

What is the “Freedom of Choice Act” (FOCA) and what do our bishops say about it?

The Catholic Bishops of the United States have unanimously called upon us to pray and act to prevent the passage of the radical “Freedom of Choice Act” (FOCA) and to oppose other attempts to overturn existing pro-life laws and policies. **Our voices are presently needed more than ever.** If FOCA is enacted, widely supported and constitutionally sound abortion regulations at the state level will be invalidated nationwide.

Life Matters will provide a brief analysis of FOCA’s key provisions in the weeks leading to the US Conference of Catholic Bishops (USCCB) **“Fight FOCA” Post Card Campaign, to be held on January 24-25, 2009.**

At that time, we will have an opportunity to sign and send postcards to our U.S. Representative and Senators. The message on the cards urges our federal elected officials to oppose FOCA and to retain existing laws, supported by the people, against government funding and promotion of abortion. For more information, please go to <http://www.usccb.org/prolife/issues/FOCA/index.shtml>.

This week, Life Matters’ focus is on FOCA’s Section 4 - INTERFERENCE WITH REPRODUCTIVE HEALTH PROHIBITED:

“It is the policy of the United States that every woman has the fundamental right to choose to bear a child, to terminate a pregnancy prior to fetal viability, or to terminate a pregnancy after fetal viability when necessary to protect the life or health of the woman.”

FOCA states that the decision to have an abortion is a **“fundamental” right**. This is problematic for several reasons. Under the existing case law, a decision to have an abortion is NOT a fundamental right (as it was under *Roe v. Wade*, the Supreme Court decision that legalized abortion). In *Planned Parenthood v. Casey*, seven justices rejected the view propounded by *Roe* and concluded that the Court’s decision under *Roe* had too severely and improperly restricted the states’ power to regulate abortion (*Planned Parenthood v. Casey*, 505 U.S. 833, 873-87 (1992)). *Casey*, therefore, restored to states the power to regulate abortion, which existed for several decades before *Roe* and that the Court had not allowed in the two decades following *Roe*.

FOCA would nullify *Casey* or, more accurately, render it superfluous, not in the sense of creating a new constitutional law, but by creating a statutory abortion right that goes beyond what *Casey* and even *Roe* require (USCCB Office of the General Counsel, Memorandum August 15, 2008).

The Supreme Court has found certain rights fundamental. Expressed or implied in the Constitution, they are considered **“deeply rooted in the history and traditions” of the American people or “implicit in the concept of ordered liberty,”** such as the free exercise of religion, the right for a man and a woman to marry, the right to a fair trial and equal protection.

The Church teaches that **“*The ultimate source of human rights is not found in the mere will of human beings, in the reality of the State, in public powers, but in man himself and in God his creator.*”** These rights are ‘universal, inviolable, inalienable.’ *Universal* because they are present in all human beings, without exception of time, place or subject. *Inviolable* insofar as ‘they are inherent in the human person and in human dignity’ and because ‘it would be vain to proclaim rights, if at the same time everything were not done to insure the duty of respecting them by all people, everywhere, and for all people.’ *Inalienable* insofar as ‘no one can legitimately deprive another person, whoever they may be, of these rights, since this would do violence to their nature’” (Compendium of the Social Doctrine of the Church, No. 153, italics in original).

QUESTIONS TO PONDER

Which definition of human right do you agree to? In your opinion, which right is the most fundamental? Who or what entity is the “giver” of the right that you recognize as fundamental?