

# Unfinished Business: Ending Developmental Apartheid – Lessons and Strategies for Church and State

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*Hierdie artikel, gerig aan beide geestelikes en staatslui, spreek aborsie vanuit sy teologiese oorsprong aan: as 'n uitdrukking van 'n vleeslike teologiese afdwaling – Ebionisme, die afgod van die self in profetiese taal. Sodoende word getoon dat aborsie beide wetlik en kultureel ontleen is aan dieselfde oorwegings as wat eugenetiek voortbring. En omdat aborsie 'n bepaalde klas mense van alle burgerlike regte ontnem, insluitende die lewe self, kan dit tereg gesien word as niks meer as 'n spesie van apartheid nie – gebaseer, nie op ras of etnisiteit nie, maar op die mens se stadium van ontwikkeling; aborsie is daarom “ontwikkingsapartheid”. Hierdie analise word bevestig deur die ontwikkeling van Amerika se aborsieregsleer in oënskou te neem, insluitende sy kulturele en wetlike voorwaardes, asook die opkoms van homoseksualisme. Die oplossing vir beide die Kerk en die Staat spruit voort uit die besef dat die najaag van openbare regverdigheid, toegepas aan die hand van die verbondsantitese, 'n vleeswordingsgevolg van Christus in die wêreld is. Die artikel sluit af deur 'n drie-perspektiewiese litigasie en beleidstoepassings voor te stel, ontwerp om die kultuurmantel te herower: die Akademie, die Regterlike Mag en die Geestelikheid, en sodoende Suid-Afrika te help om sake af te handel deur hierdie laaste oorblyfsel van apartheid uit te wis.*

*“This is my body”<sup>1</sup>  
This is my body<sup>2</sup>*

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- 1 Jesus (1 Corinthians 11:24) (Unless otherwise indicated, all Biblical references are taken from the English Standard Version [ESV] ).
  - 2 Frequent sentiment expressed by abortion advocates. See, generally, Tamara F. Kushnir, “It’s My Body, It’s My Choice: The Partial Birth Abortion Ban Act of

*“[T]he ovum is part of the mother’s body over which she has full right of control and that the embryo that develops from it, as well as the new-born child, is quite unconscious, or is a purely ‘reflex machine’, like any other vertebrate.”*<sup>3</sup>

## 1. Preface

*Apartheid*: This term quickly conjures well justified emotions, emotions of injustice, hateful discrimination, oppression, and death. It is an ugly term and an even uglier practice. It is still worse when that practice serves as an official policy.<sup>4</sup> Thankfully, that ugly policy has been eliminated by South Africa – or has it? *Eugenics*: This term also conjures well justified emotions. The notion of a “superior race” and the venom that accompanies it, fits well with a regime of apartheid. But, what is neglected in contemporary discussions is the nexus among apartheid, eugenics and abortion. Though often denied, modern abortion practice is ironically the progeny of eugenics theory. And, eugenics theory remains rich fuel for the apartheid machine. Because of eugenics, abortion and apartheid remain linked. Thus, to support abortion is ultimately to support apartheid. Why? Abortion is nothing more than apartheid applied to the most helpless class of human persons: the unborn. Abortion is “developmental apartheid.”<sup>5</sup>

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2003”, *Loyola U. Chi. L.J.* 35 (Summer 2004), 1117; Eileen L. McDonagh, “My Body, My Consent: Securing the Constitutional Right to Abortion Funding”, *Albany L. Rev.*, 62 (1999), 1057; Susan E. Looper-Friedman, “Keep Your Laws Off My Body: Abortion Regulation and the Takings Clause”, *New England L. Rev.* 29 (Winter 1995), 253; NARAL Online Store (advertising T-shirts for March 2005 “March for Women’s Lives”) <http://www.now.org/cgi-bin/store/march.html> (accessed on 21 December, 2005); Google Site searches of the phrase “my body” on the pro-abortion organizations NOW and Planned Parenthood sites produce numerous hits, <http://www.now.org>, <http://www.plannedparenthood.org>; see also, John Cardinal O’Connor, “‘You are Not Your Own’: A Teaching From St. Paul Has Everything to Do with Roe v. Wade”, *Cath. Law*, 37 (1997), 261, and Fr. Frank A. Pavone, “This is My Body,” Priests for Life, <http://www.priestsforlife.org/brochures/thisismy.html> (accessed on 21 December, 2005). Because both Jesus and pro-abortion advocates use the same verbiage, but with radically different meanings, it becomes plain that abortion and similar issues are matters that implicate worldview, and therefore must be resolved on a presuppositional level.

3 Eugenicist (and evolutionary fraud) Ernst Haeckel cited in Donald DeMarco and Benjamin Wiker, *Architects of the Culture of Death*, (San Francisco: Ignatius Press, 2004), 113; for an expose of “Haeckel’s embryos,” see Jonathan Wells, *Icons of Evolution*, (Washington, D.C.: Regnery Publishing, Inc.: 2000), 81-109.

4 Compare, Romans 1:32, where Paul notes that practices worthy of death are not only *practiced* but *approved*. See also text accompanying notes 47 and 119.

5 While the term “apartheid” typically identifies legal discrimination predicated upon racial considerations, the term is more elastic and need not be racial; it could be

As a result, there remains unfinished business in South Africa. To truly oppose apartheid requires one to also oppose legal abortion.<sup>6</sup>

## 2. Preliminary considerations: law in the public square

### 2.1 *Fallen world, falling standards*

Political reality is decidedly not utopian. In fact, if the 20<sup>th</sup> century is any marker, those who sought to establish utopia on earth actually fostered its opposites: Gulags, killing fields, and gas chambers<sup>7</sup>. The world is fallen. Yet, there remains a witness to Truth. In fact, this witness is known – in some respect – by all men, in all places, at all times. It is knowledge that one “can’t not know.”<sup>8</sup> However, this knowledge is obscured and corrupted – epistemologically and ethically – by fallen man. This corruption manifests itself, not simply in the hearts of men, but publicly in man’s culture. The prophet Isaiah described this by noting:

For our transgressions are multiplied before you, and our sins testify against us; for our transgressions are with us, and we know our iniquities: [13] transgressing, and denying the Lord, and turning back from following our God, speaking oppression and revolt, conceiving and uttering from the heart lying words. [14] Justice is turned back, and righteousness stands afar off; for **truth has stumbled in the public squares**, and uprightness cannot enter. [15] Truth is lacking, and he who departs from evil makes himself a prey. The Lord saw it, and it displeased him that there was no

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“developmental.” Accordingly, any segregation and consequent legally enforced discriminatory scheme against an identifiable group comprises apartheid: (1) An official policy of racial segregation formerly practiced in the Republic of South Africa, involving political, legal, and economic discrimination against nonwhites; (2) A policy or practice of separating or segregating groups; (3) The condition of being separated from others; segregation (Princeton on-line dictionary, last accessed December 5, 2005).

- 6 In South Africa, abortion is permitted under the guise of the *Choice on Termination of Pregnancy Act*, 92 of 1996. This article does not explore this Act’s specific provisions; for the present analytic thesis, it suffices that abortion practice is now legally approved in South Africa. However, if this article’s thesis is correct, that is, that abortion is a product of theological aberration, namely, the idol of self, then the Act’s first term, “choice” is pregnant – no pun intended – with significance. See text accompanying notes 50-67, as well as the reference to Paulsen, 2003:995 in the text on 30, *infra*. For a specific explication of the Act, see, F van Oosten, “The Choice on Termination of Pregnancy Act: some comments”, *South African Law Journal*, 116 (1), (1999), 60-76; and SA de Freitas, A critical retrospection regarding the legality of Abortion in South Africa, *Journal for Juridical Science*, 30(1) (2005); 118-145.
- 7 See, for example, Anne Applebaum, *Gulag – A History*, (New York, NY: Doubleday, 2003).
- 8 J. Budziszewski, *What We Can’t Not Know*, (Dallas: Spence Publishing Co., 2003), 19-27.

justice. [16] He saw that there was no man, and wondered that **there was no one to intercede**; (Isaiah 59:12-16)

In this remarkable passage, the prophet confirms that Truth exists, but notes that publicly – in the “public squares,” truth is “stumbling.” That which should be strong and stable, is now teetering and diminishing. These circumstances provoke the Creator of the universe. He is “displeased” and then “wonders:” Where is one to intercede, one who can steady the stumbling truth? Who can restore justice when truth is publicly stumbling? These were good questions, indeed divine questions, during Isaiah’s ministry and they remain good questions, indeed, divine questions today. Legally sanctioned abortion – just like legally sanctioned racial apartheid – evidences truth stumbling in the public squares and this should not be. But, hope exists.

## ***2.2 Some guidance (and encouragement) from the past***

The year was 383 A.D. Theodosius was the Roman Emperor. In an effort to expand the Empire, Theodosius permitted immigration to occur in the East. Many, seeing the public and cultural benefits of a now confessionally Christian nation, immigrated to the Empire. Seven years passed. In 390 A.D., an uprising occurred in Thessalonica. During the rioting, an officer of the Roman garrison was killed. Outraged by this callous act, Theodosius sent a fortified Roman guard to the city. The result: some 7 000 “barbarian immigrants” were systematically murdered. The State used lethal (and presumably lawful) force to teach this segregated group – the Visigoths – a lesson about Roman decorum. But there was one problem. The Empire purported to be Christian, and wrathfully murdering 7 000 innocent persons – even if they were “segregable” – was wrong. Truth had stumbled in this public square. One man refused to let this stumbled truth continue. One man, as a churchman, sought to steady stumbling truth. One man interceded. This man approached the most powerful man in the world, the Emperor, and humbly, but boldly, confronted him for his role in stumbling truth. This man appealed to Theodosius, noting what he “couldn’t not know:” Because taking the life of one innocent man was unjust, how much more unjust was the slaughter of 7 000 innocent persons? This man risked all that he had, including his

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9 “Lawful” in this context simply means legal under the extant positive law, and should not be confused with whether the conduct can be justified under transcendent principles. The same point could be made regarding the “lawful” detentions that occurred at Auschwitz or any of the Soviet Gulags.

life, in speaking the truth publicly on account of publicly stumbled truth. He advised the Emperor that unless he repented, he would not be allowed to partake of the Lord's Table. Yet, Theodosius listened – and he heard. And he publicly repented. Stumbled truth, in this instance, had been steadied. This one man, upon seeing stumbled truth, interceded. This man was Ambrose, the tutor and mentor of Augustine.<sup>10</sup> His pattern of conduct – public intercession – should be emulated today, when truth stumbles in the public square. Rome became “Christian” in 313 AD with the Edit of Milan. Yet, as the narrative with Theodosius and Ambrose illustrates, there was “unfinished” business in 390 AD. It took someone to intercede to steady stumbled truth. The same holds true today in South Africa. Apartheid as to race may be abolished, but developmental apartheid remains. There is unfinished business in South Africa.

