A Pro-Life Attorney Explains Why Abortion Is Not Murder
(So Please Stop Saying It Is)

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INTRODUCTION

Come now, let us reason together, says the Lord. (Isa. 1:18).

Abortion is a highly charged subject. It is injected with emotion and vitriol on all sides. Thus, it's hard to think about the issue objectively. I don't know if I can be truly objective either, but I will certainly try to be reasonable and logical. All I ask is that you also try to do the same, as we together consider the merits of the claim that "Abortion is murder, end of discussion."

I am a pro-life Attorney and a Christian. But that doesn't mean I automatically accept every possible argument put forward in favor of political opposition to abortion. Some arguments made by the pro-life community are very troubling. For example, the argument that we should *follow the science*. Why? Because if the end goal is a change in the *law* of abortion, science will not get us there.

So-called science is what got us into this mess to begin with. "Science" is what the Supreme Court relied on to decide *Roe v. Wade*, 410 U.S. 113 (1973). Sure, it was bad science. But the answer is not to respond with good science. The answer is to reject science, good or bad, altogether as a basis for legal decisions and lawmaking. That was what the Court in *Roe v. Wade* should have done. They should have looked to the law. That is what we need to get back to - the law.[1]

I have theological concerns with the position advanced by many that the unborn fetus is in fact a full-blown human being, made in the image of God. Have you ever considered whether scripture actually supports that argument? We will look at the scriptural evidence.

I also have practical legal concerns with the claim that abortion is murder. Let's assume, for argument's sake, that this is true. Who then, is the murderer, and how should they be punished? Have you ever considered what the necessary consequences of that claim are? They aren't pretty.

I'm taking a big risk here. I am assuming - hoping on a whim and a prayer, actually - that you are willing to set aside your current views, beliefs and perhaps feelings for a little bit, to consider (along with me) the implications of the claim that abortion is murder, like rational adults. Bear with me for a few pages, and see if what I say isn't just as reasonable as anything else you've heard.

SCIENCE HAS NOTHING TO DO WITH IT

One of the fundamental claims of the pro-life community is that *life begins at conception*. This, in turn, is a key assumption underlying the claim that abortion is murder. But is it really true, that life begins at conception? No, I'm not suggesting that life begins later, I'm saying it begins *earlier*.

Conception results from a sperm fertilizing an egg. But that sperm, when it is formed in the male

[1] See Kerry L. Morgan, *First We Defend Law, Then We Defend Life: What the Pro-Life Movement Needs After Decades of Failure* (2004).
https://lonang.com/commentaries/conlaw/due-process/first-defend-law-then-defend-life/

and then travels towards the egg - is it not alive the whole time? A dead sperm would have no impact on an egg whatsoever. And the egg, while it waits inside the female - is it not also alive well before the sperm gets there? So then, the life of neither the sperm nor the egg begins at conception. How is it then, that the act of conception imparts a life that was not already in existence?

It is a truth that all life comes from life. No life comes from that which is not alive. This is part of the great mystery of life - that all life traces back to the beginning of creation. And God has never imparted to mankind either the ability, or the authority, to create life from non-life. It doesn't happen naturally, either. God is not creating life from non-life when conception occurs. Nor are mere biological processes.

So what actually happens at conception? Conception merely creates a new combination of DNA which never existed before. A new *variation* of life, if you will. But not actually a creation of life from non-life. So the statement that life *begins* at conception is misleading, at best. And non-helpful, in any case.

Of course, when the mantra is chanted that life begins at conception, what is meant goes far beyond a new combination of DNA. In order for abortion to be murder, the fertilized egg which develops into a fetus must not be merely alive, it must also be a *person*. And so life becomes a euphemism for a person.

People say life begins at conception, but what it meant is that a person is created at conception, in the sense of a human being made in the image of God, fully vested with all the attributes of personhood. That is, the quality of being a legal person recognized in the eyes of the law as a human being (and therefore someone whose life the law protects).

Ah, but now we have crossed the line from science (life, DNA, conception) into the realm of law and theology (legal status, the image of God). And by this sleight of hand, I can only assume that those who assert life begins at conception don't want anyone to notice that they are never really talking about life in a purely biological sense. They want the world to think the question of when life begins determines the *legal status* of that life - when in fact it does not.

Whether a fetus is made in the image of God, whether a fetus has an eternal soul, whether a fetus possesses legal authority, whether a fetus has any legal rights, etc. - these are all legal and theological questions, not medical or scientific ones. Therefore, they are questions that neither a doctor nor a scientist can answer. And if science cannot provide the answers, why do people always seem to zip to a scientific statement (life begins at conception) as the basis for what the law should say, or how it should be applied?

Something is not right here.

Rationally, and logically, the question of when life begins has absolutely nothing to do with whether a fetus is a person, or whether abortion is murder. It is an entirely irrelevant question with regards to the matter of abortion, because it is the wrong question. The more relevant question is whether

a fetus is a legal person entitled to legal protection, and to answer that we have to look somewhere other than science or medicine.

