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The "Middle Ground" on Abortion

by

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In a recent article in *Commentary*, Professor James Wilson from the School of Public Policy at UCLA adds to the long list of so-called "middle ground" positions on abortion.

Wilson frames the issue as revolving around the acquisition of certain extrinsic so-called "human characteristics" or the achievement of some kind of political consensus by the society as to whom it should protect. The first obvious problem with this rationale is the fact that the unborn child is invisible to external examination and his physical characteristics are only known through the perusal of a photograph in an embryology textbook. Unless we have an appreciation of the value of all human beings from conception to natural death, then value is in the eye of the beholder and the pregnant unwed mother who perceives the unborn child merely as an abdominal swelling which causes her to throw up every morning will be free to impose her perception with lethal consequences to the child. Wilson eschews the notion that "life" begins but, as a matter of fact life begins at a certain point in time. There is no real question as to when life begins. It begins at the beginning. Surely now that we can make life begin by combining sperm and ova in a Petri dish, the issue of when life begins is no longer debatable. The fact that there are phases of biological development which follow the entry of the sperm into the ovum and precede the implantation of the blastocyst in the womb, in no way detracts from the reality that a continuum has begun with fertilization which, if left protected from natural or man-made violations, will proceed to the birth of a child.

There is no point at which the child is any more or less human no matter how we perceive him. All of the exploding information about DNA and molecular biology supports the uniquely human attributes of the zygote, embryo and fetus. The great pedagogical powers of the law, supported by a conspiracy of silence in the media, have had the effect of denying the reality of the humanity of the unborn child from public understanding. Pregnant women who want their child are given the opportunity to bond to the sound of their child's heartbeat or to fall in
love with the pale shadows of a sonogram. We can infer from the power of these personal experiences how readily the wider public would respond to a systematic attempt to educate on the beauties of intrauterine growth.

Wilson falls into the familiar trap of suggesting that the courts will not allow us to protect the unborn child unless we declare it a “person” within the meaning of the Fourteenth Amendment. As Professor Ely of Yale Law School has pointed out, however, the issue of personhood is totally irrelevant. The law extends protection to many entities which are not “persons”. The law protects animals, for example, who have never been declared persons. A man in Chicago was put in jail for throwing a kitten, which had scratched him, off a second floor landing. Dog fights and cat fights are illegal in every state. It is pedantic to suggest that we are immobilized in protecting what is arguably a human being and incontrovertibly a potential person, merely because of what resides in the penumbras of constitutional interpretation.

Wilson correctly describes the sweeping findings and implications of Roe v. Wade and Casey in contrast to the usual “limited first trimester” deceptions of politicians and media. While admitting that abortion is legal for the full nine months of pregnancy, he hardly improves on the vagueness and imprecision of restrictions imposed by the seven Supreme Court justices.

In criticizing Dworkin’s notion of lost “investment”, Wilson again wants us to concede that because the mother mourns less for an early miscarriage than for a dead two-year-old that this verifies the theory of humanity as “emerging” over time. There is a great risk of generalizing or quantifying human emotional reactions and developing principles based on such reactions. The child, born or unborn, is valuable because of who she is and not how others regard her. The mourning of a mother, who has had repeated miscarriages, for her 3 month miscarried child is probably greater than the mourning of a father who abused and killed his three-year-old daughter. We can infer from this only that individual circumstances and individual capacity for sensitivity will vary but not that the value of a dead child is dependent on those individual differences. We have seen the dangers of depersonalizing classes of human beings (Jews in the Third Reich, Blacks in the South) and we should recognize that there is a non-wavering historical propensity to devalue any group that you intend to kill or to put in jeopardy of death.

Wilson attaches moral significance to the “resemblance between a fetus and an infant”. This makes morality contingent on physical appearance. If we deny the resemblance by calling the victim an “untermensch”, a “gook” or a “nigger” then we can free ourselves of moral restraints.

The attempts by pro-abortion advocates to dehumanize the developing preborn human infant sometimes border on desperation. The biochemist, Rivers Singleton, for example, writing in Perspectives in Biology and Medicine describes “gill slits which would put the fetus in the category of a fish or an amphibian”. In point of fact, the human embryo never does develop “gill slits”. Astrophysicist, Carl Sagan, writing in his role as a populizer in Parade magazine describes the fetus as having a “pronounced tail”. In some abnormal circumstances, the fetus may develop a caudal appendage but this is different tissue altogether and in no sense would represent a tail. Professor Ward Kischer, an embryologist from
University of Arizona, decries such descriptive terminology as “voodoo embryology” meant to vilify the fetus as somehow “prehuman” or developmentally closer to lower animals than to born human beings. The perpetuation of such appeals to misplaced authority demonstrates the fundamental fallacies in Wilson’s argumentation. Professor Kisher suggests a well-grounded course in embryology for all medical students. My own experience in discussing the humanity of the unborn child with the students of five different medical schools suggests that such a course would address a prevalent and woeful ignorance. On one occasion, in a debate with a Nobel Laureate at our medical school, the distinguished medical scientist described the capabilities of the fetus in terms that were nothing less than absurd. The medical students, perhaps the victims of prestige hypnosis, accepted his statements as gospel. Fortunately, there was a pro-life housewife in the audience who was able to correct him on his “facts”.

Wilson correctly decries the circumlocution of Dworkin in finding abortion laws in violation of the First Amendment insistence on Separation of Church and State. He then engages in some circumlocution of his own in discussing abortifacient actions disguised as contraception. Contraception, based on its Latin roots, is a measure to prevent conception, that is the union of the sperm and egg. That which happens later, at whatever point in the continuum is not contraception no matter how ardently we may want to call it by this respectable name nor how well it is accepted by the public when given this misnomer. Similarly, the questionable statistics about spontaneous abortion will not justify induced abortion. No matter how many people fall off of high buildings we are not justified in pushing them off.

Based again on the physical appearance of the developing human person, Wilson proposes a rather bizarre doctrine of abortion choice. He then refers to the alleged historical changes in the Catholic Church’s position on abortion. In point of fact, the Church’s condemnation of abortion can be traced to the Didache, a first century documentation. The only thing that has evolved is the notion of the seriousness of the crime. Thus, before the invention of the microscope, the Church depended on Aristotelian biology (woman provides the matter, man the form) to try to evaluate the conceptus. All abortions were considered sinful but abortions after ensoulment were more seriously sinful than before ensoulment. The concept of “delayed animation” lost its acceptability with the invention of the microscope.

Given the modern understanding and scientific insights now available we are no longer privileged to fix artificial signposts such as ensoulment, quickening or humanoid resemblance as a basis for evaluating the enormity of abortion as killing a human life in process.

The so-called “middle ground” on abortion is really shifting sand. Compromise positions on abortion often originate from otherwise distinguished authorities who become self-appointed voices of reasonableness against the background of alleged extremism in the abortion debate. Whether such compromises originate from Mario Cuomo, Father Hesburgh or Professor Wilson they inevitably self-destruct against non-negotiable facts of life and death.
REFERENCES