### 3. Discussion

#### 3.1 *Beyond taking innocent life: is abortion good for South Africa?*

The reality that abortion stops innocent life is undisputed. And while this reality in itself comprises a sufficient justification for outlawing this practice, the horror of how these small lives are exterminated will not be rehearsed here. Data abounds that illustrates the burning, ripping, crushing, and tearing associated with “routine” abortion procedures.<sup>11</sup> And, even some abortion advocates tacitly acknowledge this reality when they claim that abortion is a “necessary evil.”<sup>12</sup> This raises the question:

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- 10 Internet Ancient History Sourcebook, *Theodoret : St. Ambrose Humiliates Theodosius the Great*, citing (Theodoret (c.393-466 AD), *Ecclesiastical History*, V.17-18) <http://www.fordham.edu/halsall/ancient/theodoret-ambrose1.html> Catholic Encyclopedia Online entries for “Ambrose” and “Theodosius” <http://www.newadvent.org/cathen/01383c.htm> (accessed on 21 December, 2005) <http://www.newadvent.org/cathen/14577d.htm> (accessed on 21 December, 2005); Wikipedia Online entries for “Ambrose” and “Theodosius” <http://en.wikipedia.org/wiki/Ambrose> (accessed on 21 December, 2005); [http://en.wikipedia.org/wiki/Theodosius\\_I](http://en.wikipedia.org/wiki/Theodosius_I) (accessed on 21 December, 2005).
- 11 See, for example, *Stenberg v. Carhart*, 530 U.S. 914 (2000); *Carhart v. Ashcroft*, 331 F.Supp.2d 805 (D. Neb. 2004) (approx. 195 pages with detailed factual findings) *aff'd Carhart v. Gonzales*, 413 F.3d 791 (8th Cir. 2005) *petition for cert. filed* (U.S. Sept. 23, 2005) (No. 05-380).
- 12 Clark Forsythe, “How Abortion Became a Necessary Evil”, *Christianity Today*, May 24, (1999) <http://www.ctlibrary.com/ct/1999/may24/9t6063.html> (accessed on 21 December, 2005); Clare Murphy, “Abortion Rights in the Balance”, *BBC News*, 29 November, (2005) <http://news.bbc.co.uk/2/hi/americas/4450390.stm> (accessed on 21 December, 2005); Richard W. Bourne, “Abortion in 1938 and Today: Plus Ça Change, Plus C’Est La Meme Chose”, *S. Cal. Rev. L. & Women’s Stud.* 12 (Spring 2003), 225 at n. 187.

Is constitutionally-protected abortion nevertheless good for South Africa? To answer this broad question requires two inquiries: (1) What do constitutions do? and (2) What determines political good?

What do constitutions do? Constitutions fulfill three prime functions. First, they organize state functions. Constitutions thus define the boundaries and functions of the respective components of the polity. Second, constitutions define the relationship between the polity and its citizens. Third, constitutions serve as repositories for the culture's values, symbols, and ideas, the cultural foundations and aspirations of the polity and the community. Abortion implicates these latter two functions. First, if an entire class of human persons lacks legal status, and hence protection, as citizens, then the polity's constitution (and jurisprudence) will evidence structural apartheid. In other words, with legal abortion the State can oppress the "non-citizen" into non-existence – which is exactly what abortion does to unborn human persons living in the embryonic and fetal stage of development. This is the essence of developmental apartheid. And second, since law is pedagogical<sup>13</sup>, constitutions that permit and "protect" abortion will necessarily support an unmistakable polity that elevates death over life. The right to kill trumps the right to live where legal abortion exists. Embodying that value over time ultimately fosters a culture of death, not a culture of life. But there is more.

Considering whether a policy is "good" triggers moral reasoning. Determining whether abortion ought to remain the law is to ask an evaluative question which is decidedly moral. Answering such questions requires an appeal to a transcendent standard – which is the only way a moral question can be answered. Otherwise, one is simply playing badminton with mere opinions. This means that concepts such as moral harm, intrinsic harm, *malum in se, et al*, must be part of the analytic calculus – especially when considering law and legal policy. One cannot rightly analyze abortion as a continued policy unless these types of inquiries are considered.

Finally, the plot thickens, so to speak, because this legal and political question is not simply about abortion *qua* abortion and its goodness *vel non*. This question is necessarily communitarian in nature: is legal abortion *good for South Africa*? This inquiry immediately collides with claims regarding individual autonomy and its scope. This in turn raises

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13 "What then shall we say? That the law is sin? By no means! Yet if it had not been for the law, I would not have known sin. I would not have known what it is to covet if the law had not said, 'You shall not covet.'" (Romans 7:7)

aged, but important questions concerning the nature of freedom and how it can be protected within an ordered society. This debate can be capsulized by contrasting Aquinas and William of Ockham. Aquinas taught that freedom for man was freedom for excellence. And that therefore, “choice” implicated more than mere autonomy. Thomas viewed “choice” as the ability to select wisely as a matter of virtue. This view distinguishes the human person from the animals.<sup>14</sup> The ability to choose morally, that is, to live a moral life, is critical to reflecting the *Imago Deo*. A baboon can bang at a piano. But, the human person, by abiding by the structure of musical theory and developing rigorous technique will gain the freedom necessary to release beauty and creativity at the piano. Music’s structure, its law, serves creative musical freedom.

In contract, Ockham, as a nominalist, denied that a human nature exists. Rather, only individuals existed, he claimed. Thus, in the nature of the case, there could be no true “common good,” no true good for any community, culture or society. Only individuals and their choices were real, and only they really mattered. Under this view, freedom simply becomes a faculty of choice: self-assertion, will, and ultimately power.<sup>15</sup> Consequently under Ockham, the standard for resolving the moral question posed above is simply accomplished by exalting the individual’s radical autonomy and its choices (Weigel, 2005:83-85). The problem in applying this to abortion, of course, is that some individuals – humans in the embryonic and fetal stages of development – are excluded *in advance* by the pre-existing policy of developmental apartheid. For them, the nominalist approach underpinning radical autonomy eliminates their own freedom and does so permanently. Abortion, because it relies upon a philosophic foundation that necessarily denies the nature of the human person – cannot ever be “good” for any culture in a communitarian sense. Abortion by definition is antithetically opposed to promoting the “common good.” Why? Abortion requires the denial of the common good given its philosophic pre-commitment to radical autonomy. Accordingly, one cannot simultaneously support radical autonomy and the common good and still maintain rationality.

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14 Note however, a decided effort exists to deny this distinction and thereby convey legal “personhood” upon animals: primates, elephants, dolphins, and even honeybees. See, for example, “The Center for the Expansion of Fundamental Rights”: [www.cefr.org](http://www.cefr.org).

15 This may be why so many abortion advocates use the rhetoric of “pro-choice.” In doing so, however, they are implicitly denying the existence of a common human nature.

This raises another question: is there then simply an analytic stalemate? Must the legal order simply choose Aquinas or Ockham, between virtue and autonomy? Or, is there a *tertium quid*? May the public square *promote* the common good and *vindicate* individual justice? God becoming man provides the foundation for public justice and thereby eliminating developmental apartheid.

### **3.2 Christ in the world: public righteousness as an incarnational consequence**

Political philosophies run the gamut. Some extol libertarianism; some embrace Statist totalitarianism. But, for the Christian, if Jesus is Lord – and He is – then even jurisprudence and the public order, that is, “politics and law,” must reflect that Lordship. Lordship implies law. In particular, Jesus’s “invasion” of history is not only redemptively significant, but it is ethically significant as well. This next segment will explore this significance.

#### **3.2.1 Good question no. 1: Why did Jesus come?**

If jurisprudence is to examine a Christian take on law in general, and abortion in particular, one should begin by discerning why Jesus came to earth. While a theological exposition of the incarnation is beyond the scope for present purposes, still, understanding the purpose for the incarnation cannot be underestimated.

#### **Christ’s redemptive purpose**

Even Sunday School tots can express why Jesus came to earth. Perhaps they recall upon Jesus’ words in John’s Gospel: “The thief comes only to steal and kill and destroy. **I came that they may have life** and have it abundantly” (John 10:10). Jesus came to *give life*. Jesus also came for other redemptive purposes: “For even the Son of Man came not to be served but **to serve**, and to give his life as a ransom for many” (Mark 10:45). Jesus came *to serve*. John the Baptizer describes a related purpose for the Incarnation when he declares: “Behold, the Lamb of God, **who takes away the sin** of the world!” (John 1:29) Jesus came to take away sin. In fact, Jesus came to die: even as the Son of Man came not to be served but to serve, and to **give his life** as a ransom for many (Matthew 20:28). But, aside from these redemptive purposes, Jesus also came for other reasons as well.

#### **Christ’s trinitarian purpose**

Within the mystery of the Holy Trinity, the Incarnation serves and fulfills some intra-Trinitarian purpose: “I can do nothing on my own. As I hear,



I judge, and my judgment is just, because **I seek** not my own will but **the will of him who sent me**” (John 5:30). Jesus came to do the Father’s will. Included in the Father’s will was to make real the petition Jesus directed his followers to pray concerning the Father’s will – to be done on earth – as it is in heaven (Matthew 6:10). Abortion will not be practiced in heaven, nor should it be practiced on earth. This leads to another reason Christ came.