For these same reasons, the legal questions do not turn on the historical concepts of quickening (when the baby first kicked in the womb) or viability either. These are mere stages of physical development that tell us nothing about law or theology. Similarly, the DNA of a fetus is irrelevant. Whether a fetus can feel pain, whether it responds to stimuli, whether it was more or less developed, whether someone had named it - these are all irrelevant to the legal status of the fetus. Merely feeling pain is not an attribute of the image of God or personhood, as all animals feel pain. Even plants respond to negative stimuli.

Of course, the whole question of when and how the image of God is imparted to a fetus or a baby is a matter of intense opinions. These opinions are all over the map, so to speak. It's messy. And it would be so much easier if we just had a fixed point in time when we can say that a new human being exists. That's probably why people gravitate towards life begins at conception. It's simple, it's certain, and it can be verified.

None of which makes it the right way to answer the question of whether a fetus is a person. But I'm willing to get a little theologically messy, if it will help answer the question more than science does. And I think history proves me right that law (in this matter) tends to follow the theology, rather than the science.

So what is this thing we call the image of God? The phrase, of course, comes from scripture. (Gen. 1:27). Historically, the image of God has been viewed as a set of characteristics that distinguish people from animals, which show God's imprint on us. Things like rationality, language, creativity, personality, moral awareness, and of course, an eternal soul. I like to add authority as an aspect of God's image, since God gave man authority over the animals, but not the reverse. (Gen. 1:28).

When we think about an unborn fetus, does it have any of these attributes of the image of God? Be fair with me here, as well as with yourself. Does a fetus have the ability to reason, or to express thoughts? No. Can it form words or communicate? No. Does a fetus possess any creativity or moral awareness? No. Does it have a personality? Not that anyone could ever determine. Does a fetus have an eternal soul? Well, that's about the only option left, isn't it? Granted, a fetus has potential, but is that what demonstrates it has the image of God?

Can anyone say for certain - scientifically, theologically, legally, or by any other means - whether a fetus has an eternal soul? No. And God has never directly disclosed when, or how, an eternal spirit is imparted to every human being - so-called *ensoulment*. Nevertheless, God has given us some clues. Let's see.

LIFE IS IN THE BREATH (and oxygenated blood doesn't count)

The scriptures indicate quite unambiguously that human life requires the breath of God. In other words, the literal breathing of the air by a person.

> "Then the Lord God formed the man of dust from the ground and breathed into his nostrils the breath of life, and the man became a *living creature*." (Gen. 2:7 - ESV). Or, a *living being* (NKJV and NASB), a *living soul* in KJV.

I stress the fact God made mankind a living *being* because this expression is contrasted with the way God referred to the animal kingdom, just a few verses earlier. "And God blessed them. And God said to them, 'Be fruitful and multiply and fill the earth and subdue it and have dominion over the fish of the sea and over the birds of the heavens and over every living *thing* that moves on the earth.'" (Gen. 1:28).

Thus, the term human being reflects the difference in legal status between people and animals. People are beings, not things. Animals, as things, do not have the image of God, and they may be property that people can own, use and dispose of as they see fit. People, as beings, are made in God's image, and cannot lawfully be made the property of another person.

Is it possible that the breath of life and the image of God are connected to each other, so that where one is found, so is the other? Is it possible that the breath of life is the when, and the how, the image of God is imparted to someone? This is the result strongly suggested by the scriptures.

> In his hand is the life of every living thing and the breath of all mankind. (Job 12:10). Every goldsmith is put to shame by his idols, for his images are false, and there is no breath in them. (Jer. 10:14). But after the three and a half days a breath of life from God entered them, and they stood up on their feet, and great fear fell on those who saw them. (Rev. 11:11).

> Thus says the Lord God to these bones: Behold, I will cause breath to enter you, and you shall live. And I will lay sinews upon you, and will cause flesh to come upon you, and cover you with skin, and put breath in you, and you shall live, and you shall know that I am the Lord. (Eze 37:5-6).

Also, a universal sign of when a person died in scripture is when *he breathed his last*. So scripture everywhere affirms, from Genesis to Revelation, that life is in the breath, and both life and breath come from God. Everywhere breath is lacking (such as with idols), it means there is no life. Every time breath is found, it means there is life. And notice the distinction in Job 12:10 between the *life* of every living thing on the one hand, and the *breath* of all mankind on the other.

There is also a correlation in scripture between the words *breath, spirit*, and *wind*. The Greek word in the New Testament primarily translated as spirit can also be translated as breath or wind, and sometimes is. The Greek word primarily translated as breath can also be translated as spirit, and sometimes is. The same exact situation occurs in the Hebrew of the Old Testament.

