ministry which must be fulfilled in a manner which is worthy of man. Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes. [no. 51]

Furthermore, whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia, or willful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; what-

ever insults human dignity, such as sub-human living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where men are treated as mere tools for profit, rather than as free and responsible persons; all these things and others of their like are infamies indeed. They poison human society, but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are a supreme dishonor to the Creator. [no. 27]

These statements of the Council, and the many that have been issued by the National Conference of Catholic Bishops, have enunciated two central themes:

1. The right to life is a basic human right which should be protected by law.
2. Abortion, the deliberate destruction of an unborn human being,<sup>1</sup> is contrary to the law of God and is a morally evil act.

In regard to the first point, the right to life is a basic human right, proclaimed as such by the Declaration of Independence and Constitution of the United States, and also by the United Nations Declaration of Human Rights. But human life cannot be considered merely as an abstract notion, for human life always exists in a human being. Thus, it is the life of each specific, individual human being that must be protected and sustained, and the responsibility falls equally on society and on individual persons within society.

As for the second point, we wish to make it clear that we are not seeking to impose the Catholic moral teaching regarding abortion on the country. In our tradition, moral teaching bases its claims on faith in a transcendent God and the pursuit of virtue and moral perfection. In fact, moral teaching may frequently call for more than civil law can dictate, but a just civil law cannot be opposed to moral teaching based on God's law. We do not ask the civil law to take up our responsibility of teaching morality, i.e., that abortion is morally wrong. However, we do ask the government and the law to be faithful to its own principle—that the right to life is an inalienable right given to everyone by the Creator.

We also reject the argument that opposition to abortion is simply



a Catholic concern. The state abortion laws of the 19th century, although highly prohibitive, did not represent Catholic morality.<sup>2</sup> The proposed statute of the American Law Institute, a model on which some state laws were revised in recent years, did not represent Catholic morality. The rejection of liberal abortion laws in North Dakota and Michigan, by 78 and 62 percent vote of the people in a public referendum, cannot be attributed to Catholic moral teaching, since in both states the Catholic population is less than 30 percent.

Furthermore, in a religiously pluralistic society, government is not expected to formulate laws solely on the basis of the religious teaching of any particular Church. In the formulation of law, though, it is appropriate that the convictions of citizens, and the principles from which they are derived, be taken into consideration. There are certain principles of morality taught by the various Churches that are part and parcel of the legal tradition of American society. In our country, religious leaders are increasingly compelled to present a moral argument in regard to legislation. Such was the case in regard to civil rights, to anti-poverty legislation, and to other instances of the violation of human rights.

The abortion decision is a complex web of many factors—social, personal, cultural, emotional, religious, etc. In its opinions in *Roe v. Wade* and *Doe v. Bolton*, the Court overstepped its authority and made some apodictic moral pronouncements. Morality was definitely imposed; the Court's own morality—based on inaccuracy and error. That the Supreme Court would presume to usurp the role of moralists and ethicists is telling cause for moral teachers to clearly articulate their position—that is, their reasons and the bases of their reasons for legally protecting the unborn.

We appear here today in fulfillment of our considered responsibility to speak in behalf of human rights. The right to life—which finds resonance in the moral and legal tradition—is a principle we share with the society and the one that impels us to take an active role in the democratic process directed toward its clear and unequivocal articulation.

The Supreme Court of the United States has denied protection of the right to life to the unborn, and the most realistic way to reverse that decision of the Court is to amend the Constitution of the United States. Thus, we place before this Committee our testi-

mony in behalf of an amendment that will establish that the unborn child is a person and is entitled by law to the protection of the inalienable right to life, a right accorded by the Constitution to every human being in this nation.

In this testimony we wish to address the following points:

- I. The Human Dignity of the Unborn Child.
- II. The Protection of Human Rights in Law.
- III. The Right to Life of the Unborn in the Context of American Law.
- IV. A Review of the Court's Opinions in *Roe v. Wade* and *Doe v. Bolton*.
- V. Proposal for a Constitutional Amendment.
- VI. Conclusion.

## I. THE HUMAN DIGNITY OF THE UNBORN CHILD

Newly conceived human life should be revered as a gift from God and from nature. The dignity of the unborn child is neither conferred nor taken away by any man or woman or by any government or society. That dignity is rooted in an objective individuality that inherently tends toward the openness and transcendence men commonly call personhood.

The developing unborn child has increasingly been an object of study of a variety of empirical sciences, such as genetics, biology and fetology. The scientific evidence thereby accumulated should form an integral part of the human assessments that any man or any government makes regarding the reality and worth of the unborn child.

### *Life's Beginnings*

It is an accepted biological fact that human life begins at fertilization. Subsequent to the Supreme Court's abortion decisions the noted fetologist, Dr. Landrum B. Shettles,<sup>3</sup> submitted a public letter to the *New York Times* (February 14, 1973) in which he accused the Supreme Court of denying the truth about when life begins. The doctor stated in part:

Concerning when life begins, a particular aggregate of hereditary tendencies (genes and chromosomes) is first assembled at the moment of fertilization when an ovum (egg) is invaded by a sperm cell. This restores the normal number of required chromosomes, 46, for survival, growth, and reproduction of a new composite individual.

By this definition a new composite individual is started at the moment of fertilization. However, to survive, this individual needs a very specialized environment for nine months, just it requires sustained care for an indefinite period after birth. But from the moment of union of the germ cells, there is under normal development a living, definite, going concern. To interrupt a pregnancy at any stage is like cutting the link of a chain; the chain is broken no matter where the link is cut. Naturally, the earlier a pregnancy is interrupted, the easier it is technically, the less the physical, objective encounter. To deny a truth should not be made a basis for legalizing abortion.

Such conclusions, the doctor noted, were based “on twenty years’ work in this field, apart from any known religious influence.”

The Supreme Court has ruled that the unborn child does not deserve the full protection of society’s laws until the time of birth. Yet, some years ago *Life* magazine, in a special feature on the unborn child, stated:

The birth of a human life really occurs at the moment the mother’s egg cell is fertilized by one of the father’s sperm cells.<sup>4</sup>

The remarkable advances in modern times in the sciences of embryology, fetology and genetics have dispelled many ancient falsehoods about the nature of life in the womb—that in its early stages of development the embryonic human life possesses an inert plant-like character, or that the male sperm determines the make-up of the child while the mother only passively nurtures the child, or that male children develop faster than female children, etc.

Dr. H .M. I. Liley, the New Zealand pediatrician,<sup>5</sup> has cogently

expressed the marked effect the advances in biology have had on the traditional notions of life in the womb:

Because the fetus is benignly protected, warmed and nourished within the womb, it was long thought that the unborn must have the nature of a plant, static in habit and growing only in size. Recently through modern techniques of diagnosing and treating the unborn baby, we have discovered that little could be further from the truth.

The fluid that surrounds the human fetus at 3, 4, 5 and 6 months is essential to both its growth and its grace. The unborn's structure at this early stage is highly liquid, and although his organs have developed, he does not have the same relative bodily proportions that a newborn baby has. The head, housing the miraculous brain, is quite large in proportion to the remainder of the body and the limbs are still relatively small. Within his watery world, however (where we have been able to observe him in his natural state by closed circuit x-ray television set), he is quite beautiful and perfect in his fashion, active and graceful. He is neither an acquiescent vegetable nor a witless tadpole as some have conceived him to be in the past, but rather a tiny human being as independent as though he were lying in a crib with a blanket wrapped around him instead of his mother.<sup>6</sup>

### *Evidence from Genetics*

Genetics tells us that at fertilization a new human individual begins. A standard text book on genetics gives the following technical explanation:

A human being originates in the union of two *gametes*, the ovum and the spermatozoon. These cells contain all that the new individual inherits organically from his or her parents. The hereditary potentialities present in the fertilized ovum are unfolded, as cell divisions succeed each other, in an environment first prenatal and then postnatal, free to vary at all stages within narrow or wide limits. The child, and finally the adult, is what he is at

any time during his existence because of the hereditary constitution which he originally received, and the nature of the environment in which he has existed up to that time.<sup>7</sup>

The newly conceived life is human because it is from human parents and it is alive in a distinctively human way because, unlike the sperm and ova that, unfertilized, necessarily die, the fertilized ovum has the ability from within itself to reproduce itself and, if no untoward events occur, it will develop through the various embryonic and fetal stages to birth. The fertilized ovum represents a full human genetic package of 46 chromosomes. While half of these chromosomes is derived from each of the parents, the newly conceived life differs genetically from its parents as a unique combination of genes.

Biologically every living being is assigned to only one species, e.g., *Homo sapiens*, regardless of its developmental stage. Such species differentiations are genetically determined. "Its [a living being's] designation [to a species] is determined not by the stage of development, but by the sum total of its biological characteristics—actual and potential—which are genetically determined. However, if we say it [the fetus] is not human, i.e., a member of *Homo sapiens*, we must say it is of another species. But this cannot be."<sup>8</sup>

The mysteries of life being revealed to us by genetics should not be underestimated. We are told that a single thread of DNA (Deoxyribonucleic acid, the chemical material of which the information-carrying material or genes are composed) from a human cell contains information equivalent to six hundred thousand printed pages with five hundred words on a page. Such stored information at conception has been estimated to be fifty times more than that contained in the *Encyclopedia Britannica*.<sup>9</sup> Dr. Hymie Gordon, Chief Geneticist at the Mayo Clinic, comments on the genetic facts:

. . . . from the moment of fertilization, when the deoxyribose nucleic acids from the spermatozoon and the ovum come together to form the zygote, the pattern of the individual's constitutional development is irrevocably determined; his future health, his future intellectual potential, even his future criminal proclivities are all dependent on the sequence of the purine and pyrimidine

bases in the original set of DNA molecules of the unicellular individual. True, environmental influences both during the intra-uterine period and after birth modify the individual's constitution and continue to do so right until his death, but it is at the moment of conception that the individual's capacity to respond to these exogenous influences is established. Even at that early stage, the complexity of the living cell is so great that it is beyond our comprehension. It is a privilege to be allowed to protect and nurture it.<sup>10</sup>

The wonder evoked by life's beginnings does not abate during the subsequent development of the unborn child. Fertilization is followed by three basic biological activities: cell division, growth, and systematic and orderly differentiation of the various parts of the embryo to form the organ systems.<sup>11</sup>

Scientists and researchers caution that our empirical knowledge regarding the world of the developing child is dependent upon the scientific methods and accumulated results of today.<sup>12</sup> The data is fragmentary. Nonetheless, we can anticipate greater and not less empirical verification of the humanity of the unborn child in the future. As the fetologist, A. W. Liley notes, "Most of our studies of foetal behavior have been later in pregnancy, partly because we lack techniques for investigation earlier and partly because it is only the exigencies of late pregnancy which provide us with opportunities to invade the privacy of the foetus."<sup>13</sup>

The traditional understanding of the fetus as a "passive, dependent, nerveless, fragile vegetable,"<sup>14</sup> is understandable because the only serious students of the fetus were embryologists and physicians concerned with childbirth. "The accoucher was concerned primarily with mechanical problems in delivery, so that the only aspects of the foetus which mattered were the presenting part and its diameters in relation to the diameters of the birth canal. . . . The embryologists studied dead, static tissue and attempted to deduce function from structure. . . ." <sup>15</sup>

The question of scientific methodology reaches to the question of prejudice and misconception. The humanity of the unborn child is sometimes demeaned with abusive descriptive terms.<sup>16</sup> The distinctly human features of the unborn child possess an alien character as compared to the comfortable and familiar world of the

adult. From the perspective of the various scientific disciplines Dr. A. W. Liley remarks:

. . . In the present century, many disciplines have extended their interests to include the foetus, but in fields from surgery to psychiatry the tendency has been to start with adult life and work backwards—knowing what the adult state was, one worked back to what seemed a reasonable starting point to reach that goal. Therefore, in fields from physiology and biochemistry to education and psychology, there has grown up the habit of regarding the foetus and the neonate as a poorly functioning adult rather than as a splendidly functioning baby.<sup>17</sup>

### *Early Fetal Development*

From fertilization the child is a complex, dynamic, rapidly growing individual. At seven to nine days after fertilization implantation in the uterine wall begins.<sup>18</sup> By the end of the first month the child has completed the period of relatively greatest size increase and physical change of a lifetime. A primary brain is present and the heart, though incomplete, is pumping the child's own blood with a regular pattern.