### **Christ’s ethical purpose**

Jesus’ coming also manifests an ethical dimension. John tells the early church that: “Whoever makes a practice of sinning is of the devil, for the devil has been sinning from the beginning. **The reason the Son of God appeared was to destroy the works of the devil**” (1 John 3:8). Plainly, an ethical purpose underlies the Incarnation. Jesus made this explicit when he taught:

Do not think that I have come to abolish the Law or the Prophets; **I have not come to abolish them but to fulfill them.** [18] For truly, I say to you, until heaven and earth pass away, not an iota, not a dot, will pass from the Law until all is accomplished. [19] Therefore whoever relaxes one of the least of these commandments and teaches others to do the same will be called least in the kingdom of heaven, but whoever does them and teaches them will be called great in the kingdom of heaven (Matthew 5:17-19)

Again, Christ’s mission contains an ethical dimension. Yet, as His mission relates to jurisprudence, there remains yet another purpose to His coming, a purpose that actuates the Church in entering the public square, especially when truth stumbles.

### **Christ’s jurisprudential purpose**

#### **Jesus in the dock**

When on trial, that is, when being judicially interrogated, Jesus’ testimony reveals an explicit purpose for His coming:

Then Pilate said to him, “So you are a king?” Jesus answered, “You say that I am a king. **For this purpose I was born and for this purpose I have come into the world – to bear witness to the truth.** Everyone who is of the truth listens to my voice.” (John 18:37).

When undergoing judicial scrutiny in the public square, Jesus articulates a specific and distinct purpose for His coming: Bearing witness to the truth. A declaration of the truth apparently has particular functionality when done in the public square.

## **The Trinity and the Truth**

Truth, biblically considered, is not some abstract notion. Rather, truth is personal. In fact, Truth is personified by each person of the Trinity.

### **As to the Father**

“Who’s your Daddy?!” is often used as a street-speech taunt, particularly in athletics. Yet, to ask this question is biblically profound. Within the biblical worldview, there are two – and only two – “spiritual Daddies.” On the one hand, there is a “father” who promotes error:

You are of your father the devil, and your will is to do your father’s desires. He was a murderer from the beginning, and has nothing to do with the truth, **because there is no truth in him**. When he lies, he speaks out of his own character, for **he is a liar and the father of lies**. [45] But because I tell the truth, you do not believe me. [46] Which one of you convicts me of sin? If I tell the truth, why do you not believe me? (John 8:44-46)

But, there is also, another Daddy, One who is antithetical to the father of lies. This Daddy is true:

So Jesus proclaimed, as he taught in the temple, “You know me, and you know where I come from? But I have not come of my own accord. **He who sent me is true**, and him you do not know.” (John 7:28)

When a Christian therefore prays, “Our Father,”<sup>16</sup> he is petitioning the One who is true and presumably is seeking to conform his life to the truth.

### **As to the Son**

Likewise, the Son, who bears witness to the Truth, is true as well. Jesus’ familiar statement confirms this conclusion:

Jesus said to him: “**I am** the way, and **the truth**, and the life. No one comes to the Father except through me.” (John 14:6)

To follow Christ is to be denominated a “Christian.” But, being a Christian is more than attaching a label to oneself. The Christian’s life must reflect the one he follows. This means, *inter alia*, Christians must be those who stand for and promote truth. Therefore, to the extent that the Christian fails to bring who he is, and what he does, to Christ, he will not be standing for not promoting Truth. And, this includes engaging the public square to steady stumbled truth.

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<sup>16</sup> See, for example, Matthew 6:9.

### **As to the Spirit**

And, the Spirit likewise is One who is True:

... even the **Spirit of truth**, whom the world cannot receive, because it neither sees him nor knows him. You know him, for he dwells with you and will be in you. (John 14:17)

This is he who came by water and blood – Jesus Christ; not by the water only but by the water and the blood. And the Spirit is the one who testifies, because **the Spirit is the truth**. (1 John 5:6).

The Christian who follows God, follows the One who is True: Father, Son, and Holy Spirit. To be Christ's public witness is to testify to what Christ testifies: The Truth. Accordingly, when the Christian enters the public square, including the legal arena, he necessarily will be an ambassador for the Truth. But there is a problem when the Truth enters the public square:

He was in the world, and the world was made through him, yet the world did not know him. (John 1:10)

The Truth and the world thus do not peacefully co-exist. And, how that co-existence manifests itself in the public square provides insight toward steadying stumbled truth.

### **The World, the Church and the Truth**

The Truth exists independently from the world, but not separately from the world. When the fallen world encounters the Truth, the world's reaction is not one of passivity. Rather, the world actively seeks to submerge the Truth:

For the wrath of God is revealed from heaven against all ungodliness and unrighteousness of men, **who by their unrighteousness suppress the truth** (Romans 1:18)

Not only is the Truth *suppressed*, but it is *exchanged* for literally “the lie” and this exchange expresses itself culturally as worship:

... because they **exchanged the truth** about God for [the]<sup>17</sup> lie and **worshipped** and **served** the **creature** rather than the **Creator**, who is blessed forever! Amen (Romans 1:25).

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17 τωGk.

- Thus, while the Truth ought to be obeyed, it is not:  
... but for those who are self-seeking and **do not obey the truth**, but obey unrighteousness, there will be wrath and fury (Romans 2:8)
- This disobedience is a matter of the will:  
... and with all wicked deception for those who are perishing, because **they refused to love the truth** and so be saved (2 Thessalonians 2:10).
- Rather than believe the Truth, people take pleasure in unrighteousness:  
“in order that all may be condemned who **did not believe the truth** but had pleasure in unrighteousness” (2 Thessalonians 2:12-13).
- As a result, their public walk in the world noticeably veers from the Truth:  
... who have **swerved from the truth**, saying that the resurrection has already happened. They are upsetting the faith of some (2 Timothy 2:18).
- Yet, because there can be no neutrality,<sup>18</sup> the abandonment of Truth results in a “new confession of faith,” believing mythical errors:  
... and [they] will **turn away from** listening to **the truth** and **wander off into myths**. (2 Timothy 4: 4).

When this occurs, Word and Walk stand compromised. Thus, when the world suppresses, exchanges, disobeys, swerves and turns away from the Truth, consequences occur in the culture and the public square, including the legal culture. This means that ultimately, jurisprudential issues are worldview issues. And, they are issues of what is worshiped. Because a culture, like an individual, becomes like what it worships:

The idols of the nations are silver and gold, the work of human hands. [16]  
They have mouths, but do not speak; they have eyes, but do not see; [17]  
they have ears, but do not hear, nor is there any breath in their mouths. [18]  
**Those who make them become like them, so do all who trust in them!**  
(Psalm 135:15-18).

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18 Greg L. Bahnsen, *Always Ready – Directions for Defending the Faith*, Robert R. Booth, Ed., (Atlanta: American Vision; Texarkana, AR: Covenant Media Foundation; 1996), 7-9; John M. Frame, *Apologetics to the Glory of God – An Introduction*, (Phillipsburg, NJ; P& R, 1994), 4-9; Gary DeMar, *Myths, Lies, & Half-Truths – How Misreading the Bible Neutralizes Christians*, (Powder Springs, GA: American Vision, 2004), 67-87; J. Budziszewski, *The Revenge of Conscience – Politics and the Fall of Man*, (Dallas: Spence Publishing Co.; 1999), 39-54. See generally, Cornelius Van Til, *The Defense of the Faith*, (Phillipsburg, NJ; P& R, 1955).

Consequently, to fundamentally affect a legal system first begins by identifying which idols receive worship in the culture. Absent this inquiry, there cannot be strategic analysis, let alone long term rudimental transformation.

### **The Christian, the World and the Truth**

Stumbled Truth in the public squares presents a challenge to the Christian. Certainly, the Truth ought to be steadied, but how ought that goal be accomplished? Merely citing bible verses or showing the opponents their error is not necessarily effective. The Apostle Paul's approach – notably when speaking in a legal context – provides some guidance. Testifying before Festus, Paul commented:

But Paul said, "I am not out of my mind, most excellent Festus, but I am speaking true and rational words" (Acts 26:25).

The Christian legal advocate should speak that which is true, but in a way that correlates with rationality. An effective Christian activist is one that is reasonable. He uses a voice of reason as a means for declaring truth publicly. But reason and intellect alone will not suffice.<sup>19</sup> Moreover, an effective Christian activist is one who loves and thereby rejoices at the Truth; emotion is not an enemy of Truth, but rather, is a partner with the Truth:

[Love] does not rejoice at wrongdoing, but **rejoices with the truth** (1 Corinthians 13:6).

The work and walk of steadying truth is a joyful vocation. Moreover, the Truth should also permeate the Christian's inner thought life; Truth is to be the Christian's meditation:

Finally, brothers, **whatever is true**, whatever is honorable, whatever is just, whatever is pure, whatever is lovely, whatever is commendable, if there is any excellence, if there is anything worthy of praise, **think about these things** (Philippians 4:8).

And, Truth is to be the Christian's speech:

Rather, **speaking the truth** in love, we are to grow up in every way into him who is the head, into Christ. (Ephesians 4:15).

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19 "[T]he absence of emotion and feeling can break down rationality." David K. Naugle, "Clashing Civilizations, Culture Wars, and the Academy: The Illuminating Role of 'Worldview' ", <http://www.dbu.edu/naugle/pdf/Clashing%20Civ,%20Cult%20Wars,%20Wv-lec.pdf>, 12, citing Antonio R. Damasio, *Descartes' Error: Emotion, Reason and the Human Brain*, (New York: Avon Books, 1994).

But culturally, Truth is not merely a focus for the emotions or a topic for the intellect. It must also be properly applied, or handled:

Do your best to present yourself to God as one approved, a worker who has no need to be ashamed, **rightly handling the word of truth** (2 Timothy 2:15).

This handling, of course, presupposes applying the Truth personally by obeying it:

Having purified your souls by your **obedience to the truth** for a sincere brotherly love, love one another earnestly from a pure heart, ... (1 Peter 1:22).

