



# Statement on Reproductive Rights

## I. Introduction

The people of our United States differ about whether and, if so, under what conditions abortion is morally permissible. The disagreements often reflect profound differences of religious conviction. Indeed, many believe that this moral question is, in some inherent way, a religious one, because it is so closely related to fundamental questions about the nature and worth of human life.

One expression of this discord occurs in persisting political conflict over the proper role of the civil or legal order with respect to the possibility of abortion. Decisions about the responsibilities of the state are themselves an essential part of the larger moral enterprise, because the civil order is bound by ethical principles of justice and the common good. Moreover, we hold that convictions about the meaning of these principles are also inherently religious, because fundamental beliefs about the nature and worth of human life include convictions about the character of the good human community.

The following statement is focused on the importance of our Christian convictions for the moral responsibilities of our nation's political order. We believe that the right of each pregnant woman to decide for or against an abortion follows from basic principles of justice that are included in a Christian understanding of the good human community. The affirmation of this right does not itself address the further moral or religious questions that a pregnant woman must answer in making her personal decision, and we do not seek here to counsel her deliberation. But we are convinced that there are profound moral reasons why the state should protect her freedom to choose in accord with her own conscience.

## II. Basic Convictions

We believe that in or through Jesus Christ the ultimate source and end of all creation has been revealed as the God of all-embracing love, who summons us to live in harmony with God by loving all that God loves, our neighbor as ourselves. Because the summons of divine love is addressed to everyone, God calls us to flourish together in a community of love. In this world, the opportunity to be creative depends on the achievements of others, and we make the most of this opportunity when we pursue in turn a distinctive contribution to our communities. Mutuality is the form of human flourishing and, therefore, defines the purpose of all our associations, including our political association.

For this reason, the political community itself should have a democratic constitution, so that government is not only of and for the people but also by the people. A truly democratic order is the political form of human mutuality. Giving and receiving democratic respect and being an active partner in political self-rule is an irreplaceable part of human flourishing, and political mutuality is essential to pursuit of the good community in all of its forms.

Government by the people means that the civil or legal order should be determined through a process of discussion, debate, and decision making in which all citizens are equal participants. Citizens rule themselves through common commitment to the way of reason and persuasion. Toward this end, a democratic constitution should secure for all equal rights to certain basic liberties. These include public rights to political participation, such as free speech and assembly, and private rights to freedom from interference, such as rights to life, bodily integrity, and freedom of conscience. Such constitutional liberties are not absolute, but they are limited only by the equal rights of all others to the same freedoms. Equality of constitutional freedoms cannot be compromised by any law the state may enact, because these rights define membership in “we, the people,” who are finally the rulers over all of the laws.

### **III. Reproductive Rights and the Law**

The United States Supreme Court has ruled that an emerging human being prior to birth is not a person in the constitutional sense; that is, a human fetus is not a person in the sense that grounds a claim to constitutional rights. As we understand it, this ruling is not a religious statement about the nature of human life nor an answer to an individual’s personal moral decision about whether abortion is permissible. Rather, the Court’s determination responds only to the question: Who are the subjects of the community of rights defined by the constitution?

Whatever the Court’s reasons, we are persuaded that there is a compelling case for this determination. If a human fetus were a constitutional person, the state would be required to protect that person’s rights, above all its right to life. To do so, the state would have to limit the basic liberties of a pregnant woman, especially her freedom to govern her own body in accord with her own conscience. This duty could well extend to coercive prohibition of any activities that pose a plausible threat to the life or basic health of the fetus. But merely a ban on abortion would so restrict a pregnant woman’s liberty that her constitutional equality would be dramatically denied. Her equal right to bodily control would be violated because men who participate in the reproductive process would encounter no remotely similar restrictions on their liberty. Bodily integrity for men and woman would have acutely different meanings, and the inequality would be the more severe because a woman’s decision about abortion involves fundamental questions of conscience. Inclusion of

a human fetus within the constitutional community would make the fundamental equality of “we, the people” impossible.