From the beginning of the second month the external features of the child take on distinctly human appearances. As one commentator states:

By the end of the seventh week we see a well-proportioned small-scale baby. In its seventh week, it bears the familiar external features and all the internal organs of the adult, even though it is less than an inch long and weighs only 1/30th of an ounce. The body has become nicely rounded, padded with muscles and covered by a thin skin. The arms, only as long as printed exclamation marks, have hands with fingers and thumbs. The slower-growing legs have recognizable knees, ankles and toes [references cited]. Shettles and Rugh describe the child at this point of its development as a one-inch miniature doll with a large head, but gracefully formed arms and legs and an unmistakably human face [reference cited].<sup>19</sup>

The brain is now sending out impulses that coordinate the function of the other organs. Reflex responses are present as early as forty-two days. The brain waves have been noted (EEG) at forty-three days.

After the eighth week no further primordia will form. Until adulthood, when full growth is achieved somewhere between twenty-five and twenty-seven years, the changes in the body will be mainly growth and gradual refinement of working parts.<sup>20</sup>

In recent years a variety of photographs have visually documented the human development of the unborn child. The most famous of these are the Nilsson photos.<sup>21</sup> However, such photos, striking evidence that they are, are generally pictures of embryos and fetuses that have died. The eight week old fetus presents an unmistakable human being with blunt features and extremities.<sup>22</sup> As Dr. Paul E. Rockwell, Director of Anesthesiology at Leonard Hospital in Troy, New York reports, a fetus of eight weeks, while actually alive, appears to be perfectly developed. It is death which superimposes the bluntness of appearances.

Eleven years ago while giving an anesthetic for a ruptured ectopic pregnancy (at two months gestation) I was handed what I believe was the smallest living human being ever seen. The embryo sac was intact and transparent. Within the sac was a tiny (approx. 1 cm.) human male swimming extremely vigorously in the amniotic fluid, while attached to the wall by the umbilical cord. This tiny human was perfectly developed, with long, tapering fingers, feet and toes. It was almost transparent, as regards the skin, and the delicate arteries and veins were prominent to the ends of the fingers.

The baby was extremely alive and swam about the sac approximately one time per second, with a natural swimmer's stroke. This tiny human did not look at all like the photos and drawings and models of 'embryos' which I have seen, nor did it look like a few embryos I have been able to observe since then, obviously because this one was alive!

. . . When the sac was opened, the tiny human immediately lost its life and took on the appearance of what is



accepted as the appearance of an embryo at this age (blunt extremities, etc.).<sup>23</sup>

### *The Life of the Unborn Child*

The notion that the developing child is part of the mother like the tissue of a maternal organ has been thoroughly disproven. The unborn child is not only independently alive, growing and active, but it is now thought to be "very much in command of the pregnancy."<sup>24</sup> Perhaps even from the preimplantation stage,<sup>25</sup> the fetus guarantees the endocrine success of pregnancy, and thereby induces all manner of change in maternal physiology to make the mother a suitable host, e.g., stops menstrual flow so that blastocyst can implant in the uterine wall. The fetus single-handedly solves the homograph problem; determines the length of pregnancy; determines which way he will lie in pregnancy (seeks position of comfort) and which way he will present in labor; and he is not entirely passive in labor.<sup>26</sup>

The fetus exhibits a complex of behavioral characteristics. The fetus demonstrates a cyclic pattern of drowsiness and activity; is responsive to pressure and touch; evidences pleasurable and bitter taste reactions; swallows, an activity which probably provides nourishment; sucks his thumb; responds to external light; is startled by sudden noises. The fetus also exhibits pain responses. Dr. A. W. Liley comments:

The foetus responds with violent movement to needle puncture and to the intramuscular or intraperitoneal injection of cold or hypertonic solutions. Although we would accept, rather selfishly, that these stimuli are painful for adults and children and, to judge from his behaviour painful for the neonate, we are not entitled, I understand, to assert that the foetus feels pain. In this context I think Bertrand Russell's remark in his *Human Knowledge, its Scope and Limitations* rather apt—he relates 'A fisherman once told me that fish have neither sense nor sensation but how he knew this he could not tell me.' It would seem prudent to consider at least the possibility that birth is a painful experience for a baby. Radiological observation shows foetal limbs flailing during contractions and if one attempts to reproduce in the neonate by manual compression a mere fraction of

the cranial deformation that may occur in the course of a single contraction the baby protests very violently. And yet, all that has been written by poets and lyricists about cries of newborn babies would suggest that newborn babies cried for fun or *joie de vivre*—which they never do afterwards—and in all the discussions that have ever taken place on pain relief in childbirth only maternal pain has been considered.<sup>27</sup>

The fetus begins moving limbs and trunk from about eight weeks. However, it is normally not until the 16-22 week period before the mother perceives such movement. Historically this phenomenon has been called “quickening,” and it was identified as the time at which the fetus becomes an independent human being possessed of a soul. It is now apparent that “quickening” is a function of maternal perceptions. “Quickening is a maternal sensitivity and depends on the mother’s own fat, the position of the placenta and the size and strength of the unborn child.”<sup>28</sup>

In a speech at a medical convention Dr. Liley, addressing the question of the personality of the fetus, stated:

. . . We may not all live to grow old but we were each once a foetus ourselves. As such we had some engaging qualities which unfortunately we lost as we grew older. We were physically and physiologically robust. We were supple and not obese. Our most depraved vice was thumbsucking, and the worst consequence of drinking liquor was hiccups not alcoholism.

When our cords were cut, we were not severed from our mothers but from our own organs—our placentae—which were appropriate to our old environment but unnecessary in our new one. We do not regard the foetal circulatory system, different as it is from the child’s or adult’s, as one big heap of congenital defects but as a system superbly adapted to his circumstances. We no longer regard foetal and neonatal renal function, asymmetric as it is by adult standards, as inferior, but rather entirely appropriate to the osmometric conditions in which it has to work. *Is it too much to ask therefore that perhaps we should accord also to foetal personality and behaviour, rudimentary as they may appear by adult*

*standards, the same consideration and respect? (emphasis added)* <sup>29</sup>

The perception of the humanity of the unborn child is embedded in a variety of human contexts, scientific, medical, legal, artistic, etc. A full personal response to the various contexts is required in a well-ordered society:

Response to the fetus begins with a grasp of the data which yield the fetus' structure. That structure is not merely anatomical form; it is dynamic—we apprehend the fetus' origin and end. . . . Seeing, we are linked to the being in the womb by more than an inventory of shared physical characteristics and by more than a number of made-up psychological characteristics. *The weakness of the being as potential recalls our own potential state, the helplessness of the being evokes the human condition of contingency. We meet another human subject.*<sup>30</sup> (emphasis added)

### *The Valuation of Unborn Human Life*

Honesty compels us all to admit that in the abortion debate the question of when human life begins is not the central issue in dispute. Rather, the main question is: how should society value the unborn human life that is present? Even this broader question, however, should be rooted in a lively cognizance of the reality of the life being valued. Often, however, this valuation process is characterized by a schizophrenia that denies, distorts or dismisses as “mere fact” the reality of the unborn life being assessed so as to advance other particular values.

An editorial in the September, 1970 issue of *California Medicine* (the official journal of the California Medical Association), accepting as necessary fact what it calls the ongoing demise of the traditional Western ethic that “has always placed great emphasis on the intrinsic worth and equal value of every human life regardless of its stage or condition,” acknowledged that “human life begins at conception and is continuous whether intra- or extra-uterine until death.” At the same time the editorial defended the quite common denial of this fact as part of the strategy whereby the “new ethic” would gradually replace the traditional ethic.

The process of eroding the old ethic and substituting the new has already begun. It may be seen most clearly in changing attitudes toward human abortion. . . . Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a *curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices.* It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected. (emphasis added)

The value of the individual human life no longer possesses an inalienable character that gives rise to such procedural rights as due process and equal protection. Individual worth is, under the "new ethic," to be determined by the vision of "a biologically oriented world society." In this new world in which "hard choices will have to be made with respect to what is to be preserved and strengthened and what is not," it is the medical profession that possesses the greatest competence and expertise to provide leadership for us all.

Parallels between this editorial and the Supreme Court rulings on abortion are disturbing. The Supreme Court effectively denied the "well-known facts of fetal development" (Wade, p. 41) by consigning them to the realm of speculation and theory: "We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer" (Wade, p. 44). Having avoided a full and open discussion of the question of the objective humanity of the unborn child, the Supreme Court ruled, on moral grounds, that life *effectively* begins under the law no earlier than viability "because the fetus then presumably has the capability of *meaningful* life outside the mother's womb" (Wade, p. 48—em-

phasis added). The fetus is perfectly viable *in utero* and only a disease process or attack renders it non-viable.

When the objective reality of individual human life is either denied or reduced to simple factuality, those values that men commonly perceive to flow from the personal transcendence that inheres in the individual (e.g., an inalienable right to life, liberty, pursuit of happiness) are replaced by other values ("meaningfulness," "a biologically oriented world society") that tend to possess a high degree of arbitrariness, caprice, or personal or group bias.

The concept of "meaningfulness" espoused by the Court as the criterion for determining whether any value should be attached to the unborn child raises the specter of the "life devoid of value" ethic that was operative in the genocide and euthanasia programs of Nazi Germany. That ethic is reputed to have been nurtured since the early 1920's by a significant part of the legal and medical professions of Germany.<sup>31</sup> Both the *California Medicine* editorial and the Supreme Court decisions place heavy reliance on the medical profession to exercise judgments that extend beyond their area of medical competence.

On August 7, 1972, Dr. Walter Sackett, a Representative to the Florida legislature, testified before a U. S. Senate Committee on the topic of death with dignity. At that time Dr. Sackett approvingly quoted a statement made to him by a medical director of a Florida hospital for the care of the severely mentally retarded, to the effect that 90% of the 1500 mentally retarded now in two Florida hospitals should be allowed to die. Dr. Sackett invoked the cost-benefit model. The money now used to care for these severely retarded individuals could be more usefully diverted to other causes.<sup>32</sup>

Culturally our society has moved from limited abortion to abortion-on-demand, and now, it appears, our society is moving to limited euthanasia and limited elimination of the mentally retarded. A reasonable man must ask: what are we doing? where are we going?

Perhaps this is the moment that we should seize to reflect on the immediate past history of Western civilization, lest the words of George Santayana apply to us: "Those who do not remember the past are condemned to relive it."

The Supreme Court, by denying the right to life to the unborn child, has rent the fabric of human law whereby the inherent worth of every man is recognized. Such an error, attacking the foundation of human society, must be remedied by amendment to the government's Constitution.

## II. THE PROTECTION OF HUMAN RIGHTS IN LAW

Debates about the relationship of law to morality are complex. It is our purpose simply to point to certain fundamental principles which must be incorporated into the legal ethic of any just society.

First of all, there has been a growing awareness throughout the world that the protection and promotion of the inviolable rights of man are essential duties of civil authority, and that the maintenance and protection of basic human rights is a primary purpose of law.

Throughout the 20th century there has been a growing recognition of basic human rights by the United Nations and by individual countries. There has also developed an acute awareness that the human rights of minorities are most easily overlooked or ignored because most often they cannot articulate their claims. Furthermore, there has been a continuing realization that human rights are not subject to distinctions of race, age, sex or national heritage. Rather, they are universal rights of all men and women which are inherent in the nature of man and are the basis of human dignity.

But human rights give rise to duties and to responsibilities, both in the person who possesses the right, and the society of which he is a part. Freedom to exercise one's human rights is qualified by responsibility to society or to another person. For the sake of order, society must have a way to adjudicate apparent conflicts of rights. Thus, a well ordered society establishes laws that will promote and protect human rights, maintain order among persons, and promote the good of all. As Justice Holmes indicated, the First Amendment's guarantee of free expression does not permit a person to yell "fire" in a crowded theater.

The existence of human rights and the fragility with which they are maintained places a claim on society to provide bulwarks

of protection for individuals. A society committed to justice, equality and freedom must establish a system of law that protects the rights of each person while maintaining order and promoting the common good.

This principle was declared by our founding fathers in the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Also, the United Nations Declaration of Human Rights affirms as a guiding principle that:

. . . it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law. . . .

and the Declaration proclaims that:

Everyone has the right to life, liberty, and security of person.

Finally, speaking to a world that welcomed his moral leadership, Pope John XXIII, in the great encyclical, *Pacem in Terris*, asserted that:

Any human society, if it is to be well-ordered and productive, must lay down as a foundation this principle, namely, that every human being is a person, that is, his nature is endowed with intelligence and free will. By virtue of this, he has rights and duties of his own, flowing directly and simultaneously from his very nature.