The clear implication, when the same word is used for both breath and spirit in the scriptures, is that a person's eternal spirit is linked to having the breath of life. Look at these translations of Ecc. 3:21:

> Who knows whether the spirit of man goes upward and the spirit of the beast goes down into the earth? (ESV) Similarly in the KJV.
>
> Who knows that the breath of man ascends upward and the breath of the beast descends downward to the earth? (NASB)

Those of you hoping to gain comfort from the unfortunate translation of Ecc. 11:5 in the ESV, beware:

> As you do not know the way the spirit comes to the bones in the womb of a woman with child, so you do not know the work of God who makes everything. (ESV)
>
> Just as you do not know the path of the wind and how bones are formed in the womb of the pregnant woman, so you do not know the activity of God who makes all things. (NASB).
>
> As you do not know what is the way of the wind, Or how the bones grow in the womb of her who is with child, So you do not know the works of God who makes everything. (NKJV).

As you can, the ESV is at odds with other translations of this verse. The other translations make it clear the wind is outside the womb, not a spirit inside the womb. Be wary of relying on outlier translations.

Now it is also true that life is connected to the blood. "For the life of every creature is its blood: its blood is its life." (Lev. 17:14). And three verses earlier, "the life of the flesh is in the blood." (Lev. 17:11).

Once again, we come to the distinction between science and law, or the physical and the spiritual. The point is quite simple. The *physical* life of every creature - human or non-human - is in its blood. That's science. But the *spirit* of every creature - human or non-human - is in its breath from God. That's God's law. Go back and re-read Ecc. 3:21, a few paragraphs back. Breath = spirit.

The point is that until a fetus is born, it does not have the breath (or spirit) of life. This appears to be a law of God, and scripture is uniform on this point. (At least, I haven't found any contrary examples yet.) If a fetus doesn't have the breath (or spirit) of life, it can't be a human being. And if a fetus isn't a human being, then abortion can't be the murder of a human being. *Res ipsa loquitor*.

The human fetus, if left to develop, will mature into a human being because a fetus is human *life*. But it is not a human *being*. God refers to this development as "being made." It is human life in the sense that it will not develop into a tree or a dog. It will only mature into a human being because the fetus became a unique human life at conception. But its life is quite distinct from whether it is a being. And as we will see, the question of the fetus as a human being is also distinct from God's

knowledge about the fetus before its physical existence. The fetus is human, it is "being made in the womb," but it is not a human being, or a person, because it has neither breath nor God's image.

I can't say as a matter of theological dogma that ensoulment occurs when a baby takes its first breath. All I can say is, it is a reasonable conclusion which can be drawn from scriptural evidence. There may be other possible conclusions (one of which I will consider next). There is an abundance of scriptural evidence and an interpretation of those scriptures which is logical. What do you have to the contrary?

GOD'S FOREKNOWLEDGE ISN'T WHAT MAKES YOU HUMAN

I anticipate that one likely objection will be, "But God knew me before I was born!"

> "Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations." (Jer. 1:5).
>
> For you formed my inward parts; you knitted me together in my mother's womb. I praise you, for I am fearfully and wonderfully made. Wonderful are your works; my soul knows it very well. My frame was not hidden from you, when I was being made in secret, intricately woven in the depths of the earth. Your eyes saw my unformed substance; in your book were written, every one of them, the days that were formed for me, when as yet there were none of them. (Ps.139:13-16).

I have news for you - God knows everything. Every molecular combination and chemical process of every man, animal and plant on earth, from the beginning of time. Every conception, every gestation, every cell division, and everything every fetus will do as a person once it is born. Every act you have ever done or ever will do, every thought and intention of your heart, and every hidden thing in your life. God knows them all now, and He knew them from the beginning of time.

Let us concede that God has infinite foreknowledge. He knew if and when you and I would be born before the foundation of the world. He knew everything we will ever do, even before we were conceived. He knows right now, with absolute certainty, when you and I will die. So what?

That does not mean you or I existed as human beings before the foundation of the world, simply because God knew we would eventually exist. And all the things God knew about us when we were in the womb were all the same things God knew about us 1,000 years ago. Yet, we were not in existence, as individual beings, 1,000 years ago, nor when we were in the womb. Foreknowledge is not the same as existence. ***Knowing is not the same as being***.

Notice carefully Jer. 1:5, where God said He knew Jeremiah *before* he was formed in the womb. In other words, God's knowledge about Jeremiah did not start with his conception. God's knowledge preceded Jeremiah's conception. Which means that neither Jeremiah's conception, nor his development in the womb, had any impact on God's knowledge about him. Jeremiah's time in the womb had no bearing on either when, or how much, God knew about him.

Logically, that would strongly suggest that your time in the womb had absolutely no impact on when, or how much, God knew you either. And since God's knowledge of you preceded the time you were in the womb, that means the fact that He knew you did not make you a person (human being) merely because He knew you. It wasn't God's knowledge that made you a human being, it was your birth and breath that made you one.

