



MAKING ABORTION LEGAL?

A Pastoral Letter of the Catholic Bishops of Victoria

To the Catholic people of Victoria and all men and women of good will,

2008 is a critical year in the life of the people of Victoria. In our State Parliament we are confronted by a series of legislative projects that involve grave moral issues. Prominent among these projects is the so-called “decriminalisation of abortion”.

Each of these projects raises serious moral and social questions. Our concerns arise both from our religious and moral convictions and our commitment to respect the dignity of each human being.

1. Abortion is Wrong

As John Paul II taught in his encyclical *Evangelium Vitae* (1995), all unborn human beings have a right to life:

“The human being is to be respected and treated as a person from the moment of conception; and therefore from that same moment his rights as a person must be recognised, among which in the first place is the inviolable right of every innocent human being to life.”¹

Every attempt to harm an innocent human person violates principles of justice and is always wrong. Every procedure adopted with the intention of killing an unborn child, or of terminating its development is an attempt to harm, even if it is carried out reluctantly and with regret. Such procedures are referred to as “direct abortions”, that is where the death of the unborn child is directly willed.

The direct abortion of any unborn human being is always wrong. In his encyclical, Pope John Paul II taught:

¹ John Paul II, Encyclical Letter, *Evangelium Vitae*, 1995 # 60



“Therefore, by the authority which Christ conferred upon Peter and his Successors, in communion with the Bishops ...I declare that direct abortion, that is, abortion willed as an end or a means, always constitutes a grave moral disorder, since it is the deliberate killing of an innocent human being. This doctrine is based on the natural law and upon the written Word of God, is transmitted by the Church’s Tradition and taught by the ordinary and universal Magisterium.”²

Last month, Pope Benedict XVI described abortion as the “most serious injustice today”.³

Just because a proposition is taught by the Church does not mean that it is, by that fact, “religious” and, therefore, not rationally grounded. Although the defence of human life has been left largely to Catholics and evangelical protestants, it remains the case that the right of the innocent not to be killed and the right of the unborn to the equal protection of the law are grounded in reason and upheld by those who have no religious faith.

2. Should Abortion be “Decriminalised”?

In Victoria, the *Crimes Act* retains provisions which make abortion criminal.⁴ Those provisions address the circumstances in which direct abortion is contemplated. Each provision is contravened only where a procedure is carried out with intent to procure the miscarriage of a woman. The provisions do not affect medical interventions where the death of the child is the unintended side effect of therapeutic intervention intended to remedy some pathology in the mother.

However, the provisions in the *Crimes Act* were weakened by the ruling of Mr. Justice Menhennit in 1969.⁵ The judge directed a jury that abortion was lawful where the doctor honestly believed on reasonable grounds that the act done was necessary to preserve the woman from some serious danger. He said “(a)s to this element of danger, it appears to me in principle that it should not be confined to danger to life but should apply equally to danger to physical or mental health provided it is a serious danger not being merely the normal dangers of pregnancy and childbirth.” Thus, the judge introduced notions of “necessity” and “proportionality” into the interpretation of the provisions. The doctors in the case were acquitted of the charge of abortion.

² Ibid #62.

³ Address of Pope Benedict XVI to the Holy See’s International Diplomats, 18 March 2008.

⁴ *Crimes Act* 1958 (Vict) ss.65 & 66.

⁵ **R. v. Davidson** [1969] VR 667 at 671.



In our law, there is no appeal from an acquittal; as a result, the ruling has continued to guide police and prosecutors.

Since 1969, in practice “necessity” and “proportionality” have been stretched to include almost *any reason* to procure an abortion. The need even to offer a justification for an abortion is seldom recognised.

What must be urgently addressed is that, in practice, we have unrestricted abortion on demand, a situation that provides neither protection for the child before birth nor protection for the child’s mother.

Given the virtually unrestricted practice of abortion in Victoria, why are the pro-abortion forces pushing so hard to “decriminalise” it? The motivation seems to be to remove the “unlawful” stigma currently attached to “medical” abortion in virtue of the fact that it is named as an offence in the Crimes Act. But the Law is a great educator and if the Law approves something then people gradually accept a new understanding of what is right and what is wrong. People begin to think: “Abortion is lawful now, so it’s right.”

Taking abortion out of the Crimes Act would undoubtedly be a victory for the pro-abortion forces. But moving the regulation of abortion from the Crimes Act to the Health Act would also give strength to the fallacy that abortion is just an ordinary medical procedure.

3. Justice for the Unborn, Justice for Women

All living human individuals are entitled to the equal protection of the law. Every living human individual is equal to every other individual in respect of the right not to be directly or intentionally killed.

Making abortion an ordinary lawful medical procedure would further deprive the unborn and most vulnerable human beings of the very protection which civil legislation ought to accord them. The state would be denying the equality of all before the law.

When a state does not place its power at the service of the rights of each citizen, and in particular of the more vulnerable, the very foundations of the state based on law are undermined. As a consequence of the respect and protection, which must be ensured for the unborn child from the moment of conception, the law must provide appropriate penal sanctions for every deliberate violation of the child's rights.⁶

⁶ Cf. *Catechism of the Catholic Church*, no, 2273.



Abortion has killed around 20,000 unborn children each year in this State.⁷ Do we want more abortions in Victoria? Abortion has affected the life of at least one in three women. Do more women have to suffer?

Until the 1960's, every culture and most legal systems were ordered to the protection of the unborn. Over the last forty years, the pervasive influence of relativism and materialism have combined to expose the unborn to the new culture of death. Yet, while this has been happening, science and technology (such as discovery of DNA and the advent of ultrasound imaging) have made it clear beyond argument that the unborn child is a fully human individual in the womb. Moreover, medical practice continues to perfect its techniques for caring not only for the mother but also for her unborn infant.