These rights are therefore universal, inviolable and inalienable. [no. 9]

. . . Every man has the right to life, to bodily integrity, and to the means which are necessary and suitable for the proper development of life. [no. 11]

It is generally accepted today that the common good is best safeguarded when personal rights and duties are guaranteed. The chief concern of civil authorities must therefore be to ensure that these rights are recognized, respected, coordinated, defended and promoted, and that each individual is enabled to perform his duties more easily. For 'to safeguard the inviolable rights of the human person, and to facilitate the performance of his duties, is the principal duty of every public authority.' [no. 60]

As citizens of this Republic, and as religious leaders within it, we are compelled to speak to society and to motivate people in behalf of the rights of individuals. The scientific evidence confirms that unborn human beings are members of the human race. Thus, we, as religious leaders, have a grave responsibility to call for laws that will protect the right to life of the unborn. We also see a duty to urge a legal-political order founded on justice and truth that will protect and maintain the rights of all men. The social encyclicals of the modern era, the teaching of the Second Vatican Council, and the encyclicals and writings of Pope Paul VI on world development, justice and peace are directed to that very end.

Anyone who retreats from the discussion of moral questions or pleads noninvolvement when it comes to establishing a just social order by means of law and public policy, may well be failing in his responsibilities as a citizen.

It must also be understood that law plays the role of teacher. In some cases, the law teaches that certain actions are good and should be encouraged. In other cases, it teaches that certain actions are wrong or dangerous for society, and should be discouraged, and even prohibited. Increasingly, in a world in which ideas are readily available and rapidly disseminated, the law cannot remain silent without thereby failing to protect human values. This is especially true in regard to the right to life. Unless the law



expresses a commitment to safeguarding the lives of all, it teaches that life itself is a nebulous value, and one that can be denied. In regard to the right to life of the unborn child, the Supreme Court has denied any value to that life during the first six months of its existence in the womb and assigned only a relative value during the last three months. And on the Court's sliding scale, the value of the life of a viable fetus that can easily survive with ordinary care is second to the right of privacy, socio-economic factors, health factors, or the age of its mother. For practical purposes, the unborn child is often the victim of maternal convenience or the individual physician's opinion that the mother may be physically, emotionally or economically taxed by child care.

### III. THE RIGHT TO LIFE OF THE UNBORN IN THE CONTEXT OF AMERICAN LAW

Those measures designed to correct, through constitutional amendment, the violence inflicted upon the Constitution and upon our entire jurisprudential ethic by the decisions of the United States Supreme Court in *Roe v. Wade* and *Doe v. Bolton* deserve to be supported from the perspective of developing American law regarding the rights of the unborn child.

The opinion of the Supreme Court removing all legal protection for the unborn child is regressive. Our legal tradition has shown a steady and increasing concern to protect and extend the rights of the unborn child. As one legal expert observed: "The progress of the law in recognition of the fetus as a human person for all purposes has been strong and steady and roughly proportional to the growth of knowledge of biology and embryology."<sup>33</sup> If the unborn child can inherit, be compensated for pre-natal injuries, can be represented by a guardian, can have his right to continued existence preferred even to the right of the mother to the free exercise of her religion as in the blood transfusion cases, and enjoy other such rights, then the law would be schizophrenic to allow the unlimited destruction of that child.

From the Code of Hammurabi, discovered in 1901 and dating back to the third millennium B.C., until the present, civilized nations have prohibited abortion. In some cases the law sought to curb promiscuity, in some cases it sought to protect women

from medical quackery. But the law also sought to protect the right to life of those members of society who were least capable of protecting themselves. Thus, the United Nations Declaration of the Rights of the Child, ratified in 1959, proclaimed that “the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.

The Declaration of Independence, the document which establishes this country as a nation, declares that all of us are “created equal”—it does not state that we are born equal, nor that we achieve equality after we have been in our mother’s womb for three months, or six months, or after we are capable of “meaningful existence,” but that we are “created equal” and endowed by our Creator with the right to life. The *Bill of Rights*, a document contemporaneous with the Declaration of Independence, states flatly that we may not be deprived of life without due process of law. In order to understand the violence done to the Constitution by these decisions of the Supreme Court, then, it is only necessary to appreciate the fact that the Court placed a penumbral right—the right to privacy which is nowhere mentioned in the Constitution but has been enunciated by the Supreme Court—over an explicit right, the right to life itself, which is one of the most important guarantees which the Constitution expresses.

The infliction of any misinterpretation upon the Constitution threatens each of us in that particular area which has been so misinterpreted. For example, a misinterpretation of the Free Exercise Clause as it applies to one religion adversely affects all religions; or a misinterpretation of the right of an alleged criminal to be free from unwarranted search and seizure, adversely affects the right of all citizens to be free from unwarranted searches and seizures. So too, then, does a misinterpretation of the Constitution guarantee that none of us may be deprived of life without due process of law threaten the fundamental right of life which each of us supposedly possesses.

Unborn children, by any reasonable biological standard, must be viewed as growing, functioning, living human beings. The decisions of the Supreme Court in *Roe v. Wade* and *Doe v. Bolton* effectively remove an entire class of human beings from the protection of the Constitution and sanction the destruction of these

human beings without any semblance of due process. The Court's gratuitous comments extending the protections of the Constitution only to those who, in the Court's words are "capable of meaningful existence" or who are persons in the "whole sense" pose obvious threats to other classes of citizens. It is the violence done to the Constitution and our entire legal ethic by these decisions that require an immediate excision of this misinterpretation from the body of American law.

These are the more obvious points in the Court's opinions. The opinions deny the personhood and the legally protected rights of the unborn. The Court has also established a climate of permissiveness in regard to abortion. The Court has set the stage for society—or government—to decide that some lives are "devoid of value," are lacking in "meaningfulness," or are unworthy of protection because their continuation is a threat to the convenience of others.

The Court has also set the stage for a possible coercive use of abortion by government. By citing *Buck v. Bell* in an approving fashion, the Supreme Court gives support to an expansion of government control of reproductive rights for social reasons. The Court places itself in the tradition of justifying the violation of individual human rights for social ends, rather than requiring a greater commitment of society to find solutions to these problems that are in accord with human dignity.

The simple fact is that abortion ends the life of a human being. It is an unprecedented gesture to place the penumbral right of privacy, nowhere mentioned in the Constitution, over the right to continued existence which the same Constitution explicitly protects. These opinions do violence to the Constitution and are reminiscent of the infamous decision in *Dred Scott v. Sanford*.

#### IV. A REVIEW OF THE COURT'S OPINIONS IN *ROE v. WADE*, *DOE v. BOLTON*

Until January 22, 1973, the life of the unborn human being in the womb of his or her mother was protected by state laws, and by the judgments of many state and federal courts throughout the United States. On that date, the United States Supreme Court

struck down the abortion laws of Texas and Georgia, and in a wide-ranging opinion, ended this nation's long tradition of legally protecting unborn human life. We have already stated our rejection of the Court's opinions, and we herewith provide some of the salient reasons for that rejection.

1. *The unborn child is not considered a person as the Fourteenth Amendment understands the term and is therefore not entitled to constitutional protection for his/her right to life.*

In attempting to justify this position, Justice Blackmun acknowledges that the personhood of the unborn child rests on two questions: (1) the definition of person in the language and meaning of the Fourteenth Amendment, and (2) when human life begins. Blackmun answers the first question by admitting that "the Constitution does not define 'person' in so many words" (Wade, p. 41). Citing a series of places where the term "person" is used in the Constitution, Blackmun concludes that "none indicates, with any assurance that it has any possible pre-natal application" (Wade, p. 42). The Justice also cites an absence of case law indicating that the fetus is a person within the meaning of the Fourteenth Amendment (Wade, p. 41). Finally, he states that the Supreme Court "inferentially" held that the unborn child is not a person in *U. S. v. Vuitch* (Wade, p. 43). No one of these explanations proves conclusively that the unborn ever was—or must be—excluded from personhood within the meaning and language of the Fourteenth Amendment. One of the major criticisms of the Court's opinions in *Wade* and *Bolton* is their unexplained inconsistency in adopting an evolutionary concept of the Constitution on one point, i.e., that the holding is consistent "with the demands of the profound problems of the present day" (Wade, p. 50) and a static view of the Constitution on the personhood issue—"all this . . . persuades us that the word 'person' as used in the Fourteenth Amendment does not include the unborn" (Wade, p. 43).

Justice Blackmun, in his analysis, ignored two other questions pertinent to his opinion. Is it clear beyond a doubt that the Fourteenth Amendment excludes the unborn as a person, and can the constitutional meaning of person under the Fourteenth Amendment be read to include the unborn? An historical reading of the views of the framers of the Fourteenth Amendment indicates that they equated the terms "person," "human being" and "man."

Moreover, they situated their understanding of these terms in the Declaration of Independence that “all men are created equal.” The reference to creation, which was understood to mean a divine act prior to birth, raised no question in their minds.

Moreover, the law can declare certain beings—inanimate as well as animate—to be persons, as was admitted by U.S. Supreme Court Justice James Wilson, one of the framers of the Fourteenth Amendment. Finally, the argument has been made that inanimate objects be accorded legal rights, and specifically that trees be recognized as persons.<sup>34</sup>

Justice Blackmun admits that his observations concerning the personhood of the unborn child in law are not conclusive, and thus he takes up the question of the beginning of human life. In his investigation of this point he ignores the impressive and unchallenged scientific evidence on the existence of human life from conception; he misreads and erroneously misinterprets the Roman Catholic teaching on the matter (Wade, p. 45); he admits that “we need not resolve the difficult question of when life begins” (Wade, p. 44); he leans to the position that “life does not begin until live birth” (Wade, p. 44); and he concludes that “the fetus, at most, represents only the potentiality of life” (Wade, p. 46). The conclusion is not substantiated by the evidence, and it establishes a new term—“the potentiality of life”—that is not supported by the empirical evidence on when life begins.

It is difficult to pay credence to such fallacious reasoning, but it is tragically unjust to deny the most fundamental human right to all unborn children forever on such ambiguous and spurious grounds.

*2. The woman's so-called “right to privacy” takes precedence over the child's right to life and safety. According to the majority, the abortion decision is primarily a medical decision, but one in which the woman's personal interests are extensive and determining. The doctor's decision to perform an abortion should be “exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient.”*

The majority opinion begins its discussion of privacy with the blunt assertion that “(T)he Constitution does not explicitly mention

any right of privacy" (Wade, p. 37). Moreover, the Court disagrees with the contention "that the woman's right is absolute" (Wade, p. 38). Without offering any compelling proof, the Court nonetheless elevates a penumbral right to the status of a fundamental right. Yet mindful of the legal quicksand on which the privacy doctrine rests, the Court attempts to salvage some control by qualifying the personal right to privacy with a compelling state interest. Having already denied personhood to the unborn, locating a state interest is difficult. So the Court seizes upon protection of the woman's health, and the protection of "potential life" after viability.

However, marriage and childbearing have always been recognized as matters deserving state interest and state support. Thus we have a wide variety of health programs to provide pre-natal, childbirth, and post-natal services to mother and child. These include nutritional care for both mother and child, and HEW has provided AFDC benefits on behalf of the unborn child throughout pregnancy.

Moreover, the question of abortion necessarily involves the relationship between the mother and her unborn child. In fact, medicine, psychology and anthropology confirm that this is a highly important relationship in regard to the development of personality. But this relationship creates rights and duties, which, although they may change in the course of time, actually endure while both remain alive.

Finally, in basing the opinions on the nebulous right of privacy, the Court entrapped itself in a maze of logical inconsistencies in regard to the mutual responsibilities of the woman and her doctor. The majority asserts that the right of privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy" (Wade, p. 38). However, her right to obtain an abortion is dependent on medical consultation, because "the abortion decision is inherently and primarily, a medical decision, and basic responsibility for it must rest with the physician" (Wade, p. 50). Thus, according to the majority opinion, the woman has a right to abortion, but cannot effectuate that right without medical consultation. After consultation, at least during the first trimester, she may obtain the abortion at any time, at any place, from any person regardless of whether that person is a doctor. Since "basic

responsibility for it [the abortion] must rest with the physician” (Wade, p. 50), presumably the physician can be sued if harm befalls the woman. Never before has any Court or any legislature given such a broad grant of power and responsibility to physicians, but this unprecedented grant also reduces the physician to consultant and scapegoat at the very same time.