And, as Christians are called to rejoice, ponder, handle and obey the Truth together, the Body's collective behavior will be one of jointly walking in the Truth. Celebrating the Truth therefore produces a communitarian effect, that is, it generates collective effort that is noticeable publicly:

For I rejoiced greatly when the brothers came and testified to your truth, as indeed you are walking in the truth. [4] I have no greater joy than to hear that my children are **walking in the truth** (3 John 1:3-4).

Consequently, Christians ought to support the Truth, including as it is applied within the prevailing culture:

Therefore we ought to **support** people like these, that we may be **fellow workers for the truth** (3 John 1:8).

How this adoration for, deployment with, and support of, the Truth can be accomplished will be discussed subsequently. First, however, one must explore, albeit briefly, whether any priority exists when the Truth invades the culture. And, then one must explore the nature of the consequences when Christ, the Truth, interacts with culture.

### 3.2.2 Good question no. 2: What does God hear?

To some this question may seem at best impertinent. To the dogmatic, this inquiry is perhaps silly. If God is God, then His attributes include omniscience – He presently knows all things, including that which can be known by “hearing.”<sup>20</sup> However, when it comes to the Divine Ear and

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20 God's exhaustive knowledge or omniscience has been pondered and explicated throughout history: Stephen Charnock, *Discourses Upon the Existence and Attributes of God*, (Grand Rapids, MI: Baker Book House, 1979), 406-497; John M. Frame, *The Doctrine of God*, (Phillipsburg, NJ: P&R, 2002), 483-485, 494-500;

ethics, Scripture does note something which commands God’s attention – the taking of innocent life:

And the Lord said, “What have you done? The voice of your brother’s blood is crying to me from the ground” (Genesis 4:10).<sup>21</sup>

Cain murdered his innocent brother, Abel. When confronting Cain, God notes that He “hears” the “voice” of innocent blood. There is something about the act of murder that captures the Divine ear. The victim may be deceased, but the act of injustice – the taking of innocent life – continues to speak – and the Lord hears it. This event provides a glimpse at the proper targets of cultural engagement. Cultural action that results in the taking of innocent life receives special Divine attention. It is divinely noticed and divinely provocative. Accordingly, any strategic cultural engagement – engagement for and with the Truth – ought to focus on remedying conduct that slaughters innocent humans. God hears their blood; and He will not be mocked (Galatians 6:7). Ending developmental apartheid ought to be a priority for those sanctified by and committed to the Truth.

### 3.2.3 *Christ and Culture: Competing Analytic Models*

When Truth collides with the culture, what should be expected? Is there a pattern or predictability to this collision? Historically, three views have been proffered.<sup>22</sup> Each will be very briefly surveyed.

#### **Christ AGAINST culture**

One version of this collision pits Christ (and Truth) *against* culture. The notion here is that “the world” is “bad” and interacting with it will

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Wayne Grudem, *Systematic Theology – An Introduction to Bible Doctrine*, (Leicester, England, Inter-Varsity Press; Grand Rapids, MI: Zondervan, 1994), 190-193; Francis Turrentin, *Institutes of Elenctic Theology*, Trans., George Musgrave Giger; James T. Dennison, Ed., (Phillipsburg, NJ: P&R, 1992), 206-212; Robert Reymond, *A New Systematic Theology of the Christian Faith*, (Nashville: Thomas Nelson Publishers, 1998), 184-191; Morton H. Smith, *Systematic Theology*, (Greenville, SC: Greenville Seminary Press, 1994), 137-38; Herman Hoeksema, *Reformed Dogmatics*, (Grand Rapids, MI: Reformed Free Publishing Association, 1966), 82-90; R. L. Dabney, *Systematic Theology*, (Carlisle, PA: The Banner of Truth Trust, 1871), 154-160.

21 See also, *Catechism of the Catholic Church* § 1867 (1994) (listing “Sins that Cry to Heaven” with Scripture cites) <http://www.usccb.org/catechism/text/pt3sect1chpt1art8.htm>.

22 The following discussion is derived from H. Richard Niebuhr, *Christ and Culture*, (New York: Harper Collins, 1951).

contaminate the believer. Consequently, the Christian, it is said, is called to “come out from among them” and “be separate.” In reality, this position fosters the formation of “holy huddles” and manifestly quickens the moral decay of the culture.<sup>23</sup>

But this position is problematic. How is it that Jesus can command His disciples to pray – earnestly – for deliverance from evil (Matthew 6:9 et. seq.)? Can this prayer be faithfully prayed if Christ is really against culture? Can one expect God to answer this prayer? If the works of the devil have been destroyed, should one not expect to see positive moral fruit as the Gospel expands? And, what of discipling the nations, that is, causing entire people groups (“nations” = “*ethnoi*”) (Matthew 28:18-20) to follow the Savior? Such tasks can only be accomplished in the culture in history. The pitting of Christ against culture therefore truncates the Gospel’s influence and rather obviously lacks Scriptural support.

### **Christ AND culture**

A similar error of the opposite direction occurs when people advocate that Christ ought to be amalgamated into culture. Usually this results in the blurring of ethical boundaries and the compromise of, rather than promotion of, the Truth.<sup>24</sup> With this approach, the Gospel’s salt loses its saltiness<sup>25</sup>. This is because the Church follows and accommodates the culture. Syncretism emerges. Gone are miracles, supernaturalism, inspired scripture, and ethical absolutes.<sup>26</sup> Rather than ameliorating moral

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23 Sadly this approach is also advocated by those who claim that no distinctive Christian message exists for culture or the public square: “This means that there is no difference between Christians and non-Christians with respect to their vocations. . . . So Christians are not called . . . to transform their workplace, neighborhood, or nation into the kingdom of Christ.” Michael S. Horton, “How the Kingdom Comes”, *Christianity Today*, (January 2006), 42, 44. While such sentiment is probably well-intended, it is plainly sub-biblical because it equates the kingdom with the church and thereby truncates Christ’s Lordship. Such a view ultimately produces antinomianism, and hence cultural corrosion.

24 Recent examples include: importing feminist egalitarianism into considerations of church leadership (see, Mary Kassian, *The Feminist Gospel: The Movement to Unite Feminism with the Church*, (Wheaton, IL: Crossway Books 1992); and Wayne Grudem and John Piper, (Eds.), *Recovering Biblical Manhood and Womanhood: A Response to Evangelical Feminism*, (Wheaton, IL: Crossway Books, 1991)) and abrogating biblical sexual mores so as to promote sodomy and lesbianism, (see, Robert A. J. Gagnon, *The Bible and Homosexual Practice: Texts and Hermeneutics*, (Nashville, TN: Abingdon Press, 2002)).

25 Matthew 5:13 (ESV).

26 See, for example, J. Gresham Machen, *Christianity & Liberalism*, (Grand Rapids, MI: Eerdmans Publishing Co., 1923).



decay, this view of the cultural collision simply accelerates corrosion. God is remade in man's image. Truth still stumbles, but with the aid of the Church.

### **Christ TRANSFORMING culture**

Christ in the public square is something more than politics, whether deemed liberal or conservative. Christ's claims are qualitatively comprehensive:

And he who was seated on the throne said, "Behold, **I am making all things new.**" Also he said, "Write this down, for these words are trustworthy and true" (Revelations 21:5).

Included among "all things" is the qualitative transformation of individuals:

Therefore, if anyone is in Christ, **he is a new creation.** The old has passed away; behold, the new has come (2 Corinthians 5:17).

And, the new creation motif also applies – at some point – to extant political spheres:

Then the seventh angel blew his trumpet, and there were loud voices in heaven, saying, "**The kingdom of the world has become the kingdom of our Lord and of his Christ,** and he shall reign forever and ever" (Revelations 11:15).

The characteristics of this transformational process will be discussed subsequently<sup>27</sup>, but suffice it to say, there is at least *prima facie* support for the proposition that when Truth enters the public square, one may reasonably expect transformation – not isolation ("Christ against culture"), nor accommodation ("Christ and culture").<sup>28</sup> Truth enters the world. The question is how followers of the Truth steward this reality. Pitting Christ against culture is sub-biblical; Christ came to redeem the world. Compromising the truth via accommodationism simply renders the truth inert. What must occur is Christ transforming culture. How does this occur? How should it occur? How does this relate to the manifest problems of stumbled truth? The answers to these inquiries will be next discussed. In short, Christ transforms culture when the root of the culture's stumbling is identified, addressed, and redeemed.

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27 See Isaiah 9:6-7; 11-9; Deuteronomy 7:22-23; Matthew 13:38; 6:10; John 17:17; James 2:26b; Frame, 1987:66; Tripp, 2004:93; Harvey 2002:6, and the text from notes 104-118, *infra*.

28 Greg L. Bahnsen, *Victory in Jesus – The Bright Hope of Postmillennialism*, (Nacogdoches, TX: Covenant Media Press, 1999).

### 3.3 The Root of Stumbled Truth: The Idol of Self

*Can man make for himself gods?*

*Such are not gods!* (Jeremiah 16:20)

*Little children, keep yourselves from idols* (1 John 5:21)

Abortion is not merely a social and legal reality. Abortion is a cultural consequence of theological aberration. Until this reality is grasped, abortion cannot be legally defeated. The following sections explore the underlying theological battles that produced the condition precedents leading to lawful abortion and thus continue to (wrongly) justify developmental apartheid.

#### 3.3.1 Theological Precursors and Controversies

The Church grew through controversy, but these controversies produced more than dusty dogma. The driving force behind abortion on demand derives from an ancient theological error known as Ebionism or Adoptionism. Several particular controversies, involving the human will, helped spawn the radical autonomy that now pervades and drives abortion jurisprudence. Ideas indeed have consequences, as Richard Weaver observed (Weaver, 1984). A snapshot of some of these ideas will be sketched. Nestorianism arose as a proposed solution to competing, but erroneous, theologies: Arianism and Apollinarianism. Arianism had affirmed that Christ was a created, lesser deity, not of the same substance (*homo* (“same”) versus *homoi* (“like”) *ousia* (“essence”)) with the Father and therefore no true union could occur between God and Man and thus, orthodoxy<sup>29</sup> would teach, no real redemption existed. In answer and in contrast to Arianism, Apollinarianism affirmed that Christ was fully divine, but not fully human; he was merely “God in a body,” thereby lacking human non-corporeal faculties such as volition.