Thus, in Ps. 139, the Psalmist does not say, "Your eyes saw my human form" in the womb, but rather, "Your eyes saw my unformed substance." Here, the ESV, NASB and NKJV all agree. (KJV says, *unperfect substance*.) It reminds me of Gen. 1:2, when the earth was "without form and void." The only people who were fully human beings from the moment they were first formed were Adam and Eve. But of course, neither of them was formed in the womb.

Granted, the scriptures indicate that John the Baptist was "filled with the Holy Spirit, even from his mother's womb." (Lk 1:15). This could mean at the time of his mother's pregnancy or at his birth from her womb. But, John the Baptist was an exception to the rule, wasn't he? Has anyone ever taken this verse as a general statement that all people are filled with the Holy Spirit from their mother's womb? It may be possible, but not that I know of. If that were true, then it would change the whole paradigm of everyone being born separated from God, wouldn't it? (A matter which I will discuss next).

Consequently, for the rest of us, humanness and personhood begin at birth, not conception. And therefore, abortion cannot be murder.

EVERY PERSON IS CONCEIVED IN SIN

There is a false narrative in the world - very pervasive in our culture - that people are basically good, unless and until they give themselves over to evil. That's what the whole, "sell your soul to the devil" mythology is about. It's the same as being "seduced by the dark side of the force." The presumption, in other words, is that people are good until they choose to be evil. In reality, however, it is the exact opposite.

No one has to choose evil, to be evil. Residing in the devil's camp is not a choice - it is the *default*. Everyone starts out evil, alienated from God, aligned with the devil, because we are born that way. The only way to escape is to choose to leave - to opt out - by choosing Jesus. It is an inconvenient truth, to borrow an expression, that all of us - each and every single person - is conceived in sin. Apart from Jesus Himself, there are no immaculate conceptions. Not even John the Baptist.

With that as the proper starting point, let us think through the implications for abortion. If abortion is murder, then every fetus is a human being in the fullest sense, meaning that every fetus has an eternal spirit made in the image of God. But it is also true, ever since the Fall (Gen. 3), that every person is conceived, made and born separated from God, with a sinful nature.

> For all have sinned and fall short of the glory of God, and are justified by his grace as a gift, through the redemption that is in Christ Jesus. (Rom. 3:23-24). For the wages of sin

> is death, but the free gift of God is eternal life in Christ Jesus our Lord. (Rom. 6:23).

The only way to avoid eternal condemnation - the only way - is by exercising faith or belief in Jesus Christ. But an unborn fetus cannot exercise faith of any kind, can it? Much less saving faith, by which righteousness is imputed to them by the blood of Jesus. Can a fetus confess their sin, repent from evil, or profess the name of the Lord? No. Which brings us to the unalterable reality that every fetus - excuse me, every sinful person ever conceived or formed in the womb - starts out life as a sinner. Which is exactly what scripture says:

> Behold, I was brought forth in iniquity, and *in sin did my mother conceive me*. (Ps. 51:5).
> You have never heard, you have never known, from of old your ear has not been opened. For I knew that you would surely deal treacherously, and that *from before birth you were called a rebel*. (Isa. 48:8).

And there is no provision in scripture for an *age of accountability*. No there isn't - ***nor could there be***. Just because Jesus said, "Let the little children come to me and do not hinder them, for to such belongs the kingdom of heaven," doesn't mean there is **universal salvation** for all children up to a certain age. (Mt 19:14). Jesus had already stated what He meant by this:

> "Truly, I say to you, unless you turn and become like children, you will never enter the kingdom of heaven. Whoever humbles himself like this child is the greatest in the kingdom of heaven." (Mat. 18:3-4).

Read all scripture together, and in context. Don't read Mat. 18:3-4 in such a way that contradicts Ps. 51:5. And don't be swayed by your emotions. Thus, when Jesus said, *to such belongs the kingdom of heaven*, He meant only people who humble themselves like a child - not all children automatically.

The age of accountability belief derives from the assumption that there is a certain point in every person's life when they *choose to sin*, knowingly and/or intentionally. *But personal choice has nothing to do with it*. This idea springs from the wrong paradigm - the false narrative - thinking that people start out in life untainted by sin. Not so. No one chooses to be born with a sin nature, or separated from God. It is simply a fact of life which, as it turns out, is completely unavoidable.

The age of accountability is a myth. It is a man-made tradition designed to help God out of a quandary - that children may enter hell. That every person begins life condemned is a fact. This may be a hard truth, but it is a truth. Which brings me to a conundrum. I admit it - it bothers me. Does it bother you?

If abortion truly is murder because its causes the death of a human being, with an eternal spirit and a sin nature, then does it also condemns them to hell, absent a conversion to Christ by faith? And what goes for an aborted fetus also applies to every stillborn baby in the history of the world. All of them, without exception, are right now waiting for the final judgment, when there will be only one possible outcome - eternal damnation.