3. *The state may not establish any regulations that restrict the practice of abortion during the first three months of pregnancy. A woman, who in consultation with her physician decides that abortion is advisable, may obtain the abortion free of any interference by the State.*

In granting this unlimited power to abort to women during the first trimester, the Court necessarily denies the accumulated scientific evidence on the growth and development of the unborn child. As indicated above this scientific testimony leaves little doubt that the fetus is human, and that the fetal stage of development is but one phase of a continued existence beginning at conception and terminating at death. Death may occur at age one or at any other chronological point, or it may occur prior to birth. It is the same human being who dies, no matter when.

In holding that the decision to have an abortion must be left completely to the woman and her doctor during the first three months of pregnancy, the Court permits the abortion to be performed by anyone, and in any place. Thus the Court allows precisely what everyone—including those who endorsed liberal abortion laws—have continuously rejected, i.e., easily available abortion performed by non-medical personnel outside medical facilities.

4. *The state may establish some guidelines to protect the health of the woman who decides on an abortion during the second three months of pregnancy.*

This concession of the Court is empty, since medical evidence has already proven that second trimester abortions are risky, and that complications during the first eight weeks are also quite high. The Court’s concern about the second trimester skirts the almost universal finding both in foreign countries and in the United States, that prior to and after abortion, psychological problems persist.

There is another point that the Court chose to ignore in its tripartite division of pregnancy. During the first 18 months of the

abortion-on-request law in New York, Dr. Jean Pakter, director of the New York City's Bureau of Maternity Services and Family Planning reported that more than 60 of the legal abortions resulted in the birth of a fetus that showed some signs of life. Two of the fetuses survived, and one was living healthily with its mother at the time of the report, while the other was still in the hospital. Since the New York law prohibited abortion after 24 weeks, the Court is faced with establishing a legal structure that permits, indeed encourages, the death of some children who could otherwise have survived.

5. *After the point of viability, which the Court designated as between the 24th and 28th weeks of pregnancy, the state may manifest a concern in "the potential human life of the fetus." The state may then establish laws to protect fetal life, unless the abortion is necessary for the life or health of the mother. Presumably, this covers anything from a serious threat to the mother's life to a late-term abortion for mild depression, anxiety, or "the distress for all concerned associated with the unwanted child. . . ."*

Once again the Court has held out protection to the unborn on the one hand, and taken it away with the other. The terms "viability," "potential life," and "compelling" lead us into a quagmire of vagueness.

The Court's opinion asserts that the "potentiality of human life" is present at "viability." According to the Court, "(V)iability is usually placed at about seven months (28 weeks), but may occur earlier, even at 24 weeks" (Wade, p. 45). In reality, given our constantly expanding knowledge of obstetrics, and our scientific technology for meeting problems during pregnancy, the fetus is viable throughout the pregnancy so long as its environment is not disturbed and so long as it is not the subject of attack.

Moreover, the Court settles on one earmark of viability—age of the fetus—whereas medicine refers to age and weight of the fetus as earmarks.

The Court has coined the term "potentiality of human life" (Wade, p. 49), but has neither defined the terms adequately nor given criteria for judging its existence. Since potentiality is a relative term, it is also present during the first and second trimester, and is not conditioned on viability.



6. Perhaps most important was the manner in which the Court evaluated unborn human life. The unborn child is viable when it is "capable of meaningful life" outside its mother's womb. Further, even the viable child prior to birth is not a person "in the whole sense." Thus the Court has set a precedent whereby the right of life is no longer inalienable but is subject to governmental and societal judgments regarding its meaningfulness and quality.

These concepts, "meaningful life" and person "in the whole sense," are in fact value judgments which the Court leaves cloaked in ambiguity. It was such concepts that Nazi Germany used in justifying euthanasia and other eugenic controls when they designated certain lives as "devoid of value."

Moreover, we are already being visited with the monstrous results of the Court's immoral ideology. Forty-three deformed infants were allowed to die in a major university medical center rather than face lives devoid of "meaningful humanhood." A doctor who commented on the matter said that withholding surgery—and sometimes ordinary nurturing care—from children born with defects is a common practice in hospitals throughout the country.

Finally, Nobel Laureate Dr. James Watson, has suggested that children should be declared persons three days after birth to allow time for their parents to decide whether the child's life should be maintained.

These examples magnify the tragic error of the Court's reasonings in *Wade* and *Bolton*. These opinions of the Court express value judgments and moral judgments that are beyond the Court's area of jurisdiction. They must be corrected by the passage of a constitutional amendment to protect the unborn.

## V. PROPOSAL FOR A CONSTITUTIONAL AMENDMENT

As Americans, and as religious leaders, we have been committed to a society governed by a system of law that protects the rights of individuals and maintains the common good. As our founding fathers believed, we hold that all law is ultimately based on Divine Law, and that a just system of civil law cannot be in conflict with the Law of God. The American system of constitu-

tional law has proven to be a workable system of law, and one that has generally responded to the delicate balancing between defending the common good and human rights on the one hand, and according a due enjoyment of personal freedom on the other.

But a system of law, to be just and equitable, must respond to new challenges. A static system of law runs the risk of failing to provide protection for human rights, and it soon degenerates into a system of regulatory controls, rather than a system of justice. The administration of law is a function of government, and in the American system, the establishment of laws and the election of government officials is based on the democratic process. Once any government or system of law does not acknowledge the rights of man or violates them, it not only fails in its duty, but its orders completely lack juridical force.

The opinions of the Supreme Court in *Wade* and *Bolton* deny the basic principles of the Constitution, and refuse appropriate legal protection to the unborn child. The Court's opinion is absolute and universal; the unborn have no recourse or appeal.

After much consideration and study, we have come to the conclusion that the only feasible way to reverse the decision of the Court and to provide some constitutional base for the legal protection of the unborn child is by amending the Constitution. Moreover, this is a legal option consistent with the democratic process. It reflects the commitment to human rights that must be at the heart of all human law, international as well as national, and because human life is such an eminent value, the effort to pass an amendment is a moral imperative of the highest order.

The so-called "states' rights" approach to the amendment is unacceptable. It is repugnant to one's sense of justice to simply allow as an option whether the states within their various jurisdictions may or may not grant to a class of human beings their rights, particularly the most basic right, the right to live. Further, by its action the United States Supreme Court has removed the unborn child from protection under the U.S. Constitution, and thereby the Court has raised the abortion issue to the level of a federal question. Federal constitutional rights, improperly, but substantially denied, must be substantially affirmed.

We are aware that a number of Senators have sponsored or co-

sponsored specific proposals. We wish to commend their efforts and to place before this Committee our own convictions. Moreover, we understand that these hearings are to assist the Sub-Committee on Constitutional Amendments in formulating precise language that will be brought to the Committee on the Judiciary, and ultimately will be placed before the full Senate.

At this time, we wish to articulate the values that we believe should be encompassed by an amendment, and we hope to provide a more detailed legal memorandum at a later date.

Thus, any consideration of a constitutional amendment should include at least the following points.

1. Establish that the unborn child is a person under the law in the terms of the Constitution from conception on.
2. The Constitution should express a commitment to the preservation of life to the maximum degree possible. The protection resulting therefrom should be universal.
3. The proposed amendment should give the states the power to enact enabling legislation, and to provide for ancillary matters such as record-keeping, etc.
4. The right of life is described in the Declaration of Independence as "unalienable" and as a right with which all men are endowed by the Creator. The amendment should restore the basic constitutional protection for this human right to the unborn child.

## VI. CONCLUSION

Law constitutes a fundamental and indispensable instrument in making it possible to build up a more just and loving society. Only the law, in conjunction with a broadly conceived program of education, can effectively extend the horizons of democracy and civil rights to include explicit and full protection for the rights of the unborn child.

It has taken a century for the promises held out by the Thirteenth and Fourteenth Amendments to the Constitution to begin to bear fruit in our present society. However long the road before us in

securing effective recognition of the civil rights of the unborn child, we must begin now with what is the necessary first step, the enactment by Congress of an appropriate constitutional amendment.

However, we do not see a constitutional amendment as the final product of our commitment or of our legislative activity. It is instead the constitutional base on which to provide support and assistance to pregnant women and their unborn children. This would include nutritional, pre-natal, childbirth and post-natal care for the mother, and also nutritional and pediatric care for the child through the first year of life. Counseling services, adoption facilities and financial assistance are also part of the panoply of services, and we believe that all of these should be available as a matter of right to all pregnant women and their children. Within the Catholic community, we will continue to provide these services through our professional service agencies to the best of our ability to anyone in need.<sup>35</sup>

## NOTES

<sup>1</sup> Abortion is defined as the expulsion of the fetus prior to viability. Some authors use the terms "feticide" for the destruction of the fetus prior to viability, and "infanticide" for the post-viability, late-term abortion.

<sup>2</sup> These laws were placed on the books as a consequence of a very determined effort by the American Medical Association. They cannot be traced to the political influence of Catholics, but were enacted by a political system in which Catholics had little part.

<sup>3</sup> Cf. Robert Rugh, Ph.D., Landrum Shettles, Ph.D., M.D., with Richard Einhorn, *From Conception to Birth: the Drama of Life's Beginnings* (New York: Harper & Row, 1971).

<sup>4</sup> "Drama of Life Before Birth," *Life*, April 30, 1966.

<sup>5</sup> Dr. H. M. I. Liley is a pediatrician. She has collaborated in studies of the unborn with her husband, Dr. A. W. Liley, who perfected the intra-uterine transfusion.

<sup>6</sup> H. M. I. Liley, *Modern Motherhood* (New York: Random House, rev. ed., 1969), pp. 26-27.

<sup>7</sup> J. A. F. Roberts, *An Introduction to Medical Genetics*, 3rd ed. (London: Oxford University Press, 1965), p. 1, as cited in Germain Grisez, *Abortion: the Myths, the Realities, and the Arguments* (New York: Corpus Books, 1970), p. 6.

<sup>8</sup> Roland M. Nardone, "The Nexus of Biology and the Abortion Issue," *The Jurist* (Spring, 1973), p. 154.

<sup>9</sup> R. Houwink, *Data: Mirrors of Science* (New York: American Elsevier Publishing Co., Inc., 1970), pp. 104-190, as cited in Bart T. Heffernan, M.D., "The Early Biography of Everyman," in *Abortion and Social Justice*, eds. Thomas W. Hilgers and Dennis J. Horan (New York: Sheed and Ward, 1972), p. 4.

<sup>10</sup> Hymie Gordon, "Genetical, Social and Medical Aspects of Abortion," *South African Medical Journal* (July, 1968), pp. 721-730, as cited in Heffernan, p. 5.

<sup>11</sup> Nardone, p. 153.

<sup>12</sup> Andre E. Hellegers, M.D., "Fetal Development," *Theological Studies*, (March, 1970), p. 9; Nardone, pp. 154, 157; Anne McLaren, "The Embryo," in *Embryonic and Fetal Development*, eds. C. R. Austin and R. V. Short, *Reproduction in Mammals*, Vol. 2 (London: Cambridge University Press, 1972), p. 5.

<sup>13</sup> "The Termination of Pregnancy or Extermination of the Foetus," Professor A. W. Liley, a speech delivered November 18, 1970.

<sup>14</sup> Albert W. Liley, "The Foetus in Control of His Environment," in *Abortion and Social Justice*, eds. Thomas W. Hilgers and Dennis J. Horan (New York: Sheed & Ward, 1972), p. 27.

<sup>15</sup> *Ibid.*

<sup>16</sup> Cf. Philip Wylie, *The Magic Animal* (New York: Doubleday, 1968), p. 272, who describes the fetus as "protoplasmic rubbish," a "gobbet of meat protruding from a human womb," as cited in William E. May, "Abor-

tion as Indicative of Personal and Social Identity," in *The Jurist* (Spring, 1973), p. 209. Such terms as "fetus fetish" and "blob of protoplasm" sometimes appear in debate.

<sup>17</sup> A. W. Liley, "The Foetus as Personality," *Aust. N.Z.J. Psychiatry* (1972), p. 349.

<sup>18</sup> Some question whether individuality is not irreversibly established until several days after fertilization, perhaps the blastocyst stage of development. This questioning is prompted by such phenomena as twinning and recombination or by studies on the manner in which the genetic material of the primary cell is activated. However, the scientific data on these matters is still fragmentary with the result that interpretations are necessarily quite speculative. Although scientists investigate the question of individuality in the context of irreversibility, the known norm that individual human life originates at fertilization should be the basis of law.

<sup>19</sup> Heffernan, pp. 6-7.