Nestorius attempted to synthesize these two positions by contending that Christ is both fully God and fully man. However, this affirmation went beyond orthodoxy by asserting that this joinder occurred as a *matter of will* and that therefore, salvation becomes an *imperative of the will*. Thus,

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29 “Orthodoxy” as used in this article, unless otherwise indicated, references the universal or catholic Christian faith, acknowledged to be true in all places, at all times, for all men. Orthodoxy has been capsulated by the Apostles Creed, the Nicene Creed, the Athanasius Creed, and the Chalcedonian Formula. See, for example, Thomas C. Oden, *The Rebirth of Orthodoxy: Signs of New Life in Christianity*, (San Francisco: Harper Press 2003).

in society, liberty becomes a matter of having one's will reign supreme.<sup>30</sup> Though defeated in the church councils, the spirit of Nestorius and his exaltation of will continues to influence both Church and culture. Similarly, Pelagianism, “[t]he banana peel on the cliff of Unitarianism,” (Allison, 1993:158) also involved a conflict focusing on the nature of man's will. Pelagius contended that (1) Adam was morally neutral<sup>31</sup>; (2) man was subject to death prior to the Fall<sup>32</sup>; (3) the Fall impaired only Adam, not his posterity<sup>33</sup>; and that therefore, (4) sin is simply and only a matter of the will, a product of choice, not evil affections, desires, or inclinations.<sup>34</sup> Augustine, the disciple of Ambrose, thundered against Pelagianism, and yet, Pelagian errors regarding the supposed supremacy of the human will were never eradicated. Centuries later, Socinianism distorted man's anthropology to the point of destroying Trinitarian orthodoxy. Briefly put, Lelio and Fausto Socinus taught that the *Imago Dei* did not consist of moral excellence and that therefore, Adam could not lose what he never possessed. This logically meant that none of Adam's posterity received moral guilt and also implied that man and his will possessed plenary moral ability – rather than a fallen nature tending toward evil. Practically, this meant that human will is exalted, and thus, “worshipped” in a Romans 1:25 sense. What this meant *vis a vis* Christ was that Jesus was deemed to simply be an example to be emulated. Jesus was a man – who by exercise of his will – responded to God's mandates and thereby was “adopted” by God on account of his willful obedience. These vignettes teach several lessons: Theology always correlates to conduct, that is, ethics – and as these correlations gain cultural traction, they recurrently impact the public square, including defining law and forming public policy. These recurrent themes are predictable, if not immediately discernable, and can be catalogued as follows<sup>35</sup>:

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- 30 The biblical notion of liberty is quite different: After the Fall, freedom is a *fruit* of faith, not a *cause* of it. (John 8:31-33).
- 31 Scripture actually teaches that God created man positively good, Genesis 1:31.
- 32 Scripture actually teaches that death resulted from the Fall, Romans 5:12-15.
- 33 Scripture actually teaches that both guilt and corruption inured to Adam's posterity, Romans 3-5.
- 34 Scripture actually teaches that evil proceeds from the heart, Proverbs 4:23, James 4:1-3; and Mark 7:18-23.
- 35 This graphic, inspired by C. Fitzsimmons Allison's important work, *The Cruelty of Heresy*, was compiled and crafted by Dr. Alfred J. Poirier, Senior Pastor of Rocky Mountain Community Church, [www.rmcc.org](http://www.rmcc.org) and Board Chairman of Peacemaker Ministries, [www.Hispeace.org](http://www.Hispeace.org). Dr. Poirier also serves on the Blackstone Legal Fellowship Advisory Board.

<b><u>Worldview facet</u></b>	<b><u>Docetism</u></b> <sup>36</sup> “flee or escape life & reality”	<b><u>Ebionism (Adoptionism)</u></b> “control or conquer life & reality”
<i>PHILOSOPHY</i>	Unity without Diversity	Diversity without Unity
	Belittles Matter	Belittles Spirit
<i>AUTHORITY</i>	Self	Self
<i>IDOL</i>	Self-fulfillment	Self-achievement
<i>GOD</i>	Pantheistic – God is near and nice	Deistic – God is aloof and angry
<i>MAN – SIN</i>	Sin as ignorance Blame the Body	Sin as mistake Blame others
<i>MAN’S NEED</i>	Knowledge	Example
<i>SALVATION-GOSPEL</i>	Saved by knowing Saved without our wills	Saved by doing Saved by our wills
<i>JESUS CHRIST</i>	No real incarnation Enlightener God appearing as man	No need of incarnation Example Man adopted by God
<i>TENDENCIES</i>	Gnostic Magic Ends in Mysticism Emphasizes Theory Know!	Moralistic Technique Ends in Secularism Emphasizes Practice Do!
<i>GOD’S LAW</i>	Antinomian, Quietism	Legalism, Moralism
<i>ESCHATOLOGY</i>	Heaven without New Earth	New Earth without Heaven
	Immortality of the soul, no resurrection of the body	Immortality of one’s name, no resurrection of the body
<i>POLITICAL</i>	Tends to Totalitarianism	Tends to Libertarianism
<i>HERESIES</i>	Docetism	Ebionism
	Sabellianism / Modalism	Adoptionist
	Christian Science	Liberal Protestantism

36 This article focuses on the influence of Ebionism as it effected the development and justification for radical autonomy, that is, idol of self, as it impacts theology, culture and law in general, and abortion in particular. Another ancient error with modern manifestations is Docetism. This heresy, essentially teaching that Jesus simply “appeared” (*dokeo*, Gk.) to become man, tends toward escapism and philosophical Gnosticism. This error breeds totalitarianism in the public square, that is, the idol of the State. It could be argued as to which is most dominant in recent history. These two trends have been fictionally depicted, perhaps unintentionally, by Orwell in his work, *1984* (Docetism – Idol of State) and Huxley’s, *Brave New World* (Ebionism – the Idol of Self).

### 3.3.2 Cultural Consequences

These ideas, as they gained traction in the culture<sup>37</sup> generated consequences. Remnants can be seen in a myriad of disciplines, including the law. Characterizing these consequences, however, is one central motif: the exaltation of the human will and therefore autonomy, or self-law. Man increasingly becomes the measure of all things, doing what is “right in his own eyes” (Judges 17:6; 22:25). And this measurement, this canon, stems from the supposed supremacy of man’s choice. As Ayn Rand declared:

Man has to be man – by choice; he has to hold his life as a value – by choice; he has to learn to sustain it – by choice; he has to discover the values it requires and practice his virtues – by choice. A code of values accepted by choice is the code of morality.<sup>38</sup>

Culturally, this preeminence of the will bred Fletcher’s Situation Ethics<sup>39</sup> and Dewey’s instrumentalism.<sup>40</sup> Post-modern culture not only breeds this idol, but injects it with steroids. Consider the words of leading post-modernist Richard Rorty:

The generic trait of ironists [post-modernists] is that they do not hope to have their doubts about their final vocabularies settled by something larger than themselves. **This means that their criterion for resolving doubts, their criterion of private perfection, is autonomy rather than affiliation to a power other than themselves.**<sup>41</sup>

Christian commentator Douglas Groothuis rightly notes:

[In postmodernism], *choice* – whether about products, education, religion or even personal identity – **is the ultimate concern**, albeit without objective criteria for making wise choices.<sup>42</sup>

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- 37 Naturally, these ideas also infected theology as well: Unitarianism, Enlightenment thought, Transcendentalism, Modernism, Process theology, Liberation theology, and Theodanotology
- 38 Ayn Rand, *The Virtue of Selfishness*, 23; Cited in Donald DeMarco and Benjamin Wiker, *Architects of the Culture of Death*, 57.
- 39 Joseph F. Fletcher, *Situation Ethics, the New Morality*, (Westminster: John Knox Press, 1997).
- 40 This form of pragmatism transmogrified education from the being a means of imparting knowledge to a vessel for social engineering. John Dewey, *Democracy and Education*, (New York: Free Press, Reprint ed. 1997); see also, R. J. Rushdooney, *The Messianic Character of American Education – Studies in the History of the Philosophy of Education*, (Phillipsburg, NJ: P & R, 1963).
- 41 Douglas Groothuis, *Truth Decay – Defending Christianity Against the Challenges of Postmodernism*, at 199, citing Richard Rorty, *Contingency, Irony, and Solidarity*, 97.
- 42 *Id.* at 58.

And, because law largely follows culture, these ideas seep into and influence jurisprudence<sup>43</sup>: These influences range from no-fault divorce schemes to the ultimate encapsulation of radical autonomy, legal abortion. As the United State Supreme Court held, in affirming its commitment to abortion on demand:

At the heart of liberty is the right to define one's own concept of existence, of meaning, the universe, and of the mystery of human life.<sup>44</sup>

Note that this verbiage is not technically “legal” at all. Rather, it is a declaration of philosophical orientation, an orientation designed to preserve and extol “choice.” “Choice” and its seemingly benign step-child, “consent” become institutionalized in the legal system and are used to “justify” every form of perversion:

Thus, the First Amendment creates an inescapable **moral relativism**, societal and cultural, for our nation taken as a whole. For example, **I view homosexual sexual activity** as not only not immoral, or sinful, or wrong, or undesirable, but **as affirmatively moral, and virtuous, and right, and desirable. I take that as a moral absolute.** . . . I am not willing to concede that my moral absolutes are any less absolute than those of more orthodox religions that take an opposing view, nor need I in America. (Kameny, 1993:384F)

By force of logic, this means that “freedom” consists of exalting expanded notions of choice, no matter how destructive. Consider the official policy of the American Civil Liberties Union (“ACLU”) concerning “marriage:”

The ACLU believes that criminal and civil laws prohibiting or penalizing the practice of plural marriage violate constitutional protections of freedom of expression and association, freedom of religion, and privacy for personal relationships between consenting adults.<sup>45</sup>

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43 And, they certainly also invade theology: Leigh Eric Schmidt's, *Holy Fairs – Scotland and the Making of American Revivalism*, (Princeton, NJ: Princeton University Press, 1989, Grand Rapids, MI: Wm. B. Eerdmans Publishing Co., [2001]), traces the development of a self-focused experiential spirituality that ultimately led to the “decisional regeneration” which arose during the 2nd Great Awakening and Finney's Anxious Bench, as well as the so-called “Lordship Controversy”: individual volition supersedes ethics and produces antinomianism – once a “decision” is made, a person is irrevocably “saved” and, even though that person may be “living like Hell,” his “choice” is nevertheless all determinative soteriologically.