It bothers me that this result does not in any way strike me as consistent with God's justice. Why would God create millions of human beings and condemn them to hell, when they never had even the barest of opportunity to believe in Him? When they never had so much as an opportunity to experience the glory of God expressed in the heavens and the rest of creation? What possible purpose could that serve?

Notice, I am not saying God could not have done this. I'm just saying it doesn't make sense to me - although let's face it, God's actions don't depend on my opinion. He can do what He wants.

I suspect that's why there have been two traditional responses to this conundrum. First, there could be an age of accountability which prevents this result, but of course this option violates the whole paradigm of the effects of the original Fall of mankind. Why would God create a system in which every person is conceived in sin, only to be faced with the necessity of creating a massive exception for babies, *just so He can make the system work*? What an absolutely incompetent planner God must be, not to have foreseen this problem and created the sin paradigm differently in the first place! (You know I am being facetious, right?)

Or, as a second option, the sin nature (along with the image of God and legal personhood) do not attach until a fetus is born and takes its first breath. The advantage of this second option is that it violates no aspect of scripture, from what I can tell. God's design of the system is perfect after all. The disadvantage is that it shreds the whole abortion is murder theory to bits. But all is not lost - there's still plenty of reasons to prohibit and punish abortion other than as murder.

THE LAW OF WRONGFUL PREMATURE BIRTH

Let's look at one more aspect of scripture indicating that an unborn fetus is not a legal person, and therefore its premature destruction attributed to human causes is not murder.

> When men strive together and hit a pregnant woman, so that her children come out, but there is no harm, the one who hit her shall surely be fined, as the woman's husband shall impose on him, and he shall pay as the judges determine. But if there is harm, then you shall pay life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe. (Exo. 21:22-25).

Before you latch on to the phrase, *her children come out*, let's check some other translations. In KJV, *her fruit depart from her*. In NASB and NKJV, *she gives birth prematurely*. In fact, the context is somewhat ambiguous as to whether the baby survives or not. I assume, because the birth is premature and both pre-natal and neonatal care were non-existent at the time this law was given, the baby would probably die as a result.

Whether the child lives or dies, and whether it has taken its first breath, is not at issue. In fact, no concern for the welfare of the child is indicated in this text whatsoever. When the scripture considers whether there is or is not any harm, it is only in relation to whether there is any injury to the *woman*. Sure, the woman was forced to give birth prematurely - but did she suffer any injury

beyond that? Harm to the child is not at issue (the child is presumed dead).

The references to life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe seem to relate to the woman, not the child. A newborn child has no teeth. A child is not likely to be born with burns, open wounds or stripes. These injuries are more likely describing the woman who was struck, beaten or injured by another.

Now, if in the view of the laws of Israel (and since those laws came directly from God, we might as well say if in the view of God) the dead baby lying on the ground was a legal person, the whole matter would have been handled much differently. Because the *Lex Talionis* (life for life, eye for eye, tooth for tooth, etc.) would have required capital punishment for the offender if the baby died. If the baby was a legal person - a full human being - then the law would have required the life of the offender for the life of the child.

In other words, there would have been no gradations of punishment. Thus, in the actual law of murder in ancient Israel, there was no gradation of punishment, eye for eye, limb for limb, etc.

> If anyone kills a person, the murderer shall be put to death on the evidence of witnesses. But no person shall be put to death on the testimony of one witness. Moreover, you shall accept no ransom for the life of a murderer, who is guilty of death, but he shall be put to death. (Num. 35:30-31).

So, if an unborn child forced out prematurely who never breathed the breath of life was, in fact, a person according to Israel's law, then Num. 35 would have applied. Go straight to capital punishment, don't accept any excuses, don't apply any gradations of punishment. But that's not what Exo. 21:22-25 says.

No, the only question in Exo. 21 is whether the woman died or suffered some other injury. And she could have suffered any possible type of injury to her person, depending on how the men were fighting and whether they were using any weapons.

Thus, in the eyes of the laws of Israel, the fetus was not a human being and was not protected by the law against murder absent taking the first breath. So why would anyone read other portions of scripture to come to an opposite conclusion? Is God divided in His opinion, or is He the author of confusion? I think not. Or would God have a different rule for nations today? Are Jewish fetuses essentially different from Gentile fetuses in the eyes of God?

IF ABORTION IS MURDER, WHO ARE THE MURDERERS?

Ok, enough theology. Now let's consider some practical legal problems arising from the claim that abortion is murder. If it is true that abortion is murder, then necessarily the people performing any abortion are murderers. Say it with me - people who perform abortions are murderers. No, don't flip-flop - stick to your guns. This is an unavoidable consequence.

Let's just be rational and logical. If abortion is murder, then those who perform an abortion all need to be punished as murderers, and not as some lesser offense. The whole point of saying that abortion is murder is to underscore the seriousness of the offense, right? Don't feel sorry for them - they are murderers. And we can't exactly let murderers roam around freely in society, can we?