<sup>20</sup> The above material, descriptive of human development from fertilization to eight weeks, is summarized in large part from Heffernan, pp. 4-7.

<sup>21</sup> Lennart Nilsson, Alex-Ingelman-Sundberg, and Claes Wirsen, *A Child Is Born* (New York: Delacorte Press, 1966).

<sup>22</sup> Nilsson, p. 81.

<sup>23</sup> *Albany Union Times*, March 10, 1970, p. 17, as cited in Robert M. Byrn, "Abortion-on-Demand: Whose Morality?," *Notre Dame Lawyer* (Fall, 1970), pp. 8-9.

<sup>24</sup> A. W. Liley, "The Foetus as a Personality," *Aust. N.Z.J. Psychiatry* (1972), p. 350.

<sup>25</sup> Heffernan, p. 3.

<sup>26</sup> Most of the descriptive material of this section is taken from A. W. Liley, "The Foetus as a Personality."

<sup>27</sup> *Ibid.*, 351-352.

<sup>28</sup> H. M. I. Liley, *Modern Motherhood*, pp. 37-38.

<sup>29</sup> A. W. Liley, "The Foetus as a Personality," p. 355.

<sup>30</sup> John T. Noonan, Jr., "Responding to Persons: methods of moral argument in debate over abortion," *Theology Digest* (Winter, 1973), p. 302.

<sup>31</sup> Frederic Wertham, M.D., *A Sign for Cain: An Exploration of Human Violence* (New York: Paperback Library, 1966), pp. 133-186. In 1920 a jurist and psychiatrist published in Leipzig an influential and popular book, *The Release of the Destruction of Life Devoid of Value*, in which they advocated that the killing of "worthless people" be legally permitted. "The concept of 'life devoid of value' or 'life not worth living' was not a Nazi invention, as is often thought. It derives from this book. . . . This [that the authors of the above book were acknowledged intellectual leaders] illustrates the presupposition that violence does not usually come from the uncontrolled instincts of the undereducated, but frequently is a rationalized policy from above" (pp. 157-158).

The gas ovens in Nazi Germany were first used by the German medical profession in late 1939 to kill four unsuspecting, cooperative mental patients (pp. 150-151). This initial experiment successfully grew into a well-organized health program that was first directed at mental patients [estimated at least 275,000 killed by 1945—p. 155], but was expanded to include unnum-

bered of the elderly, the crippled, including crippled children, war wounded, etc. The techniques of death developed in the mental hospitals were transferred to the concentration camps for use in the political program of genocide (pp. 176-177).

For a fuller discussion of medical ethics in its modern cultural context, cf. Charles Carroll, "Medicine Without an Ethic," *The Journal of the Louisiana State Medical Society* (September, 1972), pp. 313-320 [an expanded version of this article is reproduced in *Abortion and Social Justice*, pp. 249-266].

<sup>32</sup> *Death With Dignity: An Inquiry into Related Public Issues*. Hearings before the Special Committee on Aging, U.S. Senate, 92nd Congress, 2nd session. Part I—Washington, D.C., August 7, 1972, pp. 29-32.

<sup>33</sup> David Louisell, "Abortion, the Practice of Medicine and the Due Process of Law," 16 *U.C.L.A. Law Review* (1969), p. 324. Cf. also John T. Noonan, Jr., "The Constitutionality of the Regulation of Abortion," *The Hastings Law Journal* (November, 1969), pp 51-65.

<sup>34</sup> Justice William O. Douglas in *Sierra Club v. Morton*, 405 U.S. Reports, 1972, 727.

<sup>35</sup> Resolution of the National Conference of Catholic Charities, November 3, 1970.





# TESTIMONY

## His Eminence John Cardinal Krol Archbishop of Philadelphia

Mr. Chairman:

I am Cardinal John Krol, Archbishop of Philadelphia. I appear before this Subcommittee today in my capacity as President of the United States Catholic Conference, the official, national-level agency of the 300 American bishops who minister to the spiritual and religious needs of nearly 50 million American Catholics. I am accompanied by Cardinal John Cody, Archbishop of Chicago and Chairman of the Catholic Bishops' Committee for Pro-Life Activities; by Cardinal Timothy Manning, Archbishop of Los Angeles; and by Cardinal Humberto Medeiros, Archbishop of Boston.

Each of us will present a brief oral statement, after which we shall be happy to respond to the questions of the Subcommittee. We also ask your permission to submit for the record a longer written statement of the position of the United States Catholic Conference, in which we express the enduring principles of the Catholic Church on this question.

We are pleased at this opportunity to testify before the Subcommittee. We are pleased, too, that the Subcommittee has decided to conduct hearings on proposed constitutional amendments to protect the life of unborn human beings from conception onward. This is an encouraging sign of forward movement which, we hope, will soon lead to congressional enactment of such an amendment.

I emphasize the word "soon," for this issue has an urgency shared by few others now confronting the nation. Each day that passes without such an amendment signals further massive destruction of unborn human beings in this country. It has been estimated that there is one abortion every 20 seconds in the United States—three every minute. Every week, since the Supreme Court's decisions of January 22, 1973, there have been as many deaths from abortion as there were deaths at Nagasaki as a result

of the atomic bomb. Every nine days there are as many deaths from abortion as there were American deaths in the 10 years of the Vietnam war.

Last month Mr. Justice Blackmun was quoted as saying that the court's abortion ruling "will be regarded as one of the worst mistakes in the Court's history or one of its great decisions, a turning point." I agree with Justice Blackmun at least to this extent, that the abortion decisions will be viewed as a tragic mistake. But I am convinced that they will ultimately be seen as *the* worst mistake in the Court's history. Only a constitutional amendment can correct this mistake.

At the same time, we are aware that amending our Constitution is not a step to be taken lightly. Congress and the states are obliged to reflect seriously on such an action. In this process of reflection it is essential to consider the views of many concerned Americans. It is precisely as concerned Americans who are moral leaders that we appear here today.

We do not propose to advocate sectarian doctrine but to defend human rights, and specifically, the most fundamental of all rights, the right to life itself. While we are leaders of the Catholic Church in the United States, we believe that what we say expresses the convictions of many Americans who are members of other faiths and of no faith.

I do not intend to dwell at length on this point, but I believe it is important at least to raise it, in order to dispose of a facile but misleading slogan often directed against those who speak against abortion. We reject any suggestion that we are attempting to impose "our" morality on others. First, it is not true. The right to life is not an invention of the Catholic Church or any other church. It is a basic human right which must undergird any civilized society. Second, either we all have the same right to speak out on public policy or no one does. We do not have to check our consciences at the door before we argue for what we think is best for society. We speak as American citizens who are free to express our views and whose freedom, under our system of government, carries with it a corresponding obligation to advocate positions which we believe will best serve the good of our nation. Third, in our free country, decisions concerning issues such as the one before this Subcommittee are made by legislators who themselves are free to act

according to their own best judgment. We dare not forget, however, that to separate political judgment from moral judgment leads to disorder and disaster.

In order to grasp what is at stake in the issue before us, it is essential to understand the nature of the being whom an abortion kills. There is an impression in some quarters that the child before birth is simply a lump of tissue, an undifferentiated part of its mother's body, rather like an appendix. Nothing could be farther from the truth.

What comes into existence at the moment of conception is nothing less than a human being in the earliest stages of development. As our detailed statement shows, medical science has amply documented the humanity of the fetus. There would be no question about the humanity of the unborn except that some wish to kill them.

Before a woman ordinarily knows that she is pregnant, the new human being has developed thousands of cells, a heart which began beating within 25 days from conception, veins and circulating blood, a backbone and skeletal system, a brain with traceable brain waves, rudimentary organs, arms and legs, fingers and toes, eyes and ears and a mouth. At the very moment of fertilization, all of the unique genetic characteristics of an individual are determined: eye, skin and hair coloring, height and bone structure, intellectual potential, inherited emotional makeup, etc. From conception on, 46 chromosomes are present, 23 from each parent. This is the chromosomal content defined by biologists as that of a normal human being. Furthermore, this new individual's chromosomal pattern is utterly unique, absolutely its own and unlike that of any other human being in the world, including either of its parents. The scientific evidence points to only one possible conclusion: this is a new, unique, human individual. When this individual is killed, human life is destroyed.

It is true that new human life is uniquely defenseless. But defenselessness is not an argument for killing.

I do not impute evil motives to those who seek to justify abortion. I do contend that the legalization of abortion is a tragic error which cries out for correction. The only avenue of correction is a constitutional amendment to protect the unborn.

Mr. Chairman, Cardinals Manning, Medeiros, and Cody will address themselves to other aspects of this question as they are viewed by the United States Catholic Conference. I say, in conclusion, that the fundamental question facing this nation in the abortion issue is whether or not we, as Americans, reverence human life in all its stages and are prepared to protect it. All human life is sacred. It is the best part of the American tradition not only to recognize this principle in the abstract but to embody it in our laws and institutions.

I thank you for the opportunity to appear before this Subcommittee and I pray that these hearings will prove to be the first step in a successful effort to re-extend the protection of law to the unborn.

# TESTIMONY

## His Eminence Timothy Cardinal Manning Archbishop of Los Angeles

Mr. Chairman:

I am Cardinal Timothy Manning. I fully associate myself with the remarks of Cardinal Krol. I wish to touch briefly on certain objectionable aspects of the Supreme Court's abortion decisions as well as on the appropriate position of the law with regard to human rights.

No responsible American wishes to suggest disrespect for the Supreme Court of the United States. But honest disagreement is not disrespect. Recognition of the crucial role played by the Supreme Court in our system of government should not blind us to the fact that the court can err, as our history indicates. In this case we believe it has done so, and its error is a national tragedy.

It is important to make this point because Supreme Court decisions tend to be invested with an aura which places them almost beyond criticism. When the Supreme Court speaks, it is presumed to be the authentic interpreter of the Constitution. But its interpretation can be mistaken. In the case of the abortion decisions the Court created constitutional doctrine out of opinions which appear arbitrary at best.

Mr. Justice White spoke to this point in his dissent from the majority. "I find nothing in the language or history of the Constitution to support the Court's judgment," he wrote. "The Court simply fashions and announces a new constitutional right . . . with scarcely any reason or authority for its action . . ."

The fact is, nevertheless, that the Court has spoken and its novel doctrine of virtual abortion on request will stand until concerned Americans avail themselves of the means of redress which the Constitution itself provides. I refer of course to a constitutional amendment.

An amendment is necessary first of all to protect the lives of the unborn children who can be killed—indeed, are being killed at this very moment—in the wake of the Supreme Court’s decisions. But it is also needed to restore integrity to the law itself, to make the American legal system once more the guarantor and protector of all human rights and the human rights of all.

Human rights stand always in need of vindication and protection. One of the distinguishing characteristics of a civilized society, and a particular concern of the Church, is the special care required to provide protection for those of its members who are least able to protect themselves. Conversely, it is a sign of sickness in a society when it becomes callous to the rights of the defenseless and deaf to the pleas of the weak.

I hesitate to say that the United States as a whole has arrived at such a condition. Yet the stark fact is that the unborn are being destroyed in our country at an unprecedented rate, and the destruction goes on because there is no adequate protection in the law. No one who cherishes this nation’s historic commitment to human rights can contemplate this situation with complacency.

As Cardinal Krol has remarked, amending our Constitution is not a matter to be undertaken lightly. Yet amending the Constitution is now essential if the American system of law itself is to remain true to its role as protector of the rights of all. It would be impossible to improve on the statement of principle articulated by our Founding Fathers:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.

An amendment to protect the unborn is needed now in order that these words may continue to express the reality of American belief and practice.

# TESTIMONY

## His Eminence Humberto Cardinal Medeiros Archbishop of Boston

Mr. Chairman:

I am Cardinal Humberto S. Medeiros. Like my colleagues, I wish to express my gratitude for the opportunity to testify before this Subcommittee. With your permission, the United States Catholic Conference will also submit a more detailed legal memorandum at a later date.

My colleagues and I are aware that many members of Congress have sponsored or co-sponsored proposals intended to correct the situation created by the Supreme Court's abortion decisions of January 22, 1973. This is an extremely significant expression of congressional sentiment. The Senators and Representatives who have taken such action deserve the thanks of concerned Americans who perceive the injustices created by the Court's ruling in denying to unborn babies their inalienable and constitutionally defensible right to life and to birth and in denying to unborn persons "equal protection of the law" and the right of "due process."