44 The United State Supreme Court: *Planned Parenthood v. Casey*, 112 S.Ct. 2791, 2807 (1992).

45 ACLU, 1992 *Policy Guide*. For an accurate and highly documented expose of this group's real agenda, see Alan E. Sears and Craig Osten, *The ACLU vs. America*, (Nashville: Broadman & Holman, 2005).

And, as choice is exalted, rationality diminishes as well. Note the utter deference given to choice as it relates to this recently enacted “gender identity” law:

Gender identity is an individual’s sense of being either male or female, man or woman, or something other or in between.<sup>46</sup>

This sort of deference will ultimately undermine any system of law, and thereby, enervate the possibility of constructing and protecting the “common good” of any culture. Here is why: If the individual (and his or her choices) are prior to God or even prior to society, then there can be no law designed to further the common good – only bare choices competing for “official” sanction via the State’s imprimatur – at the expense of other considerations, including the common good. This direction in jurisprudence stems from idolatry, the idol of self as expressed by the exaltation of choice. This idol deems the State to exist principally to support and nurture individual volition. And, this is precisely what Paul indicated would happen when idols gain traction in the culture. First, note that the issue is ultimately one of worship:

... because they **exchanged the truth** about God **for a [the] lie** and **worshipped** and **served** the creature rather than the Creator, who is blessed forever! Amen (Romans 1:25).

Next, note that after this exchange occurs, not only are evil things practiced (the Truth stumbles), but they are “approved” as well (the stumbling is codified):

Though they know God’s decree that those who practice such things deserve to die, they not only do them **but give approval** to those who practice them.<sup>47</sup>

Understanding these phenomena is crucial toward developing strategies for steadying truth that is teetering.

### **3.4 Idol choices: abortion’s primary presupposition and its fruit**

It was Calvin who observed that fallen hearts are “factories of idols.” (Calvin, 1559:Book I, p. 65, 108). Scripture speaks of those who would take “idols into [their] heart,” (Ezekiel 14:4) and describes those political leaders who made “idols for their own destruction” (Hosea 8:4). Peter similarly warns that culture is corrupt precisely because of the desires of the heart when he speaks of:

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46 *Guidelines Regarding “Gender Identify” Discrimination, A Form of Gender Discrimination Prohibited by The New York City Human Rights Law* (Title 8 of the Administrative Code of the City of New York. [www.nyc.gov/cchr](http://www.nyc.gov/cchr)).

47 Romans 1:32.

... the **corruption** that is in the world **because of sinful desire**. (2 Peter 1:4)

And, because the heart is an idol factory, people will tend to seek authorities, that is, teachers and other officials, who will reinforce, or in Pauline parlance, “approve” their desires and passions, that is, the idols of their hearts:

For the time is coming when people will not endure sound teaching, but having itching ears **they will accumulate for themselves teachers to suit their own passions** (2 Timothy 4:3).

Predominantly where this occurs is the fixed institutions that supply (or withhold) approval of the conduct in question. Those institutions include the Clergy, the Judiciary, and the Academy.<sup>48</sup> Regarding abortion on demand, one can trace the link between the idol of self (“choice”) and the codification of that choice by the judiciary in America.<sup>49</sup>

### 3.4.1 Codifying radical autonomy: a lesson from American legal history

In America’s constitutional republic, the written constitution is deemed to be the supreme law of the land.<sup>50</sup> A corollary to this however, is that judicial review exists in order to adjudicate exactly how that supremacy interfaces with the other expressions of law within the legal system.<sup>51</sup> This process served the country well for nearly two centuries. However, this process works best when the underlying philosophy of judicial interpretation is rooted in a textual or “originalist” approach. When the judiciary employs a constitutional hermeneutic that deviates from this approach, then the constitution is not really supreme; rather the Court’s pronouncements become the actual supreme law of the land – to the detriment of the land.<sup>52</sup> Such is the case with the development of abortion

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48 See the subsequent discussion regarding the crucial significance of these three “robes of culture” at text accompanying note 119, *infra*.

49 It is not insignificant that the implementing statutes that codified abortion in South Africa bear this title: ***Choice on Termination of Pregnancy Act***. (92 of 1996)(emphasis added).

50 “***This Constitution***, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, ***shall be the supreme Law of the Land***; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding.” U.S. Const. art. VI, Paragraph 2 (emphasis added).

51 *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 137 (1803).

52 See, for example, Robert H. Bork, *Coercing Virtue: The Worldwide Rule of Judges*, (Washington, D. C.: American Enterprise Institute Press, 2003); Antonin Scalia, *A Matter of Interpretation*, (Princeton: Princeton University Press, 1998).



jurisprudence. In 1965, the Court considered a challenge to a state law that barred the use of contraceptives between married couples.<sup>53</sup> In holding the law unconstitutional, the Court created – from thin air – a supposed right of “privacy.” Critically, this new right could not be found in any text of the “supreme law of the land.” Rather, the Court found this right from the “emanations” of the “penumbras” of other enumerated rights:

The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance.<sup>54</sup>

This ruling did two principle things: First, philosophically, this decision placed a wedge between the marital union and procreation.<sup>55</sup> Second, this decision created a *carte blanche* hermeneutic enabling future Courts to “find” new applications of henceforth “undiscovered” rights. This sort of jurisprudence would soon prove deadly – literally – to a disenfranchised class of human persons: the unborn. Following *Griswold*, and having severed the link between marriage and procreation, the Court next applied the “privacy” rationale to unmarried fornicating persons. The Court ruled seven years after *Griswold* that this new right also constitutionally “protected” “consenting adults”<sup>56</sup> by granting them access to contraception.<sup>57</sup> Now the table was set for legalizing abortion. Having analytically extracted procreation from marriage, the issue swiftly switched from contraception; it now centered on the “failure” of or the “overlooking” of contraception: What if there happened to be a “product of conception?” In other words, what if fornicating couples conceived a child? Again, under principles of unfettered autonomy, the law would intervene to “protect” the mother’s “choice” to be “free” from the burden

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53 *Griswold v. Connecticut*, 381 U.S. 479, (1965).

54 *Griswold* at 484.

55 This is not to say that procreation is the purpose for marriage. Such a statement confuses an intrinsic good with an instrumental good. Marriage is the former. See, Robert P. George, *Clash of Orthodoxies*, (ISI Books: Delaware, 2003), 117.

56 “Consent” is often the hand-maiden of the idol of choice, and is frequently wielded as if consent trumps any other moral or political consideration. But, such reasoning is easily shown to be problematic. Criminals are not justified in murdering a perceived enemy, just because the two conspirators “consented” to the “contract.” And, some matters remain unlawful even if done privately and with the consent of all involved: dueling, adult incest, polygamy, and assisted suicide. See, for example, *Washington v. Glucksberg*, 521 U.S. 702 (1997)(assisted suicide); *Muth v. Frank*, 412 F.3d 808 (7th Cir. 2005)(incest); *Williams v. Attorney General of Ala.*, 378 F.3d 1232 (11th Cir. 2004) (private intimate sexual conduct); *Bronson v. Swensen*, 394 F.Supp.2d 1329 (D. Utah 2005)(polygamy).

57 *Eisenstadt v. Baird*, 405 U.S. 438 (1972).

of child-bearing. One year after *Eisenstadt*, a hotly divided Court issued the infamous *Roe v. Wade*<sup>58</sup> opinion, holding:

*To summarize and to repeat: (1) A state criminal abortion statute of the current Texas type, that excepts from criminality only a life-saving procedure on behalf of the mother, without regard to pregnancy stage and without recognition of the other interests involved, is violative of the Due Process Clause of the Fourteenth Amendment.*

*(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.*

*(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.*

*(c) For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. 2. The State may define the term 'physician,' as it has been employed in the preceding paragraphs of this Part XI of this opinion, to mean only a physician currently licensed by the State, and may proscribe any abortion by a person who is not a physician as so defined.<sup>59</sup>*

The dissent recognized that this ruling lacked legal justification:

I find nothing in the language or history of the Constitution to support the Court's judgments. The Court simply fashions and announces a new constitutional right for pregnant women and, with scarcely any reason or authority for its action, invests that right with sufficient substance to override most existing state abortion statutes. The upshot is that the people and the legislatures of the 50 States are constitutionally disentitled to weigh the relative importance of the continued existence and development of the fetus, on the one hand, against a spectrum of possible impacts on the mother, on the other hand. As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but in my view its judgment is an improvident and extravagant exercise of the power of judicial review that the Constitution extends to this Court.<sup>60</sup>

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58 *Roe v. Wade*, 410 U.S. 113, (1973).

59 *Roe* at 164-65.

60 *Roe*, 410 U.S. at 221-22 (White J. dissenting).

