

The Human Life Statute: Will It Protect Life or Power?

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The Colorado legislature recently rejected two bills which would have made the human embryo a person from the moment of conception. If the bills had passed, any Colorado woman who had an abortion or miscarriage would be subject to prosecution for homicide.

The "Human Life Statute" now before the U.S. Congress would have the same effect. It requires only a majority in both houses, plus the president's signature, to become law.

Senate Bill 158 (HR 900 in the House), which is in the Senate subcommittee on separation of powers and is expected to pass the full Senate and be signed into law by President Reagan, seeks to impose a view of human existence on our society which is appealing in its apparent simplicity: Human life begins at conception. On examination, however, this question proves to be more complex. Does conception mean "fertilization" or "implantation?" Which conception? Could it have been the one (which one?) that occurred three million years ago near Olduvai Gorge in Africa?

The view of a theoretical instant in which each individual comes into being is in conflict with the view of life as a continuous stream reaching back into the origins of life itself hundreds of millions of years ago. It is in conflict with the fact that each sperm and ovum is a human cell, that each diploid cell in the rest of the body has 46 chromosomes, and that, while the cells in each of our bodies are constantly dying and being replaced, our structures remain.

The idea that each fertilized ovum is a person is about the same thing as saying that each set of house plans is a house. Calling an ovum a person does not make it so. Calling a fetus an unborn person (and perhaps baptizing it) is as illogical as burying an undead body. This ruse perpetuates an illusion that is useful to some, but in the case of SB 158, the consequences to others may be catastrophic.

Since the bill in question is aimed at making abortion illegal, it is worthwhile to examine some of the health and social consequences that such an action would have.

In 1920, the maternal mortality rate in the United States was 680 per 100,000 live births. By 1960, maternal mortality had fallen to around 38 per 100,000 live births. This reduction was brought about by a number of things: better prenatal care, better obstetrical care, the introduction of blood transfusion, antibiotics and other drugs; longer birth intervals, postponed first births, fewer total pregnancies per woman and better nutrition.

Nearly half of all maternal deaths in both 1920 and 1960, however, were due to induced abortion in some areas of the country. In New York City, as late as 1965, 55 percent and 65 percent of maternal mortality among black and Puerto Rican women, respectively, was because of septic abortion.

Since 1970, however, abortion has become the safest surgical procedure – and the most heavily monitored – in the United States. The number of abortion deaths dropped from an average of 250 in the mid-1960s to less than 10 per year currently, while more than twice as many abortions are now being performed. A barrier contraceptive method backed up by early abortion is now the safest fertility control method available to women, and early abortion is now the safest of all possible outcomes for pregnant teenagers.

This improved safety is almost entirely because of the legalization of abortion, first in Colorado and in other states, then nationally, which permitted the introduction of improved techniques and the accumulation of skills and experience by physicians performing abortions. The risk of death from early abortion is now less than one per million procedures.

Overall, the risk of death due to abortion is currently less than two per 100,000 procedures, whereas the risk of death due to term birth is approximately 14 per 100,000 live births under the best circumstances. The risk of major complications in abortion is 1/200th the risk a woman experiences in term birth. Caesarean section is one major complication, and if this is necessary, her risks are magnified many times.

It is important to understand that these risks are experienced by women who are pregnant whether they wish to be pregnant or not, and whether they are rich or poor.

From a medical point of view, abortion should be the indicated treatment of pregnancy unless a woman has a desire to carry the pregnancy to term and reproduce.

The effort to criminalize abortion through the mechanism of according the fetus the status of personhood, however, would have serious public health consequences not envisioned by its proponents. If interpreted literally by a zealous prosecutor, SB 158 would have the following consequences:

- It would proscribe all abortions, even if the woman's life is in immediate danger.
- It would criminalize the use of intrauterine devices.
- It would prevent the use of certain oral contraceptives and drugs such as diethylstilbesterol used in preventing pregnancy following unprotected intercourse, as in rape.
- It would prevent treatment, emergency or otherwise, of hydatidiform mole, chorioadenoma destruens, choriocarcinoma and unruptured ectopic pregnancy. The first three, including the third, which is a cancer, arise from conception to become an undifferentiated mass of cells or water sacs. These products of conception would be classified as "persons" under the law.
- It would prevent the treatment of women for conditions unrelated to pregnancy without absolute proof of non-pregnancy, which is impossible under most circumstances.
- It would result in the prosecution of women experiencing spontaneous abortion (miscarriage) for negligent homicide if evidence could be found that the woman engaged in any physical activity or substance use that might lead to spontaneous abortion.
- It would prohibit the use of amniocentesis for the diagnosis of genetic defects.
- It would probably interrupt current research on in-vitro fertilization (test-tube babies) for the benefit of infertile couples.
- It would prohibit evaluation of infertility in women since non-pregnancy would have to be proved before tests could be performed.
- It would prevent the use of x-rays on women who had suffered trauma and who were currently pregnant or might be.
- It would disrupt a confidential doctor-patient relationship in all cases of women in the reproductive age range.
- It would increase the number of unplanned pregnancies due to the criminalization of effective contraceptives.
- It would result in a catastrophic increase in the number of deaths and life-threatening complications due to improperly performed abortions.

As the result of criminalization, the number of abortions performed would probably drop to no less than half of the 1.5 million currently being performed nationally. An unknown number would be added to this fraction as the result of an increase in the number of unplanned pregnancies because of the criminalization of contraceptive methods.

Women who experience "high risk" pregnancies – teenagers, older women, women who have recently delivered or who have had many pregnancies – would be forced to carry pregnancies to term whereas they are likely to choose abortion under the current circumstances for their own reasons. The result will be an increase in maternal mortality and complications due to pregnancy, increases in infant mortality, percentage of low birth weight infants, percentage of premature births, an increase in the proportion of developmental and functional abnormalities, an increase in the number of birth defects, and a higher neonatal mortality rate. The financial costs of these consequences will be met, in many cases, by the taxpayers.

One-third of all abortions currently are performed on teenagers. Most of these young women are unprepared for the emotional, intellectual, social and economic responsibilities of parenthood in a complex society and are unprepared to form stable families with their partners. The argument that they should be forced to continue unplanned pregnancies in order to increase the supply of adoptable

babies is both cruel and delusional. More than 90 percent of teenagers who continue unplanned pregnancies to them do not give up their babies for adoption.

The technology of abortion is so widely available among physicians and non-physicians alike that enforcement would be hopeless, so what is the point of this exercise? Are we willing to have a police state and keep all women under constant surveillance to ensure the law is observed? Or will we simply put doctors in jail for performing abortions, leaving transgressions to the untutored? In most societies throughout human existence, various fertility control measures have been used, including abortion. Laws have never prevented abortion, and they never will.

SB 158 appears to be a response of a conservative minority to the relentless social change of the last 20 years. This social change has been fueled to a considerable degree by the introduction of highly effective, safe fertility control measures which are available on a wide scale for the first time in human history. From the point of view of cultural change, it is probably the equivalent in importance to the domestication of fire at the human hearth.

An important consequence of this new availability of fertility control is the enhancement of the status and independence of women, which has been increasing over the past 50 years. The new role of women, however, collides head on with the view that the principal function of women is to bear children. This view is no longer shared by a great many people.

The view that women should confine their activities to reproduction, however, is held by a majority of the Congress, most of whom are men. Their logic, as expressed in SB 158, is that society must be protected against individuals (doctors who perform abortions; women who want them) to protect the embryos. Could it be that there is a scarce supply of human embryos: could it be that we need a pronatalist public policy because of the shortage of people? Hardly.

One important problem is that women are uppity: They vote, and they are now competing with men for jobs and power. Fetuses, on the other hand, are apolitical, don't argue, present no economic threat, and may be defended along with the flag and motherhood before the voters at election time. They can be defended against sin and immorality, thereby throwing political opponents into disarray.

This conflict brings us clearly to an understanding of the struggle before us. The issue is not the protection of human life. We are already doing that by providing safe abortions for women. The real issue posed by SB 158 is the definition of power: who has it and who doesn't.

The issue is whether power in America will be wielded absolutely by those who cannot get pregnant or whether it will be shared by those who can.

A more basic question before our society is not when life begins, but who is best prepared to decide when to transmit life to a new generation – the individual or the state? The right of the individual woman to make this choice should be supported. In this matter, she is more competent than any government.

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