A "states rights" amendment, which would simply return jurisdiction over the abortion law to the states, does not seem to be a satisfactory solution to the existing situation. Protection of human life should not depend on geographical boundaries. The Supreme Court's action itself has made abortion a federal question.

I am not a legal scholar and I shall therefore not attempt here either to formulate a proposed amendment to the Constitution or to provide the language of such an amendment. Rather, I shall attempt to set before this Subcommittee basic and necessary considerations which should become the foundation upon which a constitutional amendment should rest.

1. The constitutional amendment should clearly establish that, from conception onward, the unborn child is a human person in the terms of the Constitution.

2. The Constitution should express a commitment to the preservation of all human life. Therefore the prohibition against the direct and intentional taking of innocent human life should be universal and without exceptions.

3. The right to life is described in the Declaration of Independence as “unalienable” and as a right with which all men are endowed by the Creator. The constitutional amendment should restore the basic protection for this human right to the unborn, just as it is provided to all other persons in the United States.

As for an amendment which would generally prohibit abortion but permit it in certain exceptional circumstances, such as when a woman’s life is considered to be threatened, the Catholic Conference does not endorse such an approach in principle and could not conscientiously support it.

The teaching of the Catholic Church regarding abortion is very clear: “For God, the Lord of life, has conferred on men the surpassing ministry of safeguarding life—a ministry which must be fulfilled in a manner which is worthy of man. Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes.” (*Constitution on the Church in the Modern World*, no. 51)

This teaching has been recently repeated by the National Conference of Catholic Bishops of the United States in their resolution of November 13, 1973. They stated: “Finally, we wish to make it clear beyond doubt to our fellow citizens that we consider the passage of a pro-life constitutional amendment a priority of the highest order, one to which we are committed by our determination to uphold the dignity of the human being and by our conviction that this nation must provide protection for the life, liberty and pursuit of happiness of all human beings, before as well as after birth.”



# TESTIMONY

His Eminence John Cardinal Cody  
Archbishop of Chicago

Mr. Chairman:

I am Cardinal John Cody. Some of the technical and legal aspects of the abortion issue have been covered by my colleagues. In concluding our joint presentation I wish to touch on certain long-range implications of the Supreme Court's abortion decisions and of the current practice of abortion in this country.

One aspect of the Supreme Court's action which has received relatively little attention, and yet deserves the most serious and profound reflection, is the criterion it adopted in evaluating unborn human life. The unborn child, according to the court majority, is to be considered viable when he or she is "capable of meaningful life" outside the mother's womb. Furthermore, even the viable child prior to birth is, in the eyes of the court, not a person "in the whole sense."

What precisely does this mean? The very vagueness of the language, as of the thinking, makes it difficult to say with certainty. And it is exactly its subjective vagueness which makes this line of thought so dangerous. At the very least it appears that the Supreme Court has taken the position that there are no clear and objective criteria to guide our approach to human life. Instead, human life is to be respected only to the extent that it meets shifting interpretations of "meaninglessness" which government, society or an individual may choose to apply.

This represents a radical threat to the dignity and sanctity of all human life. I do not suggest a moral "domino theory," as if abuses against the value of human life in one area lead inevitably to abuses in others. But readiness to destroy some human lives because they fail to measure up to ill-defined, subjective standards of "meaningfulness" can infect society's attitude toward life in general and lead to abuses which were originally unforeseen.

This has begun to happen in our country. I will not recount in detail the incidents which have already come to light in recent months—of sterilization of public welfare recipients and of handicapped infants allowed to die. Apparently the cruel standard of “meaningfulness” has already begun to take its toll on other lives besides those of the unborn. Where does the process end? Who among us feels confident that he or she knows?

My point is this: unless America is prepared to protect unborn human lives, it cannot with confidence guarantee protection to any life. A threat to any innocent life is implicitly a threat to all.

Society is obliged to protect and enhance human lives—all human lives. Our concern should not be limited to the unborn but should extend to women experiencing problems in pregnancy and to their families. A wide range of medical and social services must be available to all who need them. A truly humane and compassionate approach will employ measures such as these, not abortion.

Mr. Chairman, I am sure that you and the other members of this Subcommittee have heard a great deal from concerned Americans who wish the speedy enactment of a constitutional amendment to protect the unborn. So have we. The public demonstrations which occurred on the grounds of the U.S. Capitol and in many communities around the country on the first anniversary of the abortion decisions were visible testimony to the deeply held desire of millions of Americans for action to protect the unborn. These are Americans of many different creeds and races. A Jewish doctor, writing in the letters column of the February 23 issue of *Time*, had this to say:

As a Jew, I hold the right to life of an innocent just as sacred as any Catholic may. It is true that Catholics are particularly mobilized against abortion. Why shouldn't they be? Are not Jews particularly mobilized against genocide—or is that wrong? How is it possible that a line of distinction can be drawn between kinds of human life?

That is a question which all Americans might well ponder as we confront the tragedy of abortion in our country today. “How is it possible that a line of distinction can be drawn between kinds of human life?”

Resolution of the  
NATIONAL CONFERENCE OF  
CATHOLIC BISHOPS  
ON THE PRO-LIFE CONSTITUTIONAL  
AMENDMENT

November 13, 1973

On repeated occasions since January 22, 1973, offices of the National Conference of Catholic Bishops have expressed opposition to the Supreme Court's ruling on abortion. Abortion, the destruction of a living human being in the womb of its mother, is morally wrong. No law or judicial opinion can change the moral judgment. We are convinced that the decision of the Supreme Court is wrong, and must be reversed. The only certain way to repair effectively the damage perpetrated by the Court's opinions is to amend the Constitution to provide clearly and definitively a constitutional base for legal protection of unborn human beings. A number of constitutional amendments have been introduced in Congress, but to date, no definite action has been taken.

We wish to state once again, as emphatically as possible, our endorsement of and support for a constitutional amendment that will protect the life of the unborn. We urge Congress to conduct hearings and move with all deliberate speed to pass a pro-life amendment. We reaffirm the statement of the NCCB Administrative Committee of September 18, 1973.

At the same time, we remind our people that the passage of the amendment will require concerted and continued efforts on their part to convince the Congress and the American people of its absolute necessity. Specifically, we urge public information programs and petitions to state legislatures to memorialize Congress in be-

half of a pro-life amendment. In all of this, well-planned and coordinated political organization by citizens at the national, state and local levels are of highest importance. Our system of government requires citizen participation, and in this case, there is a *moral imperative* for political activity.

Thus, we commend and encourage pro-life groups that have already initiated programs of political action to bring about congressional action on a constitutional amendment. We urge continued and unified efforts directed toward convincing the Congress to hold hearings at the earliest possible date. We especially invite the collaboration of other religious leaders in pursuing a pro-life constitutional amendment.

Finally, we wish to make it clear beyond doubt to our fellow citizens that we consider the passage of a pro-life constitutional amendment a priority of the highest order, one to which we are committed by our determination to uphold the dignity of the human being and by our conviction that this nation must provide protection for the life, liberty and pursuit of happiness for all human beings, before as well as after birth.

STATEMENT OF THE  
ADMINISTRATIVE COMMITTEE  
NATIONAL CONFERENCE OF  
CATHOLIC BISHOPS  
ON THE  
ANTI-ABORTION AMENDMENT

September 18, 1973

The Administrative Committee of the National Conference of Catholic Bishops reaffirms its commitment to a constitutional amendment in defense of unborn human life. While abortion transcends legal and constitutional issues and involves fundamental questions of individual and social morality, a constitutional amendment is now the only viable means to correct the disastrous legal situation created by the Supreme Court's rulings on abortion.

We therefore urge early hearings in the Senate and House on pending constitutional amendments to protect the unborn. We also urge pro-life supporters to call on their senators and representatives to support congressional hearings at an early date.

We are strongly encouraged by the fact that numerous pro-life amendments have been introduced in both houses of Congress. We commend the many members of Congress who have sponsored such amendments. In view of the evidence of widespread popular and congressional support for an amendment, we feel that prompt and positive congressional consideration is in order.

Furthermore, independent of the hearings, we recognize the need for grassroots pro-life organization on behalf of such an amendment. Local action can render an essential service: for ex-

ample, by public information programs on the subject of abortion, by contacts with congressmen, and by encouragement to state legislatures to petition Congress—as several have done—on behalf of a constitutional amendment. Men and women of good will, regardless of creed, who support the cause of human life must prepare now to make an effective, united, long-term effort.

The complex legal issues relating to an amendment are now under intensive and continuing study by the bishops' conference and by the legal staff and advisors of the United States Catholic Conference. At present we do not single out any specific pending amendment. Our detailed views regarding the wording of an amendment will be stated at an early date, in the context of congressional hearings or some other appropriate forum. Our immediate concern, however, is that Congress take action to insure prompt and favorable consideration of this urgent matter and that pro-life individuals and groups prepare now for the supportive action which will be necessary to win congressional approval and ultimate ratification of an amendment.

# Pastoral Guidelines for the CATHOLIC HOSPITAL AND CATHOLIC HEALTH CARE PERSONNEL AD HOC COMMITTEE ON PRO-LIFE ACTIVITIES, NCCB

April 11, 1973

The decision of the U.S. Supreme Court on January 22, 1973, in regard to the abortion laws of Texas and Georgia radically changed the legal and political discussion of the past decade. For practical purposes, the Court has given its approval to abortion on request, and the sweeping opinion of the Court has left many states in legal disarray regarding abortion.

Legally, the question of responsibility has been made ambiguous by the Court's opinion. The Supreme Court held that the right of privacy encompasses a woman's decision to obtain an abortion. The Court also stated that the abortion decision is "primarily a medical decision and basic responsibility for it must rest with the physician." In its opinion, during the first three months, once the woman has decided to abort and the physician has been consulted, anyone may perform the abortion procedure. Thus according to the Court, in such a case the physician is primarily and basically responsible, though he may have the least to do with the abortion itself.

In terms of moral teaching, the American Bishops have declared that the "opinion of the Court is wrong and is entirely contrary to the fundamental principles of morality. . . . Whenever a conflict arises between the law of God and any human law we are held to follow God's law." Catholics then, may not obey laws that require them to act in violation of their conscience.

Catholic hospitals cannot comply with laws requiring them to provide abortion services, and Catholic physicians, nurses and health care workers who work in facilities that provide abortions and sterilizations may not take part in such procedures in good conscience. Thus, in light of the legal safeguards respecting the moral responsibilities of Catholic hospitals and health care personnel, there is reason for a specific application of moral principles.

In this analysis, the application of the moral principles on conscientious objection to abortion is approached in terms of the *responsibilities* of Catholic hospitals and health care personnel to give witness to their faith and moral convictions, and the *restrictions* imposed by moral convictions on policies and behavior. Sterilization is treated separately, and a special section is added on excommunication.

### I. Principles of Responsibility for Catholic Hospitals

1. Catholic hospitals must witness to the sanctity of life, the integrity of the human person and the value of human life at every stage of its existence.

2. Catholic hospitals should commit themselves to a special effort in providing compassion and care for pregnant women and their unborn children. This would include providing a full range of pre-natal, obstetric and post-natal services. It would also involve spiritual assistance and sacramental administration. In this regard, the designation of sisters or nurses as special ministers of the Eucharist in keeping with the latest norms of the Holy See might be especially helpful in making it possible for women to receive the Eucharist frequently during their stay in the hospital. (Cf. *Immensae Caritatis*. Sacred Congregation of the Sacraments, January 29, 1973.)

3. Catholic hospitals should show a willingness to extend privileges to physicians and health care workers who share this commitment to serving life, particularly in situations where such health care workers find that their opposition to abortion or sterilization procedures places them at a disadvantage in other hospitals or facilities.

4. Catholic hospitals must give public notice of their commitment to the sanctity of life and their refusal to provide abortion or sterilization services.



5. The Catholic hospital has a responsibility to clearly enunciate its policies for all physicians holding privileges and for all health care personnel employed by the hospital.

## II. *Responsibilities of Physicians, Nurses and Health Care Workers*

1. Physicians, nurses and health care workers should give public witness to their belief in the sanctity of life, the integrity of every person and the value of human life at every stage of its existence by their compassion and care for their patients.

2. Physicians, nurses, and health care workers should provide encouragement and support for women and their children. They should be especially attentive to the tensions created for women by society's depreciation of the value of life. When advisable, they should seek the assistance of the chaplain in making available the Church's spiritual assistance and sacramental administration.