*Roe* has been soundly criticized – by the Left and the Right – since its issuance.<sup>61</sup> Yet, the decision remains “good law.” The Court had the opportunity to revisit *Roe* in 1992.<sup>62</sup> Though the Court abandoned *Roe*’s rationale, legal abortion was reaffirmed in what has been justifiably called the worst constitutional decision ever (Paulsen, 2003:995). *Casey* granted American jurisprudence a frank codification of the idol of self:

At the heart of liberty is the right to define one’s own concept of existence, of meaning, the universe, and of the mystery of human life.<sup>63</sup>

This philosophical commitment to radical autonomy caused the Court to affirm the right to veritable infanticide<sup>64</sup> in *Stenburg v. Carhart*.<sup>65</sup> And, now the *Casey* “mystery of life” passage has been used to accelerate the codification of choice beyond abortion. In 2003, the court, using the same philosophical commitment to radical autonomy, rendered nugatory safeguards against sodomy, again using “consent” and “choice” as justification for this sordid practice:

These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy,

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61 See, for example, Ruth Bader Ginsburg, *Speaking in a Judicial Voice*, 67 N.Y.U. L. Rev. 1185 (1992) (criticizing the breadth of *Roe* as fueling controversy); John Hart Ely, “The Wages of Crying Wolf: A Comment on *Roe v. Wade*”, *Yale L.J.*, 82 (1973), 920, 935-36 (“What is frightening about *Roe* is that this super-protected right is not inferable from the language of the Constitution, the framers’ thinking respecting the specific problem in issue, any general value derivable from the provisions they included, or the nation’s governmental structure.” (footnote omitted)); Michael Perry, “Why the Federal Marriage Amendment is Not Only Not Necessary, But a Bad Idea: A Response to Christopher Wolfe”, *San Diego L. Rev.*, 42 (2005), 925, n. 13 (“There is good reason for concluding that *Roe v. Wade* was wrongly decided – indeed, that *Roe* is a paradigm of . . . ‘judicial imperialism’ . . . In fact, several liberal constitutional scholars have made this very argument, including John Ely, Gerald Gunther, and Ruth Ginsburg, and, albeit belatedly, myself.”).

62 *Planned Parenthood v. Casey*, 112 S.Ct. 2791, 2807 (1992).

63 *Planned Parenthood v. Casey*, 112 S.Ct. 2791, 2807 (1992).

64 The procedure in question is medically labeled to be “D & E” (“dilation and evacuation”) or D & X (“dilation and extraction”), see, for example, *Carhart v. Gonzales*, 413 F.3d 791, 793-94 (8th Cir. 2005); see *supra*, n. 11.) and is known in the public square as “partial birth abortion.” However, since the unborn person is removed from the mother’s womb, pregnancy has technically ended and therefore, the killing that takes place is accomplished on a neo-nate, an infant. This gruesome procedure consists of drawing the child down into the birth canal, inserting scissors into the base of the skull, evacuating the “brain material” by suction, crushing the skull with forceps, and then completing the delivery of the now dead infant. *Id.* at *passim*. The Court looked into the abyss of Hell itself and did not blink. This illustrates the level of deception spawned by a strong commitment to the idol of choice.

65 *Stenburg v. Carhart*, 530 US 914 (2000).

are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.<sup>66</sup>

Notice a few things. The progression from condoms to infanticide to sodomy, at first blush seems unrelated. Yet this progression is logically consistent because in each case, the driving force of the legal analysis stems from a precommitment to radical autonomy, or in theological parlance, an idol of self. Certainly these changes occurred incrementally, but they occurred inexorably given the Court's philosophic precommitment to radical autonomy. In principle, abortion became legal when procreation was segregated from the marital union. Once this stake was placed in the legal ground, it was only a matter of time before the abortion structure was erected. And, this progression has nothing to do with "liberating" women. In fact, it is antithetical to it.

### 3.4.2 True feminism: a lesson from "real" feminists

The marketing of abortion centers on trumpeting the "rights of woman" and protecting their "reproductive choices."<sup>67</sup> In reality, American abortion jurisprudence pits the medical industry against women and their welfare.<sup>68</sup> True feminism has always viewed abortion as it really is: a mechanism for oppressing women by killing their children.

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66 *Lawrence v. Texas*, 539 U.S. 558, 574 (2003) quoting *Planned Parenthood of Southeastern Pa v. Casey*, 505 U.S. 833, 851 (1992).

67 *Activists Mobilize at Supreme Court to Protect Women: Amid Resignation Rumors, Prominent Women Leaders and Planned Parenthood Activists Promote Fair-Minded Nominees*, Planned Parenthood, June 27, 2005 <http://www.plannedparenthood.org/pp2/portal/files/portal/media/pressreleases/pr-050627-court2.xml> (accessed on 6 January 2006); *Supreme Court to Decide Whether to Protect Women's Health or Side with the Bush Administration*, NARAL Pro-Choice America, Nov. 29, 2005 [http://www.prochoiceamerica.org/about/newsroom/pressrelease/pr11292005\\_ayotte.cfm](http://www.prochoiceamerica.org/about/newsroom/pressrelease/pr11292005_ayotte.cfm) (accessed on 6 January 2006).

68 Erika Bachiochi, (Ed.), *The Cost of Choice – Women Evaluate the Impact of Abortion*, (San Francisco: Encounter Books; 2004), 63-100; also ignored is the inherent medical conflict abortion precipitates within a OBY/GYN practice: Obstetrics teaches that the physician has two patients: the mother and the unborn child; obstetricians provide "pre-natal" care to both the mother and her unborn child. Abortion jurisprudence, however, requires the obstetrician to wholly jettison his professional obligation to the fetus with impunity.

Consider how feminists have historically addressed this question:

Abortion is the ultimate exploitation of women.<sup>69</sup>

It will burden her conscience in life, it will burden her soul in death; but oh, thrice guilty is he who . . . drove her to the desperation which impelled her to the crime.<sup>70</sup>

When we consider that women are treated as property, it is degrading to women that we should treat our children as property to be disposed of as we see fit.<sup>71</sup>

To earlier feminists who had fought for the vote and for fair treatment in the workplace, it had seemed obvious that the ready availability of abortion would facilitate the sexual exploitation of women.<sup>72</sup>

Every 36 seconds in America a woman lays her body down forced to choose abortion out of a lack of practical resources and emotional support. Abortion is a reflection that society has failed women.<sup>73</sup>

Legalized abortion harms, not liberates, women. What seemed to some like a liberating idea has historically proven to be an oppressive practice. Many women in America now regret having had abortion, including the original plaintiff in *Roe*, Norma McCorvey.<sup>74</sup>

### **3.5 Embryonic discrimination: the abortion-eugenics nexus**

There is no serious dispute that upon fertilization, that which results is biologically and genetically human. Nor, is there any serious dispute that abortion causes a heart to stop beating; a human life is taken. This reality is surely downplayed, but even when it is acknowledged, abortion is deemed to be a “necessary evil” or the “lesser of two evils.” But, the

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69 Alice Paul, author of the Equal Right Amendment, [www.bdfund.org/top10quotes.asp](http://www.bdfund.org/top10quotes.asp), (accessed on 20 October, 2005).

70 Susan B. Anthony, *Suffragist*, [www.bdfund.org/top10quotes.asp](http://www.bdfund.org/top10quotes.asp) (accessed on 20 October, 2005).

71 Elizabeth Cady Stanton, *Suffragist*, [www.bdfund.org/top10quotes.asp](http://www.bdfund.org/top10quotes.asp), (accessed on 20 October, 2005).

72 Professor Mary Ann Glendon, Harvard Law School, [www.bdfund.org/top10quotes.asp](http://www.bdfund.org/top10quotes.asp), (accessed on 20 October, 2005).

73 Patricia Heaton, Emmy Award Winner and Honorary Chair of Feminists for Life, [www.bdfund.org/top10quotes.asp](http://www.bdfund.org/top10quotes.asp), (accessed on 20 October, 2005).

74 Ms. McCorvey has even initiated litigation to re-open *Roe* based on over three decades of empirical data that undermine the “benefits” of abortion on demand. *McCorvey v. Hill*, 385 F.3d 846, 850 (5th Cir. 2004) (Jones J. concurring). See also, [www.operationoutrcry.org](http://www.operationoutrcry.org), an organization committed to telling the realities of post-abortion trauma.

reality of abortion remains: humans are destroyed without consent or due process of law. In fact, for purposes of American abortion jurisprudence, the unborn child is not considered to be a “person” for purposes of the 14<sup>th</sup> Amendment.<sup>75</sup> Ironically, it was this amendment that neutralized the racist “separate but equal” conception the law had employed to perpetuate structural racial categories and practical injustices.<sup>76</sup> Yet, with abortion, unborn blacks and unborn whites are deprived of equal treatment under the law. This too, stripped of its legal jargon, is unvarnished developmental apartheid.

Legal abortion disenfranchises – by an *a priori* definition – an entire class of human persons: the unborn. It is no answer to suggest that the size or developmental stage of the person justifies this legal differentiation. In fact, the law has traditionally been the protector of the “least of these,” that is, those least equipped to protect themselves. Abortion inverts this noble legal function. Abortion thus discriminates based on developmental apartheid. Humans are denied legal status and thereby legal protection until they obtain a certain developmental maturity – and yet, they themselves are not granted the choice to reach that protected level of development. This is apartheid, apartheid explicitly predicated not principally on race, but on developmental biology. Yet, abortion’s ancestry remains linked to racism. Abortion practice possesses a decided racist heritage because modern abortion advocacy derives from eugenics advocacy. “Eugenics” was a term coined by Darwin’s cousin, Francis Galton. The very origin of the term is pregnant – no pun intended – with racist overtones. As Galton explains, he was seeking a succinct word:

to express the science of improving stock, which is by no means confined to question of judicious mating, but which, especially in the case of man, takes cognizance of all influences that tend to however remote a degree to give to the more suitable races or strains of blood a better chance of prevailing speedily over the less suitable than they otherwise would have had. (Galton, 1928:17 n. 1)

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75 *Roe* at 157.