Or is the statement that abortion is murder intended to set up a double standard, so that abortionists are punished one way, and other murderers are punished another way? I sure hope not, because that would neither be reasonable, nor justifiable. If we're going to say so-and-so is a murderer under the law, then punish them like any other murderer under the law. It's only just and fair under the laws of both man and God.

So the doctors who perform abortions, and any other medical practitioners who perform abortions, should all be charged with the crime of murder, and tried and punished as murderers by the criminal justice system. This is required if abortion is murder.

Of course, the nurses and assistants to the person performing any abortion are all accessories before the fact. Which means the nurses and assistants are all murderers, too. OK, maybe we can knock it down to 2nd degree murder, but still - murder is murder. And people who commit murder are murderers.

But let's not forget the women - the would-be mothers who are having an abortion. No one dragged them into an abortion clinic and forced them to have an abortion by coercion. No - it was either her idea, or her parent's idea or her boyfriend or husband's idea that she went along with. These women signed up for this gig, and hired a clinic to do a job - to kill her baby.

Which necessarily means every woman who gets an abortion is guilty of murder or conspiracy to commit murder. Conspiracy to commit murder is the same as hiring a hit man to murder somebody. Yes, that makes perfect sense - that's exactly what these women are doing - hiring someone to kill their babies.

Don't feel sorry for them, now. Don't let your eye have pity, as the scripture says. (Deut. 19:13). If abortion is murder, then everyone who makes an agreement and pays or receives money to have the abortion done is conspiring to commit that murder. *Don't blame me* for the natural, logical, and legal consequences of taking this position. Is that your position?

LET THE PUNISHMENT FIT THE CRIME

But wait, we're not done yet. Now that we know who the murderers are, we need to provide for them to be punished. We're not going to call them murderers, and then let them walk away free, or only pay a fine, right? Murder is murder. So, that gives us - as a society - a couple of basic options.

If you want to be strictly biblical - maybe you don't, but let's just pretend for a moment - then the only fitting, proper and just punishment is to *execute* the murderers. Yes, I'm talking about capital punishment. "Whoever sheds the blood of man, by man shall his blood be shed, for God made man

in his own image." (Gen. 9:6).

This verse, in case you didn't know, is the institution of capital punishment by God for all mankind. It is only a small part of a covenant God made with Noah and all his descendants, forever. (Gen. 9:9). And you, my friend, are a descendant of Noah, whether you know it or not - because everyone alive today is a descendant of Noah. Other than Noah and his descendants, no one else survived the flood.

Now, abortion involves shedding blood, right? And that baby who was aborted is a human being (according to you), right? So biblically, legally, and covenantally, all human societies are required to execute all murderers. And everyone who helps perform, or makes an agreement to perform, an abortion is a murderer. So prosecute them all. Now. Convict them all. Now. ***Put them to death. Now.*** Right? Is this your argument? I'm just trying to help you see it through. I'm just taking the claim that abortion is murder and taking it to its inevitable biblical and logical conclusion. This is no time to doubt what God says about putting murderers to death. Don't waffle on me here.

What's that? Your church doesn't teach that? And that's not your personal belief? We need to show forgiveness? We need to show the love of Christ? That is no problem at all - we can witness to the murderers right up to the time they get the electric chair. Done and done.

You're concerned about the disparate treatment of minorities in the application of capital punishment? Color me amazed. It sure is a good thing we have a backup plan. All we have to do is prosecute and punish all the murderers who conspire to abort and perform an abortion the same as any other murderer. *Let them all rot in jail for the rest of their natural lives.*

So let the abortionists all be prosecuted and punished like any other first degree murderer. Let their nurses and assistants be prosecuted and punished like any other accessory before the fact to murder. And let the women who get an abortion be prosecuted and punished like any other hit man for hire. It's not abortion. It's just plain old murder. That will work won't it? No need to drag God into the conversation about punishments.

That's justice, right? The punishment fits the crime. If abortion is murder, and murderers should be punished as murderers, then how can anyone argue for a different result? Glad to see we are in agreement. Or do you actually think that people can say abortion is murder, without facing the logical and legal consequences of that statement?

There Is No Need To Overturn Roe v. Wade

But, let's take it one step further. If in fact abortion is murder, then who cares about *Roe v. Wade* and the possibility of overturning it? Why should anyone in their right mind care about some legislature passing a new law regulating, prohibiting, defining or punishing abortion - er, excuse me, murder?

We already have laws on the books, valid and upheld in every court of the land, against murder.

Laws against murder in every state, in the District of Columbia, etc. Just Use Them. ***Just Do It***. If abortion truly is murder, then let's just prosecute every abortionist in America under the murder statutes. If abortion truly is murder, then let's just prosecute every woman who gets an abortion for conspiracy to commit murder under existing laws. Gosh, it's so simple, why hasn't this been done?