3. Physicians, nurses and health care workers who work in hospitals that provide abortion or sterilization services should notify the hospital in writing of their conscientious refusal to participate in such actions. When efforts are made to compel participation in these procedures, health care personnel should protest this violation of conscience to their superiors and to the administrator.

4. In their professional associations and contacts, Catholic physicians, nurses and health care workers should candidly and charitably explain their convictions to their colleagues when called upon to do so. Charity also requires that they refrain from judging the motives of their colleagues or patients who do not agree with or will not accept their conscientious convictions. Catholics must expect that their faith and moral convictions on the sanctity of life may result in their being misjudged, treated unfairly or alienated. Such is the price of Christian witness in today's world.

5. An aborted fetus showing signs of life, at any stage of pregnancy, is entitled to Baptism.

## III. *Restrictions that Follow from Moral Convictions*

1. No Catholic hospital may provide abortion services, nor

may any Catholic hospital make its facilities or personnel available for abortions.

2. A Catholic hospital should make it clear to all staff and health care workers that abortions and sterilizations are prohibited, and that agreement to this policy is a condition for privileges.

3. Abortion, the deliberate expulsion of the fetus from the womb of its mother to terminate the pregnancy, is a serious and immoral action. Catholics who perform or obtain abortions, or persuade others to do so, commit a serious sin. Among those who assist the woman, primary responsibility for the abortion procedure rests with the doctor who advises and/or assists the woman to have an abortion.

4. All who willingly and deliberately assist in abortion procedures, share the sinfulness of the abortive act. This is particularly true of the attending surgeon and the health care personnel who administer abortifacient drugs or other abortion procedures.

5. Nurses and health care personnel may not assist in abortion procedures. Particular questions of conscience should be taken up with a confessor.

6. Cooperation in the sinful act of abortion would not ordinarily extend to preparing patients for the procedure or providing after-care. However, because in many instances abortion is promoted as an alternate method of birth control and thus a denial of the value of the child, the cooperation of the Catholic health care worker may be interpreted as agreement that the unborn child is of subordinate value and has no right to life. Christian witness may well require Catholic nurses to avoid even those actions that—although not necessarily evil—may be interpreted as a compromise of Christian values.

### *Sterilization*

1. Sterilization, though it does not destroy the life of the unborn child as does abortion, may not be used as a means of contraception.

2. Doctors, nurses and health care workers in hospitals that permit sterilization procedures should not perform or assist in

such procedures. They should declare their unwillingness to participate in a letter to the administrator.

3. Nurses may be called upon to prepare a patient or provide after-care when the sterilization is attendant on delivery of a baby. The nurse's role is complicated and difficult. She should provide support and encouragement to the mother in regard to delivery of the child, and emphasize the positive aspect of giving birth. At the same time, the nurse should refrain from agreeing with the decision to terminate the reproductive function by means of sterilization.

### *Excommunication*

1. Because abortion is a serious evil, both for those who take part in it and for society, the Church has sought to dissuade people from utilizing it by placing it in a special moral category. Under Church law, those who perform or obtain an abortion or deliberately persuade others to do so, place themselves in a state of excommunication. Ordinarily this involves the woman who obtains an abortion, the doctor who performs the abortion, the person who persuades a woman to have an abortion, and any person who cooperates to the extent that the abortion would not otherwise take place without his or her cooperation.

2. Excommunication is a special penalty, and conditions under which it applies must be strictly interpreted. Generally it does not apply to nurses and other assistants, nor can it be extended to legislators. It does not apply in any way to sterilization procedures.

### *Conclusion*

Human life exists in a person, who must be respected and cared for, and at times, reconciled to God and the community. Catholic hospitals and health care workers have distinguished themselves in the past in the provision of competent medical care motivated by respect for the person and Christian charity. Along with the added responsibilities they will face in an increasingly permissive abortion atmosphere there are also opportunities for Christian witness, for competent care based on charity, for encouraging women and health care workers who refuse to take part in abortions, and for

reconciling and showing mercy to those who have failed. Now, more than in the past, Catholic health care workers, and perhaps especially those in hospitals not under Catholic auspices, will be ministers of God's word and mediators of His grace. They deserve the support and assistance of the entire Church.

Finally, though these guidelines have attempted to cover a wide range of problems, there are many cases that do not fall within the specified categories. In these cases, the standard principles of moral theology need to be applied. Parish priests, hospital chaplains and sisters involved in the ministry to the sick should be available to explain and apply the principles and to encourage and support doctors, nurses and health care workers.

AD HOC COMMITTEE ON PRO-LIFE  
ACTIVITIES, NCCB

John Cardinal Cody, Chairman  
Bishop George W. Ahr  
Bishop Juan A. Arzube  
Bishop Walter W. Curtis  
Bishop Francis Dunn  
Bishop Timothy Harrington  
Bishop Andrew McDonald  
Bishop Harold R. Perry

Secretary: Msgr. James T. McHugh,  
Family Life Division, United States  
Catholic Conference

Consultant: Sister Virginia Schwager,  
Division of Health Affairs, United  
States Catholic Conference

April 11, 1973

*(These guidelines are intended to correlate with the pastoral statements of NCCB and of individual Bishops. They do not replace diocesan policies, but are supplementary to them.)*

# Pastoral Message of the ADMINISTRATIVE COMMITTEE NATIONAL CONFERENCE OF CATHOLIC BISHOPS

February 13, 1973

Almighty God, the Creator of the world, has imprinted in the heart of man a law which calls him to do good and avoid evil. To obey this law is the dignity of man, according to it he will be judged (cf. *Constitution on the Church in the Modern World*, no. 16). In the encyclical letter, *Peace on Earth*, Pope John XXIII spoke of how nations can achieve justice and order by adhering to God's law:

Any human society, if it is to be well-ordered and productive, must lay down as a foundation this principle, namely, that every human being is a person, that is, his nature is endowed with intelligence and free will. By virtue of this, he has rights and duties of his own, flowing directly and simultaneously from his very nature. These rights are therefore universal, inviolable and inalienable (*Peace on Earth*, no. 9).

. . . Every man has the right to life, to bodily integrity, and to the means which are necessary and suitable for the proper development of life (*Peace on Earth*, no. 11).

The Supreme Court, in its recent decision striking down the laws of Texas and Georgia regulating abortion, has stated that the unborn child is not a person in the terms of the Fourteenth Amendment. Moreover, the Court held that the right of privacy encompasses a woman's decision to terminate a pregnancy, although the right of privacy is not an absolute right, and is not explicitly mentioned in the Constitution. In effect, the Court is saying that the

right of privacy takes precedence over the right to life. This opinion of the Court fails to protect the most basic human right—the right to life. Therefore, we reject this decision of the Court because, as John XXXII says, “If any government does not acknowledge the rights of man or violates them, . . . its orders completely lack juridical force.” (*Peace on Earth*, no. 61)

The Court has apparently failed to understand the scientific evidence clearly showing that the fetus is an individual human being whose pre-natal development is but the first phase of the long and continuous process of human development that begins at conception and terminates at death. Thus, the seven judge majority went on to declare that the life of the unborn child is not to be considered of any compelling value prior to viability, i.e., during the first six or seven months of pregnancy, and of only questionable value during the remaining months. Ultimately this means that the fetus, that is, the unborn child, belongs to an inferior class of human beings whose God-given rights will no longer be protected under the Constitution of the United States.

We find that this majority opinion of the Court is wrong and is entirely contrary to the fundamental principles of morality. Catholic teaching holds that, regardless of the circumstances of its origin, human life is valuable from conception to death because God is the Creator of each human being, and because mankind has been redeemed by Jesus Christ (cf. *Peace on Earth*, nos. 9 and 10). No court, no legislative body, no leader of government, can legitimately assign less value to some human life. Thus, the laws that conform to the opinion of the Court are immoral laws, in opposition to God’s plan of creation and to the Divine Law which prohibits the destruction of human life at any point of its existence. Whenever a conflict arises between the law of God and any human law, we are held to follow God’s law.

Furthermore, we believe, with millions of our fellow Americans, that our American law and way of life comprise an obvious and certain recognition of the law of God, and that our legal system is both based in it, and must conform to it. The Declaration of Independence holds that all men are endowed by “their Creator with certain unalienable rights,” among which are “life, liberty and the pursuit of happiness.” The Preamble to the Constitution establishes as one goal of the people of the United States “to secure the blessing

of liberty to ourselves and to our posterity.” Without the right to life, no true liberty is possible.

The basic human rights guaranteed by our American laws are, therefore, unalienable because their source is not man-made legislation but the Creator of all mankind, Almighty God. No right is more fundamental than the right to life itself and no innocent human life already begun can be deliberately terminated without offense to the Author of all life. Thus, there can be no moral acceptance of the recent United States Supreme Court decision which professes to legalize abortion.

In light of these reasons, we reject the opinion of the U.S. Supreme Court as erroneous, unjust, and immoral. Because of our responsibilities as authentic religious leaders and teachers, we make the following pastoral applications:

- (1) Catholics must oppose abortion as an immoral act. No one is obliged to obey any civil law that may require abortion.
- (2) Abortion is and has always been considered a serious violation of God’s law. Those who obtain an abortion, those who persuade others to have an abortion, and those who perform the abortion procedures are guilty of breaking God’s law. Moreover, in order to emphasize the special evil of abortion, under Church law, those who undergo or perform an abortion place themselves in a state of excommunication.
- (3) As tragic and sweeping as the Supreme Court decision is, it is still possible to create a pro-life atmosphere in which all, and notably physicians and health care personnel, will influence their peers to see a value in all human life, including that of the unborn child during the entire course of pregnancy. We hope that doctors will retain an ethical concern for the welfare of both the mother and the unborn child, and will not succumb to social pressure in performing abortions.
- (4) We urge the legal profession to articulate and safeguard the rights of fathers of unborn children, rights that have not been upset by this Supreme Court opinion.
- (5) We praise the efforts of pro-life groups and many other concerned Americans and encourage them to:

- (a) Offer positive alternatives to abortion for distressed pregnant women;
- (b) Pursue protection for institutions and individuals to refuse on the basis of conscience to engage in abortion procedures;
- (c) Combat the general permissiveness legislation can engender;
- (d) Assure the most restrictive interpretation of the Court's opinion at the state legislative level;
- (e) Set in motion the machinery needed to assure legal and constitutional conformity to the basic truth that the unborn child is a "person" in every sense of the term from the time of conception.

Bringing about a reversal of the Supreme Court's decision and achieving respect for unborn human life in our society will require unified and persistent efforts. But we must begin now—in our churches, schools and homes, as well as in the larger civic community—to instill reverence for life at all stages. We take as our mandate the words of the Book of Deuteronomy:

I set before you life or death . . . Choose life, then, that you and your descendents may live . . .



# Statement of the COMMITTEE FOR PRO-LIFE AFFAIRS NATIONAL CONFERENCE OF CATHOLIC BISHOPS

January 24, 1973

The sweeping judgment of the U.S. Supreme Court in the Texas and Georgia abortion cases is a flagrant rejection of the unborn child's right to life. The Court has chosen to ignore the scientific evidence regarding the unborn child's human growth and development during the first six months of life in the womb of its mother. No consideration has been given to the parental rights of the child's father.

In effect, the opinion of the Court has established that abortion-on-request is the public policy of this nation.

Despite attempts to do so, the Court has failed to justify its opinion on theological, historical or scientific grounds. Nonetheless, during the first six months of the child's life, the Court has made the doctor the final judge as to who will live and who will die. This seems to reverse the history of American jurisprudence that prohibits the deprivation of the right to life without due process of law. Never before has a humane society placed such absolute and unrestricted power in the hands of an individual.

Although as a result of the Court decision abortion may be legally permissible, it is still morally wrong, and no Court opinion can change the law of God prohibiting the taking of innocent human life. Therefore, as religious leaders, we cannot accept the Court's judgment and we urge people not to follow its reasoning or conclusions.

Meeting as the Bishops' Committee on Pro-Life Affairs, we have formulated the following recommendations:

1. Every legal possibility must be explored to challenge the opinion of the United States Supreme Court decision that withdraws all legal safeguards for the right to life of the unborn child.

2. We urge all State legislatures to protect the unborn child to the fullest extent possible under this decision and to restrict the practice of abortion as much as they can.

3. The Catholic Church pledges all its educational and informational resources to a program that will present the case for the sanctity of the child's life from conception to birth. This will include the scientific information on the humanity of the unborn child and the progress of human growth and development of the unborn child, the responsibility and necessity for society to safeguard the life of the child at every stage of its existence, the problems that may exist for a woman during pregnancy and more humane and morally acceptable solutions to these problems.

