

The Ultimate Effort by law Pro-life people is the Actual and Legal Protection of the Unborn.

The goal of every pro-life person or organization is to abolish abortion, for the simple reason that abortion kills the most innocent persons among us. It kills not only the child, but deeply wounds the mother, with a profound social cost to the culture.

From a pro-life perspective, the question is how to approach the issue of abortion from a moral, legal, and a practical perspective, that ultimately protects innocent life. The modern world gives lively attention to human rights; yet every human right is hinged on the premier right we all enjoy by nature: the right to life, born and unborn, young and old, incapacitated, disabled, disenfranchised, etc. For 45 years and counting, the abortion mentality has poisoned our family life and national debates, causing the death of innocent children in the womb by the millions, causing a deep divide in our political, religious, and culture life. It has nearly destroyed logical thinking and right order, because it defies the biblical mandate and natural law that uphold the right to life. The ultimate point is that the legal killing of innocent persons has a price, effectively hardening the collective heart of our Nation that has set us free from the safe harbor of truth and justice.

From a practical perspective, the question is how best to protect the innocent unborn from being killed at whim.

The current state of the law in the United States of America is troublesome, as the federal Courts have tolerated legislated restrictions on abortion; yet the fundamental law is the U.S. Supreme Court ruling in the matter of *Roe v. Wade*, 410 U.S. 113 (1973), which upholds a “right to privacy” of the woman to “choose”; stating that the unborn is not a person within the meaning of the 14th Amendment to the U.S. Constitution, that protects the due process rights of each person under the law. This tailored fiction invents a right to kill another human being on the sole idea that the woman, who carries the unborn baby, has the right to kill the child, abandoning all precedence that protects these innocent children in the womb.

In this infamous decision, the Supreme Court upset and overturned every state law that protected the unborn on the basis of the Supremacy Clause, as set down in the U.S. Constitution at Art. VI, Clause 2. Simply stated, where state constitutions or laws passed by a state legislature or the U.S. Congress are found to conflict with the U.S. federal decision in *Roe v. Wade*, such laws have no force or effect. In other words, such laws that defy the Supreme Court’s abortion jurisprudence and seek to protect the unborn are unenforceable.

In any institution established by humankind, government is unique in that unlike other human organizations, by law the government has the right to use legitimate force to impose its will upon people subject to its jurisdiction. Within the rule of law, all men and women, businesses, corporations and entities are duty bound, under right order and reason to follow the rule of law.

When a prolife person confronts this reality, how should it be approached? Via rebellion, tyranny, without recourse to the rule of law; or, do we work within the framework of our state and national jurisprudence to change the law, to change the culture, and to change the hearts of all men and women toward the unborn?

In a movement of social currency at state levels across the Nation, is a drive to abolish all abortions under state or local law, seeking to strip federal courts of any jurisdiction over abortion, enabling state-level protections of the unborn human persons. This movement is a check against federal encroachment on state-level protections against abortion. In addition, the so-called ‘abolitionist’ movement seeks to criminalize the killing of children in the womb, enabling the law to charge the mothers and physicians that engage in abortion infanticide with the crime of murder.

The effort to end abortion is a laudable goal at any level. Every good faith effort of every person and organization involved in the prolife movement in the United States to end abortion and the suffering of women relating to abortion is laudable. At times every person who supports the ultimate abolition of abortion, is frustrated by the slow progress of achieving substantive prolife laws, of changes to the legal and cultural abortion mindset, and the slow social and cultural progress that looks to protect innocent unborn persons.

There are two basic views to ban abortions in the United States. One is to work within the framework of law as established under our federal system and jurisprudence, and case law set out by the Supreme Court in its *Roe v. Wade* decision and its subsequent cases under the rule of law, grabbing every good faith effort to protect the unborn.

Another view is the abolitionist effort to an immediate and outright abolishment of abortion in Idaho; proposing legislation that bans all abortions in Idaho subjecting every mother and physician that participates in abortion to the charge of murder; ignoring and/or defying all court opinions, whether at the state or federal levels to the contrary. Abolishing abortion is a commendable goal; yet the abolitionists tell us “it is time to defy the courts that would call murder by abortion ‘legal,’” making *Roe v. Wade* a legal nullity.

If it were only that simple.