If abortion really is murder, then lobby local prosecutors to charge every nurse and assistant at Planned Parenthood as an accessory to murder before-the-fact. What is the Pro-Life Movement sitting around waiting to pass laws for? The laws are already in place - just use them. Who needs to file another lawsuit, wait several years and spend millions of donor dollars to reach the Supreme Court? A pox on the Supreme Court!

Instead of trying to change the laws, just support people who run for district attorney on a platform of prosecuting abortionists as murderers. In fact, since the pro-life movement has popular support nationwide, why don't we just flood the market for young prosecutors with young lawyers who believe as we do? In ten years, we'll control every prosecutor's office in the country. What is everyone waiting for? We can win this!

Except, of course, the courts will never go for it - and not because the judges are all "pro-abortion," though many are so. It's because there simply is no historical precedent for prosecuting abortion as murder. Historically, such laws punished procuring a miscarriage *by the woman*, as a felony, or manslaughter *if the woman died*.[2] The law did not punish the death of the unborn child. That sounds a lot like the law of Israel we looked at. Likewise, other laws made it a misdemeanor to procure drugs to cause a miscarriage.[3]

Also keep in mind that every judge is obsessed with precedent. Anyone who has actually studied the law of murder knows that abortion is not murder. Don't believe me? Go ahead, prosecute an abortionist under a murder statute, and see how far you get. No really - try it. Sometimes people only learn things the hard way. The school of hard knocks, they call it.

The statutes I cited above made certain conduct a crime against the woman, not the child. The

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[2] For instance see MCL §750.14 titled "Miscarriage; administering with intent to procure; felony, penalty." This Michigan law stated: "Any person who shall willfully administer to any pregnant woman any medicine, drug, substance or thing whatever, or shall employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, shall be guilty of a felony, and in case the death of such pregnant woman be thereby produced, the offense shall be deemed manslaughter. In any prosecution under this section, it shall not be necessary for the prosecution to prove that no such necessity existed."

[3] See MCL §750.15 which stated "Any person who shall in any manner, except as hereinafter provided, advertise, publish, sell or publicly expose for sale any pills, powder, drugs or combination of drugs, designed expressly for the use of females for the purpose of procuring an abortion, shall be guilty of a misdemeanor. Any drug or medicine known to be designed and expressly prepared for producing an abortion, shall only be sold upon the written prescription of an established practicing physician of the city, village, or township in which the sale is made; and the druggist or dealer selling the same shall, in a book provided for that purpose, register the name of the purchaser, the date of the sale, the kind and quantity of the medicine sold, and the name and residence of the physician prescribing the same."

modern pro-life movement's preoccupation with establishing that the unborn child is a legal person is artificially constructed by lawyers from new legal cloth. If the truth be known, that argument is driven by the goal of balancing the mother's new found 1973 "constitutional right" of abortion against another judicial perversion of the Constitution. Namely, an unborn child's hoped-to-be newly found "constitutional right" to life under the Fourteenth Amendment, once the court has enough "pro-life" justices.

What a cluster of legal, theological, and moral errors we have made for ourselves all because we do not know or care about the rule of law. It isn't God's laws or the laws of nature that have put us between a rock and a hard place. Both the rock and the hard place are of our own making.

So, being unable to make the case legally or historically that abortion is murder, pro-lifers are now just making the case morally that abortion is murder. Except, I have just negated and discredited all of the moral arguments. There are no moral arguments left to peddle. What is it, exactly, that anyone hopes to gain by singing that same old tune? Besides, you know, to raise funds for pro-life organizations? But let's return to where we jumped off.

As I see it, there is no need for abortion to be murder. Abortion is perfectly contemptible and criminal all by itself as abortion, without also calling it murder. The only thing that is lost, by not calling abortion murder, is the possibility of imposing harsh penalties, such as capital punishment or life imprisonment. But I never hear anyone in the pro-life community calling for women who get an abortion to be punished at all. It's like the women get a free pass, even though they've hired a hit man, for all practical purposes. What gives?

For the life of me, if the pro-life community won't press for the punishment of everyone who procures an abortion as a murderer, I can't figure out one single good reason why anyone would want to continue to beat that drum and claim that abortion is murder. It's not like anyone has to make that claim, just to ban or punish abortion. Anti-abortion laws have existed for many years without equating abortion with murder.

Which leaves only one very bad reason for claiming that abortion is murder - for its *propaganda value*, meaning its ability to persuade you to give money to self-proclaimed pro-life do-gooders. Saying abortion is murder does not actually provide any legal advantage, in drafting legislation, in arguing before a court, or in general criminal enforcement. All it does is sensationalize the matter for public consumption. Or perhaps I should say, all it does is politicize and trivialize the matter, driving a wedge between people to divide them. And I say, good riddance to it.

