

## **Abortion and the High Court of Australia**

The Australian Catholic Bishops' Conference has stated that although the High Court Superclinics case was settled out of court, it did raise the awareness of the extent and dubious legality of the abortion industry operating in Australia.

Following a meeting of the Bishops' Conference in Sydney last week, the bishops believe that it is important to let all Australians know that the Catholic Church will continue to speak and work for life.

"The struggle to defend the basic human right to life is never over. As Pope John Paul has said, 'the value at stake is one which every human being can grasp'. Unless this value is respected and protected, there is no foundation for the other human rights we cherish."

ACBC PLENARY MEETING 25 November - 29 November 1996

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### ABORTION AND THE HIGH COURT

Last September, the issue of abortion in Australia received attention long overdue in the public forum. The decision of the High Court to admit the Australian Catholic Bishops' Conference and the Australian Catholic Health Care Association as "friends of the Court" in the Superclinics case attracted widespread media coverage and prompted several thoughtful commentaries and some passionate debate. For the first time, many Australians were made aware of the extent and dubious legality of the abortion industry operating in their country.

The Superclinics case raised questions which the Catholic Church had to address: Under what circumstances is abortion legal in Australia? What do contemporary developments in medicine and jurisprudence mean for the rights of unborn children? What consequences flow for a civilisation which would enshrine "wrongful birth" as grounds for compensation? What room is there for health care and pregnancy counselling services which refuse to provide or recommend abortions? These are questions which the wider community needs to address as well.

The Conference supplied the High Court with a detailed submission and looked forward to the serious attention which we knew that the Court would give the case. We were encouraged by the Court's recognition that we had arguments to put which it would not otherwise hear. Then the parties to the case settled out of court, leaving many matters unresolved.

Although we were disappointed with that turn of events, we note that what had happened before the parties settled raised important questions about the status of the 1995 NSW Court of Appeal decision: the High Court had granted leave to appeal both on the issue of liability and of damages; it had granted leave to third parties to argue that the 1969 Menhennitt ruling, which opened the way for easy abortion, was wrong in law; a significant submission had been made to the Court to that effect; and, after that submission was made and considered, the parties apparently saw it in their mutual interests to abandon further conduct of the proceedings.

It is impossible to say where matters will go from here, but it is clear that nothing is concluded. The Catholic Church will continue to assist mothers facing difficult

pregnancies and situations. Individual Catholic health care and pregnancy counselling institutions are now exploring what steps each will need to take, depending on the circumstances, to protect their freedom to operate according to the ethics they proclaim.

In 1988, as Australia marked two hundred years of European settlement, we warned that the national complacency in front of the ever growing number of deaths from abortions was coarsening our sensitivity to the sacredness of life. Now, only eight years on, we are debating euthanasia. The struggle to defend the basic human right to life is never over. As Pope John Paul has said, "the value at stake is one which every human being can grasp". Unless this value is respected and protected, there is no foundation for the other human rights we cherish.

We will continue to speak and work for life. We encourage all who support us and join us in this cause to draw fresh strength from the One who gives life and gives it in abundance.