Moving abortion to the Health Act and, thus, having it treated like any other medical procedure would also betray the majority view that incidence of abortion should be reduced.⁸

4. Harm to Women

With over 40 years of readily available abortion, many women have been left traumatised and grieving after abortion. In a position paper, the Royal College of Psychiatrists (UK) has recently noted that abortion in various cases can lead to mental health issues, that women contemplating abortion should be advised of mental health risks and that better research is needed on this phenomenon.⁹ Many Australian women would agree that abortion, far from solving their problems, only created more.

Although abortion is promoted and presented as a "choice", many women report that they were only given one option - abortion. Furthermore, when the father of her unborn child says to a woman "it is your choice" he dismisses her, failing to give her the support she needs, failing to give her the love he owes her - and the love he owes their child. For Catholics, abortion is never a choice.

The Church does not condemn women who have had abortions. Together with their children, they are the principal victims of this new culture of death.

⁷ The Victorian Department of Health estimated that 18,514 abortions were performed in Victoria in 2002-3. A figure of about 20,000 would take into account underreporting and chemical abortion.

⁸ See John Fleming and Nicholas Tonti-Filippini *Common Ground? Seeking an Australian Consensus on Abortion and Sex Education* St. Pauls Publications 2007.

⁹ See, Royal College of Psychiatrists, *Position Statement on Women's Mental Health in Relation to Induced Abortion*, March 14, 2008, with a report in *Sunday Times*, London, March 16, 2008.



Often women resort to abortion for complex reasons, abandoned or under pressure, or led on by false information.

As Pope John Paul II affirmed¹⁰:

“It is precisely the woman, in fact, who pays the highest price, not only for her motherhood, but even more for its destruction, for the suppression of the life of the child who has been conceived. The only honest stance ... *is that of radical solidarity with the woman.*”

This is why the Church endorses projects that support and care for women who suffer after abortion or who contemplate having an abortion. But what do providers of abortion do to support these women once they become clients or customers? They betray women in difficulty with pregnancy. Those who make the treacherous offer of abortion as an “ordinary medical procedure” or “your choice” are the very people who fail to provide women with the support that they may need to cope with the fear and the unexpected burden of an unplanned pregnancy.

5. Mercy and forgiveness

Pope Benedict XVI recently encouraged women who have had an abortion to find hope, forgiveness and healing in the mercy of God.¹¹ In doing so, the Pope recalled the beautiful words of John Paul II¹²:

“I would like to say a special word, to women who have had an abortion. The Church is aware of the many factors which may have influenced your decision, and she does not doubt that in many cases it was a painful and even shattering decision. The wound in your heart may not yet have healed. Certainly what happened was and remain terribly wrong. But do not give into discouragement and do not lose hope. Try rather to understand what happened and face it honestly. If you have not already done so, give yourself over with humility and trust to repentance.

The Father of Mercies is ready to give you his forgiveness and his peace in the Sacrament of Reconciliation. You will come to understand that nothing is definitively lost and you will also be able to ask forgiveness from your child, who is now living in the Lord. With the

¹⁰ John Paul II, *Crossing the Threshold of Hope* (London: Jonathan Cape, 1994), p. 207

¹¹ Cf. Benedict XVI, address to the International Congress “Oil on the Wounds, a Response to the Aftermath of Abortion and Divorce”, sponsored by the John Paul II Institute for Studies on Marriage

¹² *Evangelium Vitae* # 99.



friendly and expert help and advice of other people, and as a result of your own painful experience, you can be among the most eloquent defenders of everyone's right to life. Through your commitment to life, whereby accepting the birth of other children or by welcoming and caring for those most in need of someone to be close to them, you will become promoters of a new way of looking at human life."

6. The Menace of Eugenics

Striving to breed a perfect human race is known as **Eugenics**. Modern prenatal technology shows human life in the womb in vivid detail. Myths that the unborn is just "a mass of cells" or "part of a woman's body" collapse when we actually see human life in the womb. While this technology can be put to therapeutic use, it can also be misused, to seek out imperfect human beings and then destroy them before birth, even in the last phases of pregnancy. This is Eugenics in action.

How grossly unfair it is to impose a death sentence on an innocent human being just for the "crime" of being imperfect physically or mentally.

7. Meeting the Challenge of Abortion

The challenge to all Victorians in 2008 is to respond to abortion with laws and policies that:

- (a) maintain that abortion is a crime, hence wrong, socially unacceptable;
- (b) restrict and rein in provisions for the killing of the unborn;
- (c) reflect the need to support women in a predicament of unplanned or difficult pregnancy so that in being loved they may respond with love towards the child they carry.

Therefore -

- We call on all who are concerned to write now to their Members of Parliament, clearly expressing their views against decriminalisation.**
- We call on all Members of Parliament to listen calmly and rationally to the voice of conscience, to weigh carefully the harm involved in this legislation.**



- We call upon all men and women of good will to reject abortion and choose life.**

Signed-

*+ Denis J. Hart, Archbishop of Melbourne.
+ Peter J. Connors, Bishop of Ballarat.
+ Joseph A. Grech, Bishop of Sandhurst.
+ Christopher C. Prowse, Auxiliary Bishop, Melbourne.
+ Peter J. Elliott, Auxiliary Bishop, Melbourne.
+ Timothy J. Costelloe, Auxiliary Bishop, Melbourne.
Very Reverend Fr Peter Slater, Administrator, Diocese of Sale.*