1. A state-level decree either by legislation or by its courts that seeks to nullify federal abortion law in Idaho is unenforceable under current law. Based on biblical mandates and the natural law, the killing of an innocent person is wrong. That is clear. Yet, the Supreme Court’s *Roe v. Wade* decision and its various interpretations through the years, is the Supreme Law of the land. If the people of Idaho are to live under the rule of law within the Union, without rebellion or tyranny, civil discord, or confusion, we must adhere to the state of law under the jurisprudence of the U.S. Constitution. Using state law to try and “nullify” the federal law, also calls into question the legitimacy of state law.

Prolife people and abolitionists must unite and vigorously work to change the law, with the strategic goal of protecting the unborn. Without adherence to the rule of law, how is civil war, rebellion, or tyranny avoided? If the state fails to adhere to the rule of law, will its citizens, its businesses, or government adhere to the rule of law that keeps the peace, right order, and reason within society?

2. The abolitionist movement has sought to strike a difference between the terms “abolitionist” movement and prolife advocates. The abolitionists argue that its movement is the result of moral action, and that the prolife movement is only a moral opinion, with the goal of stripping the prolife movement of any efficacy or impact. This faint effort to distinguish between the abolitionist movement and prolife advocates, is a distinction without a difference. All prolife advocates, be they abolitionists or otherwise, know that abortion is not subject to a moral opinion but a moral objection: the legal killing of innocent human beings is wrong. Period. Any effort to affirmatively change the law within the framework of reason is a positive effort to protect life. Any statement to the contrary is likely intended to misguide or divide the prolife community.

The abolitionist movement often cites its willingness to take immediate action on a major social issue, yet is there a historical record, wherein a social ill was recognized and immediate remedies to the evil were applied and resolved? Not likely. Even at the end of a terrible civil war, ending in the death of over 600,000 people, with countless others maimed and disabled, the United States face ongoing civil rights movements to help right the wrong of a people subjected to hundreds of years of civil wrongs imposed on them.

3. The abolitionist movement has said that prolife people “prefer” a gradual abolition of abortion, rather than immediate change. This is nonsense. In objective reality, prolife people—regardless of their approach—prefer and work for immediate abolition of abortion, looking for the state and federal governments to outlaw the killing of innocent children. Yet, within the legal framework of the United States, absent a reversal of *Roe v. Wade*, the sudden abolition of abortion at the state level is not possible. If the people of the state of Idaho want to remain within the Union, the state must adhere to the supreme law of the land, or face disorder, chaos, or rebellion or worse.

It takes truth and time, not force, to change the Nation and the hearts of people. By example, William Wilberforce took twenty years to abolish the slave trade in England, taking a graduated legal approach and view toward human dignity of the free and of the enslaved, and toward effective legislation, with the goal to eventually abolish the slave trade and slavery. Early in Wilberforce’s efforts, the

people of England eschewed the outright ban of slavery. This was and continues to be true of the civil rights movement, as well as the rights of the disabled, the reality is that the prolife movement must face the ugly question of abortion and its impact on society, and move the heart of the culture and seek a compelling, strategic approach to protect the unborn under law—especially in changing the minds and hearts of the fathers and mothers toward their own children. The sexual libertinism of America came of age in the 1960s, but it was a matter that took generations to manifest, not a phenomenon with an abrupt onset. It took time.

The sudden abolition of the evil of abortion will fail to change the reality of abortion in the United States, since the original *Roe v. Wade* legal sanction of abortion was a gradual effort over decades led by forces against life. These forces produced a libertine culture that let people go of their responsibility for their own personal choices and its impact upon other persons, including the unborn. Our libertine culture will not change under an abrupt abolishment of abortion.

Finally, if abortion is abolished under state law and the criminal statutes are amended to provide prosecution of the mother and physicians for murder, such law would be instantly challenged in the state and federal courts; which under the present state of law, would likely result in the entry of a permanent injunction against enforcement of the law. Any person convicted of the crime would have the right to appeal such a conviction to the federal courts where such a conviction would be overturned and of no effect. In that event, what should the state do? What steps should it take? Ignore the rule of law? Enforce the new abortion law, contrary to federal law? Endorse disobedience? When it comes to facing down federal enforcement, does the state send out its National Guard, does it engage the State Police, and what steps must be taken to enforce the new abolitionist law when such enforcement is against federal law?

In closing, it important that prolife persons, who seek to change the law, whether abolitionist or otherwise, work together in the effort to save the unborn, to reorder society, to rework the law, and to rebuild a culture of life.