

SEEKING DELIBERATION ON THE UNBORN IN INTERNATIONAL LAW

SA de Freitas*

GA Myburgh**

SUMMARY

International human rights instruments and jurisprudence radiate an understanding of international law as also serving to protect fundamental rights and the interests of the individual. The idea that human rights provide a credible framework for constructing common norms among nations and across cultures is both powerful and attractive. If the protection of being human serves as the common denominator in human rights discussion, and if human rights are deeply inclusive, despite being culturally and historically diverse, then a failure to deliberate on the legal status and protection of the unborn may be seen as a failure to extend respect where it is due. Such deliberation is required, irrespective of the fact that jurisprudential debate on the unborn and on abortion is complex and controversial. The protection of human life, well-being, and dignity are essential aims of the *United Nations Charter* and the international system created to implement it. Although there have been collective efforts resulting in substantial development in international human rights law, the international community has not approached the legal status and protection of the unborn as a matter of urgency – this, while much has been accomplished regarding women, children, animals and cloning. This article therefore argues for the development of a *deliberative framework* so as to further the recognition (not necessarily in an absolute sense) of the unborn in international law, bearing in mind that opposition to abortion does not of itself constitute an attack on a woman's right to respect for privacy in her life. The article also sets out what such deliberation on the legal status and protection of the unborn entails, against the background of a procedurally-rational approach.

* Prof Shaun A de Freitas, B.Proc, LLB, LLM by thesis. Departmental Chairperson and Associate Professor, Department of Constitutional Law and Philosophy of Law, University of the Free State. Email: defreitas@ufs.ac.za.

** Ms Georgia A Myburgh. LLB, LLM by thesis. Assistant Researcher and Doctoral Fellow, Department of Constitutional Law and Philosophy of Law, University of the Free State.

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