We recognize that some citizens reject the Court’s ruling. For them, an emerging human being has a right to life that must be protected by the state. If a legal ban on abortion conflicts with a pregnant woman’s equal right to bodily control, these citizens resolve that this right must here be forfeited or transgressed, because the unborn’s right to life takes precedence. This view is based on the belief that a human fetus is not simply a potential but in fact an actual human being, who cannot be distinguished in any relevant way from persons who have been born. We do not deny that belief. But we hold that it cannot be supported by the kind of convincing public argument it would need in order to determine the scope of the constitutional community, as we will now explain.

A convincing public argument is one that can win the assent of all citizens because it appeals only to common human experience and reason. In other words, the argument does not rely on the authority of a particular religious tradition or does not depend on a controversial premise that can only be publicly announced or confessed. Because democracy is government through full and free discussion and debate among all the people, a truly democratic constitution, including its definition of the community of rights, must itself be open to convincing public argument. Defense of its provisions, if they are questioned, must appeal only to our common experience and reason. The absence of any such argument for believing a fetus distinctively human is, we think, widely acknowledged, even by those who disagree with the Court’s ruling. In contrast, the belief that we are human upon being born is one on which all citizens agree and is open to complete public defense.

Some may respond that excluding a fetus from constitutional protection also lacks a convincing public argument. But this response is misguided. The meaning of “person” in the constitutional sense must have a definition; without it, we cannot have a democratic community. So inclusion bears the burden of complete public defense. By this standard, the boundary of the constitutional population belongs at birth.

We conclude that the constitutional rights of a pregnant woman cannot be restricted by the presumed rights of the fetus she carries. Coerced limitation on her equal right to bodily integrity and thus to control of her own participation in the reproductive process is inconsistent with democracy. She must have thorough opportunity to consider the possibility of abortion, seeking whatever counsel she deems important, and to effect the decisions she takes. The Court has determined that this liberty is protected if, dangers to the woman’s health aside, she can terminate her pregnancy during the first two trimesters, and we judge this to be a reasonable determination.

At the same time, we believe that God's all-inclusive love also summons all people to a reverence for all life, a summons of which pregnant women generally are acutely sensible. Moreover, the duty of a democratic state to protect the basic rights of all people in the political community is a reason for the state's concern when something threatens widely to erode respect for the special and inherent worth of human life. Citizens given to such respect may yet disagree about its meaning for personal decisions about abortion. But they are not unreasonable in thinking that opinions in which those decisions are trivialized would, if pervasive, be such a threat. So long as the state does not transgress constitutional rights, it is not prevented from promoting a general attitude in which decisions about potential human life are taken with the seriousness they merit.

In addition, the state is not prevented from considering the interests of life that does not have constitutional rights, and the democratic process may find that the state has a special responsibility when the life is potentially human. If political equality is secured by protecting a woman's freedom during the first two trimesters, the state is permitted to prohibit abortions, barring danger to the life or health of the woman, in the later stage of pregnancy.

But the state's purposes are never allowed to violate or burden an individual's constitutional rights. Legitimate conditions placed on the occurrence of abortion may not harm each woman's full liberty to consult her own conscience and to terminate her pregnancy if she so decides. Further, this right belongs to all pregnant women equally, so that state action may not impose burdens on those who suffer economic disadvantage.

#### **IV. Conclusion**

We emphasize that this statement is addressed to the moral and religious basis of our political community and does not seek to answer the further moral and religious questions that face an individual woman. God's call to mutuality in all of its forms summons our religious communities to provide counsel to their members and calls us all to provide moral assistance and support, when they are sought. We are also urged to pursue together greater moral insight and sensitivity in meeting our personal responsibilities as participants in the reproductive process. But a truly democratic community is essential to our Christian understanding of justice and the common good. Its principles entail a pregnant woman's constitutional right to make her own decision about the possibility of abortion.

*Adopted by the Board of Directors of Protestants for the Common Good on June 14, 2000*