4. Hospitals and health facilities under Catholic auspices will not find this judgment of the Court compatible with their faith and moral convictions. We feel confident that the hospitals will do all in their power to be the type of institution where good morals and good medicine will be practiced. We are also confident that our hospitals and health care personnel will be identified by a dedication to the sanctity of life, and by an acceptance of their conscientious responsibility to protect the lives of both mother and child. We strongly urge our doctors, nurses and health care personnel to stand fast in refusing to provide abortion on request, and in refusing to accept easily available abortion as justifiable medical care.

In conclusion, we are saying that the Court has written a charter for abortion on request, and has thereby deprived the unborn child of his or her human rights. This is bad morality, bad medicine and bad public policy, and it cannot be harmonized with basic moral principles. We also believe that millions of our fellow Americans will share our reactions to this opinion. We have no choice but to urge that the Court's judgment be opposed and rejected.

# DECLARATION ON ABORTION NATIONAL CONFERENCE OF CATHOLIC BISHOPS

November 18, 1970

In fulfillment of our teaching responsibility as bishops, once again, we speak of the grave evil of abortion. Since the first centuries of the Church's existence abortion has been considered the destruction of human life. Nothing permits us to judge it differently now. Scientists tell us that, from the moment of conception, the child is a complex and rapidly-growing being, endowed with the characteristics of human life. Although dependent on a privileged environment for development, the child in the womb has a life of its own.

The fundamental principle has been solemnly recalled by the Second Vatican Council:

“For God, the Lord of life, has conferred on men the surpassing ministry of safeguarding life—a ministry which must be fulfilled in a manner worthy of man. Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes.” (Pastoral Constitution on the Church in the Modern World, no. 51)

The function of law is to support and protect the rights of every person. The unborn child's civil rights have consistently been recognized by American law. Proposed liberalization of the present abortion laws ignores the most basic of these rights, the right to life itself.

The child in the womb is human. Abortion is an unjust destruction of a human life and morally that is murder. Society has no right to destroy this life. Even the expectant mother has no

such right. The law must establish every possible protection for the child before and after birth.

We remind Catholic physicians and nurses that regardless of changing laws, direct abortion is always morally wrong. Catholic hospitals and their staffs must witness to the sanctity of life by respecting and defending human life, before birth as well as afterwards. Theirs ought to be the highest standards possible in the total care both of mother and child.

The evil of abortion is not exclusively the responsibility of one person. Society is also often guilty of a lack of compassion and justice for the expectant mother. In fulfillment of its responsibility, society should do all that is possible to provide necessary medical and other assistance. We urge government and all voluntary agencies including church-sponsored institutions to intensify and broaden counseling and care for expectant mothers who otherwise may be tempted to resort to solutions contrary to God's law.

# STATEMENT ON ABORTION NATIONAL CONFERENCE OF CATHOLIC BISHOPS

April 22, 1970

Last year, we stated our strong opposition to ongoing efforts to strike down laws prohibiting abortion. Our defense of human life is rooted in the biblical prohibition, "Thou shalt not kill." Regrettably, there has been a radical turn of events during this past year, and a new effort has been directed to the total repeal of all such laws. At the same time, an effort has been mounted in the courts to have such laws declared unconstitutional.

Therefore we speak again on this important issue of public policy, addressing ourselves to the Catholic community and to all our fellow citizens. For the question of abortion is a moral problem transcending any particular sectarian approach. Our opposition to abortion derives from our conviction that whatever is opposed to life is a violation of man's inherent rights, a position that has a strong basis in the history of American law. The U.S. Bill of Rights guarantees the right to life to every American, and the U.N. Declaration on the Rights of the Child, which our nation endorses, affirms that the child, because of his dependent status, should be accorded a special protection under the law before as well as after birth. (U.N. General Assembly, November 20, 1959)

In light of the attempts to remove all prohibition of abortion from our legal system, the life of the innocent unborn child is no longer given universal protection in the laws of our land. Moreover, the absence of all legal restraint promotes the acceptance of abortion as a convenient way for a woman to terminate the life of her child and the responsibilities that she has as its mother.

The implications of this proposed change in legal philosophy are enormous. Once we allow the taking of innocent human life in the

earliest stages of its development for the sake of convenience, how can we logically protect human life at any other point, once that life becomes a burden?

The assertion is made that a woman has a right not to be forced to bear a child against her will, but when a woman is already pregnant, this right must be considered in light of the child's right to life, the woman's responsibilities as its mother, and the rights and responsibilities of the child's father. The life of the unborn child is a human life. The destruction of any human life is not a private matter, but the concern of every responsible citizen.

We remain convinced that human life is a priceless gift, and our pastoral duty prompts us to reaffirm that "God, the Lord of life, has conferred on men the surpassing ministry of safeguarding life, a ministry which must be fulfilled in a manner which is worthy of man. Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes." (Pastoral Constitution on the Church in the Modern World, no. 51)

Once again, we declare our determination to seek solutions to the problems that lead some women to consider abortion. We pledge our efforts to do all that is possible to remove the social stigma that is visited on the woman who is pregnant out of wedlock, as well as on her child. We also pledge the facilities and the efforts of our Church agencies to provide counseling and understanding to the woman who faces a difficult pregnancy. At the same time, we are encouraged by the scientific advance of recent decades that has already provided us with ways to support and maintain the life and health of the mother and the development of the child in the womb.

Finally, we are aware that the value of human life is not exclusively a Catholic concern. Many Americans agonize over the loss of life involved in modern warfare, the serious ethical questions raised by recent scientific and surgical advances, the implications of pollution on our environment and the long-range effects of drug use. But safeguarding the life of all men requires safeguarding the life of every individual, for our hold on life itself is only as strong as the weakest link in our system of law.

# STATEMENT ON ABORTION NATIONAL CONFERENCE OF CATHOLIC BISHOPS

April 17, 1969

In recent years there has been a growing concern for the dignity of human life. The crisis of conscience that has gripped the country over the war in Vietnam, the re-examination of the question of capital punishment, the ethical questions raised by newly developed skills in the transplantation of vital organs are all indications that our people continue to place a high value on human life. Moreover, our society recognizes that it must increasingly guarantee the basic rights of every person, particularly of those who are least able to defend themselves.

At the same time, we face a widespread effort to "liberalize" the present laws that generally prohibit abortion. Initial efforts to liberalize these laws focused on specific problem situations—some of which have already become less problematical due to scientific discovery and advance. During the past year the emphasis has begun to change, and we are now facing a determined effort to repeal totally all abortion laws—thereby resulting in abortion-on-demand.

In previous statements on this question we have drawn upon our Judaeo-Christian heritage of concern for the person and have stressed the intrinsic value of human life—a value that bridges the gap between man's temporal existence and his eternal destiny.

In a pastoral letter on Human Life in Our Day (November, 1968) we urged that "society always be on the side of life," that "it never dictate, directly or indirectly, recourse to the prevention of life or to its destruction in any of its phases." Our concern is heightened by the awareness that one of the dangers of a technological society is a tendency to adopt a limited view of man, to see man only for what

he does or produces, and to overlook the source of man's dignity, the fact that he is made in the image of God, and that from the moment of his conception he is worthy of the full support of the human family of which he is a member.

Consequently, we have frequently affirmed as our own the teaching of the Second Vatican Council, that "whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia or wilful self-destruction, whatever violates the integrity of the human person . . . all these things and others of their like are infamies indeed. They poison human society but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are a supreme dishonor to the Creator." (Pastoral Constitution on the Church in the Modern World, no. 27) At the same time, we have emphasized that society has an obligation to safeguard the life of every person from the very beginning of that life, and to perfect a legal-political system that assures protection to the individual and the well-being of the community.

We restate with strong conviction and growing concern our opposition to abortion. In so doing, we do not urge one ethical conviction as the sole basis of public policy, but we articulate the concerns that are also held by persons of other faiths and by specialists in the field of medicine, law and the social sciences.

Fully aware of problem situations that may exist at times, such as illegitimacy, great emotional stress, possible disadvantage for the child after birth, we find no evidence that easy abortion laws will solve these problems. In fact, the termination of life in these particular situations violates our whole legal heritage, one that has always protected the right to life. Moreover, it allows for an extension of the principle that may well endanger the lives of persons who are senile, incurably ill, or unable fully to exercise all their faculties.

We strongly urge a renewed positive attitude toward life and a new commitment to its protection and support. We affirm our social responsibility, together with all society, to bring encouragement, understanding and support to the victims of rape, to intensify our scientific investigation into the causes and cures of maternal disease and fetal abnormality, and to provide to all women adequate education and material sustenance to choose



motherhood responsibly and freely in accord with our basic commitment to the sanctity of life.

We are certain that respect for human dignity and the reverence for human life are such widely shared values in our society that the discussion by lawyers, doctors, ethicists, social scientists and all concerned citizens of ethical questions like abortion will lead to a deeper understanding of the eminent value and inviolability of human life.



Excerpt from  
HUMAN LIFE IN OUR DAY  
Pastoral Letter  
NATIONAL CONFERENCE OF  
CATHOLIC BISHOPS

November 15, 1968

### Further Threats To Life

At this tense moment in our history when external wars and internal violence make us so conscious of death, an affirmation of the sanctity of human life by renewed attention to the family is imperative. Let society always be on the side of life. Let it never dictate, directly or indirectly, recourse to the prevention of life or to its destruction in any of its phases; neither let it require as a condition of economic assistance that any family yield conscientious determination of the number of its children to the decision of persons or agencies outside the family.

Stepped-up pressures for moral and legal acceptance of directly procured abortion make necessary pointed reference to this threat to the right to life. Reverence for life demands freedom from direct interruption of life once it is conceived. Conception initiates a process whose purpose is the realization of human personality. A human person, nothing more and nothing less, is always at issue once conception has taken place. We expressly repudiate any contradictory suggestion as contrary to Judaeo-Christian traditions inspired by love for life, and Anglo-Saxon legal traditions protective of life and the person.

Abortion brings to an end with irreversible finality both the existence and the destiny of the developing human person. Conscious of the inviolability of life, the Vatican Council II teaches:

“God, the Lord of life, has conferred on man the surpassing ministry of safeguarding life, a ministry which must be fulfilled in a manner that is worthy of man. Therefore, from the moment of its conception life must be guarded with the greatest care while abortion and infanticide are unspeakable crimes” (*Gaudium et Spes*, 51).

The judgment of the Church on the evil of terminating life derives from the Christian awareness that men are not the masters but the ministers of life. Hence, the Council declares:

“. . . whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia, or wilful self-destruction, whatever violates the integrity of the human person . . . all these things and others of their like are infamies indeed. They poison human society but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are a supreme dishonor to the Creator” (*Gaudium et Spes*, 27).

Excerpts from  
CONSTITUTION ON THE CHURCH  
IN THE MODERN WORLD  
Second Vatican Council

December 7, 1965

27. Coming down to practical and particularly urgent consequences, this Council lays stress on reverence for man; everyone must consider his every neighbor without exception as another self, taking into account first of all his life and the means necessary to living it with dignity,<sup>8</sup> so as not to imitate the rich man who had no concern for the poor man Lazarus.<sup>9</sup>

In our times a special obligation binds us to make ourselves the neighbor of every person without exception, and of actively helping him when he comes across our path, whether he be an old person abandoned by all, a foreign laborer unjustly looked down upon, a refugee, a child born of an unlawful union and wrongly suffering for a sin he did not commit, or a hungry person who disturbs our conscience by recalling the voice of the Lord, "As long as you did it for one of these the least of my brethren, you did it for me" (Matt. 25:40).

Furthermore, whatever is opposed to life itself, such as any type of murder, genocide, abortion, euthanasia or wilful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where men are treated as mere tools for profit, rather than as free and responsible persons; all these things and others of their like are infamies indeed. They

poison human society, but they do more harm to those who practice them than those who suffer from the injury. Moreover, they are a supreme dishonor to the Creator.

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### From No. 51:

To these problems there are those who presume to offer dishonorable solutions indeed; they do not recoil even from the taking of life. But the Church issues the reminder that a true contradiction cannot exist between the divine laws pertaining to the transmission of life and those pertaining to authentic conjugal love.

For God, the Lord of life, has conferred on men the surpassing ministry of safeguarding life in a manner which is worthy of man. Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes. . . .

. . . .

All should be persuaded that human life and the task of transmitting it are not realities bound up with this world alone. Hence they cannot be measured or perceived only in terms of it, but always have a bearing on the eternal destiny of men.













