**SOCIAL CONCERN**

# Reynolds C.L. (1989) "Abortion: Whose rights are we protecting?" *Journey*, September, News Analysis, Australia

## *Chris Reynolds asks the question:*

***Judge Travis Lindermayer of the Queensland Family Court in July this year heard the case of a man's application to stop his wife having an abortion. The Judge's decision to allow the woman to proceed to have the abortion was based upon his judgement that – under the law – an unborn child has no right to be born.***

This judgement, while extreme, is made more salient by the recent effort in the United States by the White House to reverse the famous Roe vs. Wade decision and thereby restrict legal abortions.

Judge Lindermayer's interpretation of the law led him to the conclusion that somehow the unborn cannot be considered as "equally" human with other human beings: His judgement distinguishes between the right to life which every person enjoys in Australia and the rights of the unborn.

Apart from raising legal questions, this decision raises two ethical questions to consider.

First, the issue of the sanctity of life: Is an unborn infant a human being entitled to be protected as any other human being?

Secondly, the issue of individual conscience vs. social conscience; should the decision to terminate the life of a fetus solely reside with the mother?

Sanctity of life is a value esteemed by our society. Human life is considered precious and not open to physical, emotional or economic abuse by any other human being. But how is human life to be defined, and when is it said to begin? Must "it" have seen daylight or have developed a "personality" in order for it to be human? More specifically, is a fetus potentially human or somehow only half human?

If, in fact, a fetus can be shown to be less than fully human and therefore not equal value, then there is no ethical dilemma to be discussed and different treatment for the unborn can be justified.

Yet, the fetus' claim to be human must be addressed.

In defense of the mother's right to abort a fetus it is argued that because of its condition of immaturity a fetus is vulnerable to the choices of the mother. To be sure, an unborn infant is underdeveloped and immature, but the same can be said for a two year old infant as well. A person's vulnerability and level of development do not in themselves negate their worth as a human being. To the contrary, a just society would demand that the vulnerable and the innocent be awarded special treatment and care.

In our society, as the decision by the Queensland Family court indicates, this is not the case.

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In all the testimony given to the US Congress and the Australian Parliament on this issue no evidence has ever been submitted to prove that a fetus is not a human being. So, regardless of the objections of utility, economic hardship, or personal freedoms it has to be concluded that an abortion is taking of human life.

The complications of natural factors and moral choices have produced a legal sanction for abortion. Still, no argument can prove that an unborn child deserves to die, other than that the powerful should dominate the powerless.

Second, the claim for individual freedoms is nowhere more aroused than by the subject to abortion.

People usually resist state intervention into their lives for reasons on protecting privacy and individual rights. Yet, for the most part, the arguments for individual choice with choice are based upon expediency and utility. While these arguments are valid they are inadequate in themselves because the same arguments can be used to include infanticide, genocide, mercy killing, and even suicide. All sick, disabled and unwanted suddenly become vulnerable to "termination".

If there is any validity to the claim to human rights, such as, rights to privacy self determination and equal opportunity, then that claim must be predicated on the right to life. Birth is an arbitrary event and the right to life must be seen to extend to unborn.

If an argument can be made as a defence for individual choice in this matter it is the argument of primary responsibility. A parent, it can be argued, should be considered the primary responsible agent for a child's wellbeing; whether born or unborn. Accordingly, the state is seen to be the secondary responsible agent and only becomes involved in an infant's welfare if and when the parents relinquish or are unable to fulfill their responsibilities.

Unfortunately, it is the rule rather than the exception that many parents choose to relinquish their responsibility for their unborn child and kill it. More than 20 million abortions have been performed in United States since it was legalized in 1973. More Americans have died in the womb than on all of America's battlefields. Australia is not as efficient in keeping such records but it is estimated that between 60 and 80,000 abortions are performed in Australia each year. In 1985 the film "The silent Scream" was first shown at the White House. It contained an ultrasound of a 2-3 month old fetus being aborted and screaming silently for its life. This visual, and no doubt emotional, experience for White House personnel has helped to fashion their views.

The issue before the American political conscience at present is this: has the state relinquished too much control over unborn human life to the individual only to find that responsibility is being abused?

Perhaps it is time the Australian parliaments asked themselves the same question.

Still, the issue of utility that is the issue of parental welfare and need has to be recognized in the shadow of the primary issue of the value of human life. Abortion can not continue to be used as an answer to other social ills.

While it is difficult to turn back the clock to pre-1970 conditions, changes in public policy could lead to fewer abortions and a healthier social climate. Three changes to policy could be: Increase the education parents receive concerning the process and consequences of abortion; restrict federal funding for abortions based on toughened criteria; and increase the alternative options available to parents.

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The increase of alternatives deserves particular attention because many women have come to look upon abortion as the only way out or as the easy way out and this perception should be changed and further options made available. Specifically, extended financial support for adoption facilities, information to would-be-mothers concerning adoption, increased requirements on absent fathers, and increased penalties for nonpayment of alimony.

Any of these initiatives would decrease present abuse of individual freedoms and restore some justice to our treatment of the unborn.