THE UPSHOT

Let's review. Abortion laws before *Roe v. Wade* were not essentially based on science. Nor were they based on protecting the unborn child as a human being. They were based on protecting the mother from procuring an abortion that caused her harm. That is why you've heard the term, *safe legal abortions*. It is a response to those old laws. These laws were based on the wrongfulness of the act of procuring a miscarriage.

When *Roe* came along, science was improperly used by the Supreme Court as a basis to change the laws of abortion nationwide. In an attempt to reverse *Roe,* the pro-life community has misguidedly tried to use science to prove a fetus is life, and then jumping from that scientific claim to a legal conclusion that life equals a human being.

But in doing this, the pro-life community made two key mistakes: 1) the question whether a fetus is a human being is not essentially a scientific issue, but a legal and theological one; and 2) the question of what constitutes murder of a human being is also quintessentially a legal question, which science cannot answer.

In pursuing this false narrative - that abortion is murder - the pro-life community has also made a number of theological errors. First, in assuming that the mere presence of human biological life in a fetus is sufficient to conclude that a fetus bears the image of God. The image of God is not something that science can even begin to address. It is something that cannot be seen or tested for.

Second, they have ignored the clear scriptural evidence that the image of God, and the eternal spirit of a person, are connected with the breath of life. And the breath of life is not conferred until a live birth.

Third, the mere fact God has infinite foreknowledge concerning every fetus does not mean every fetus is a human being or a legal person. God's knowledge does not confer legal status.

Between these three things, it is clear that a theological case based on the Bible cannot be made to support the idea that an unborn fetus is fully a human being. In other words, the pro-life community has no moral arguments - based on scripture or rooted in Christianity - that an unborn fetus is a legal person. And if a fetus is not a legal person, then abortion is not, and cannot be, murder.

Fourth, as a theological matter, if a fetus is fully a human being made in the image of God, then aborted and stillborn fetuses all represent eternal human souls who have an eternal destiny. There are essentially only two options for understanding what happens to them. Either: 1) they are universally saved by some variation of an age of accountability, which has no textual support in the scriptures and which violates the fundamental nature of the Fall; or 2) they are universally condemned to damnation because none of them have exercised faith or belief in Christ.

For me, the only way out of this theological dilemma is to assume that an unborn fetus is not a human being. And if that is the case, then abortion is not, and cannot be, murder. But hey, if you want to believe all stillborn and aborted babies are condemned to hell - more power to you. It's no skin off my nose. But if you believe in an age of accountability, you are only fooling yourself. Plus, you make Jesus a *universalist*.

Fifth, the law of ancient Israel - a law delivered by God Himself - strongly suggests that a forced premature birth resulting in the death of the child is not murder. Granted, that law is not legally binding on Gentile nations today. Yet it remains a legal corroboration of the theological principles. It is simply evidence that lines up with all previous evidence. Quite likely, it is a law which *reflects*

the law of nature which applies to everyone, everywhere, all the time.

Then there are the practical legal considerations. If abortion truly is murder, then the abortionist doctor is not the only one guilty. All nurses and assistants to the abortionist are accessories before the fact. All women who have had an abortion are guilty of conspiracy to commit murder, the same as hiring a hit man to kill their baby. Historically, these would be charged with manslaughter if the mother died, not the child.

Also, if abortion truly is murder, then all those who are guilty of the murder should be punished commensurate with other murderers who are guilty of the same level of offense. Including the women, who should all be punished by the same standard as other people who hire a hit man.

But strangely, I've never heard anyone in the pro-life community pressing for the punishment of women in this way. It makes me question whether the people who claim abortion is murder really mean what they say. Actually, *I conclude they must be insincere*. Either that, or just woefully ignorant of the consequences of their words. Which is better – being ignorant or deceitful? Perhaps it is something else, such as the love of money by pro-life organizations that have never thought it through after almost 50 years of abortion.

Another thing I never hear from the pro-life community is a call to simply use the laws of murder already on the books to prosecute people who they say are murderers. All of which lead me to believe that if abortion truly is murder, then it would be handled in a completely different way than it actually is in the legal system. Therefore, it is more likely that abortion is not murder, than the likelihood it is. And this reinforces my prior conclusions.

This leads me to conclude that saying abortion is murder is merely a ploy, to play on emotions and to use as propaganda and fund raising by those who have no shame or are ignorant or mislead. No one really believes abortion is murder, because no one actually acts like it the way abortionists, etc. are treated in the real world. All the possible moral arguments to the effect that abortion is murder are bogus. Propaganda or money must be all the pro-life community has left.

Of course, nothing in my analysis leads me to believe that abortion is not wrong, or that it is not a crime. It just means that abortion is the crime of abortion, or *procuring a miscarriage*, and not the crime of murder. As far as I can tell, there's no great loss there. So, for the love of God and His laws, since abortion is not murder, ***please stop saying it is***.

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