76 The 14th amendment states, in pertinent part: Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Darwin himself imbibed racist ideology when he hypothesized that as evolution progresses, there will be a beneficial extinction of less favored races:<sup>77</sup>

[T]he civilized races of man will almost certainly exterminate and replace throughout the world the savage races. At the same time the anthropomorphous apes . . . will not doubt be exterminated. The break will then be rendered wider, for it will intervene between man in a more civilized state, as we may hope . . . the Caucasian, and some ape as low as a baboon, instead of as at present between the negro or Australian and the gorilla. (Darwin, 2002: pt. 1, ch. 6, 201)

Eugenics coupled with evolutionary theory provided a “scientific” *justification* for racism; birth control, including abortion on demand, provided the *mechanics* for accelerating the formation of these favored races. Ernst Haeckel, a eugenicist, saw the Christian faith as an impediment to improving favored races because Christianity provided protection to the unborn. He noted that Christianity:

... was the first to extend legal protection to the human embryo, and punished abortion with death as a mortal sin. (Hackel, 1905:325)

Given this template, it is not surprising that the leading advocate for abortion in America was the eugenicist Margaret Sanger. Sanger sought to enhance “racial health” by eliminating the “dead weight of human waste,” the “race of degenerates,” (DeMarco and Wiker, 2004:297-300) that is, the “genetically inferior races” (Sanger, 1922:264). She argued that Christian morality needed to be overcome in order to “bless” unfettered sexual autonomy:

The codes that have surrounded sexual behavior in the so-called Christian communities, the teaching of the churches concerning chastity and sexual purity, the prohibitions of the laws, and the hypocritical conventions of society, have all demonstrated their failure as safeguards against the chaos produced and the havoc wrought by the failure to recognize sex as a driving force in human nature, – as great as, if indeed not greater than, hunger (*Id.* at 246).

Her solution: birth control, including mandatory sterilization and abortion on demand. Indeed, she couches these barbaric racist “tools” in redemptive terms:<sup>78</sup>

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77 This should not be surprising: the original full title to Darwin’s celebrated volume is, *The Origin of Species by Means of Natural Selection or the Preservation of Favoured Races in the Struggle for Life*, cited in Donald De Marco and Benjamin Wiker, *Architects of the Culture of Death*, (San Francisco: Ignatius Press, 2004), 81.

78 Note: this inversion of calling evil good and good evil illustrates the Pauline exchange mentioned in Romans 1:25. And, while the notion of forced sterilization

We prefer the policy of immediate sterilization, of making sure that parenthood is absolutely prohibited to the feeble-minded. . . . *Birth Control [sic] . . . is really the greatest and most truly eugenic method*, and its adoption as part of the program of Eugenics would immediately give a concrete and realistic power to that science (*Id.* at 101, 102, 189 (emphasis added)).

Abortion thus became a necessary component to the racist’s agenda. Here is why: Every member of an “inferior race” could not be sterilized, and no contraceptive would be entirely effective. Therefore, abortion must be available to serve the eugenics agenda. Some classes of person must not be allowed to live, because if they did, they may possibly procreate and thereby “contaminate” the gene pool, so the warped thinking goes. Eugenics mandates developmental apartheid – abortion on demand. Abortion produces genocide to be sure, but it also fosters a new clinical apartheid, an under-the-radar apartheid, concealed in the labyrinth of medical jargon and legal prestidigitation. But, make no mistake. Abortion presupposes and perpetuates apartheid. There is unfinished business in South Africa that must be strategically addressed, the topic of the next segment.

#### **4. Toward Strategic and Principled Cultural Engagement**

If legal abortion is nothing more than a specie of apartheid – and it is – and if legal abortion takes innocent life – and it does – then abortion should once again be legally disfavored, rather than protected. Yet, the Christian worldview not only informs this conclusion, but also provides insight as to the *means* by which this *conclusion* can come to fruition. As Christ, the fulfiller of the Law<sup>79</sup>, engages culture, the resultant legal clash is not revolutionary like Marxism<sup>80</sup>; rather it is transformational. Implementing strategic transformation, and thereby eliminating legal abortion, requires understanding three things: (1) The Antithesis; (2) The Nature and Character of Principled Cultural Change; and (3) The Tri-perspectival Structure of Strategic Engagement. The following sections explore these concepts.

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seems Byzantine today, state enforced sterility was sanctioned by America’s High Court during the 20th Century: *Buck v. Bell*, 274 U.S. 200, 207 (1927) (Holmes J.: “Three generations of imbeciles are enough.”).

79 *Cf.*, Matthew 5:17-20.

80 See Gary North, *Marx’s Religion of Revolution – Regeneration Through Chaos*, (Tyler, TX: Institute for Christian Economics, 1968 [1989]).



## **4.1 Recovering the antithesis: conflict serving redemption**

### **4.1.1 Overview: war declared in creation**

Paul minces no words. He informs his readers that a strident cleavage exists in the Fallen world:

because they **exchanged the truth** about God for **[the] lie** and worshiped and **served the creature** rather than the **Creator**, who is blessed forever!  
Amen. (Romans 1:25)

Note three aspects or perspectives<sup>81</sup> of this division. First, there is *metaphysical* cleavage: A distinction exists between the Creator and that which was created. Second, an *ethical* cleavage exists: in principle, people either adhere to the Truth or the Lie. And, third, there exists a *personal/existential* dimension to this cleavage as lived in the world by people: As people adhere and respond to this cleavage, they worship and serve; they are not neutral *vis a vis* this bifurcation between truth and error. Paul provides further elucidation concerning these ethical, metaphysical and existential perspectives by explaining:

For though we walk in the flesh, we are not **waging war** according to the flesh. <sup>4</sup>For the **weapons** of our **warfare** are not of the flesh but have divine power to **destroy strongholds**. We destroy arguments <sup>5</sup>and every lofty opinion raised against the knowledge of God, and **take every thought captive to obey Christ**. (2 Corinthians 10:3-5)

Here, Paul describes this cultural conflict in vivid bellicose terms. Indeed, he employs terms of warfare: weapons, waging war, warfare, destroy, and strongholds. In a very accurate sense, he is describing an on-going war of worldviews. But, the Christian's weapons in this war are not guns and bazookas; rather, the Christian engages this war by taking "every thought captive to obey Christ." Accordingly, when taken to the public square, this war must include the war of ideas – the passionate demonstrating of Truth. Historically, this is battle of Orthodoxy against Heresy. This is the Antithesis and understanding it is key to developing legal strategies for combating developmental apartheid and other evils.

### **4.1.2 Orthodoxy versus heresy: the war of worldviews**

When using terms such as "orthodoxy" or "heresy," a temptation arises to consider "worldview thinking" as residing in the rarified academic

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81 This tri-perspective structure is not accidental, as will be explained subsequently. See *infra* at text from note 111-118, as well as John 17:17; James 2:26b; Frame, 1987:66; and Tripp, 2004:93.

province of philosophers or theologians.<sup>82</sup> And, indeed, worldview thinking does inform these disciplines. However, when pondering worldview as it relates to the public square, a much more generally applicable concept is warranted.

### **The War: philosophically posited**

The War of Worldviews is a war over basic intellectual commitments. A worldview is nothing more than the network of presuppositions through which all humans view all human experience. And, everyone has a worldview, whether it is the sophisticated atheistic apologist or the hedonist, Happy Joe six-pack. Worldviews, distilled to their philosophical essence, answer three basic questions: (1) What's real (metaphysics); (2) How does one know (epistemology); and (3) How should one act (ethics).

### **The War: an alternative analytic template: *historia salutis***

One need not, however, be confined by a philosophic construct of a given worldview. Worldview can also be analyzed from a *Historia Salutis* perspective. All worldviews also address these topics: (1) Creation/Origins – From where did all this come? (2) Fall – Explaining evil and suffering – What's wrong? (3) Redemption – Where does hope lie – what's the solution? One example of this is Marxism. Marxism is many things, but it is also clearly a worldview. As to Creation, Marxism affirms dialectical materialism: “We may regard the material and cosmic world as the supreme being”.<sup>83</sup> As to the Fall, Marxism asserts that the rise of “private property” was society's downfall. And, finally, as to Redemption, Marxism advocates destroying by revolution the “original sin” of private property *via* the Proletariat redeemer. Understanding worldviews and their components provides an analytic grid for evaluating jurisprudential considerations. After all, culture is simply religion externalized. And law follows culture, therefore, understanding the culture's religion, its worldview, will provide insight into the culture's law and thus, how to effect change where appropriate.

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82 See, David K. Naugle, *Worldview – The History of a Concept*, (Grand Rapids, MI: Wm. B. Eerdmans Publishing Co., 2002).

83 Lenin, cited in Francis Nigel Lee, *Communism versus Creation*, (Nutley, N.J.: Craig, 1969), 28, cited in Nancy Pearcey, *Total Truth*, (Wheaton, IL: Crossway Books, 2004), 135.

### **The War: origin and implications – conflict serving redemption**

Paul speaks of cultural cleavage, of bifurcation. This bifurcation is active and it permeates all human experience. What is the origin of this war and what are its implications? Many in the culture wars target particular evil persons or events in trying to pinpoint the moral decay of cultures. In America, the Right, especially of the religious variety, identifies a number of cultural culprits: Atheist Madelyn Marie O’Hair and her war on the public expression of religion; Charles Darwin and his Creator denying hypothesis of natural selection; lurid MTV entertainment. And, many more. However, in reality, the war of which Paul speaks began long ago, shortly after creation, after the fall of man. The battle begins here:

**I** will put **enmity** between you and the woman, and between **your offspring** and **her offspring**; he shall bruise your head, and you shall bruise his heel (Genesis 3:15).

Note carefully three critical features of this event. First, God initiates this war. He is the one who imposes an historical hostility, including a culture war. Second, this war is a war whose ultimate goal is redemption. God declares war in order to facilitate peace. It is through this war that redemption is manifest, and that manifestation occurs in history. Third, fighting this war includes a corporate or covenantal dimension. This means that avoiding lawful conflict<sup>84</sup> in the public square will necessarily retard or mute redemption in the world. Court battles are ultimately battles for redemption. Absent such battles, redemption will not occur culturally. Just being “a good Christian” will not suffice precisely because God did not design it to suffice. Rather, He calls Christians to battle in history. And therefore, the public square is decidedly not – nor can it be – a demilitarized zone.

#### *4.1.3 The antithesis illustrated generally*

God’s declaration of war and the resultant historical battles can be seen throughout scripture and subsequent history.

### **Historically in redemption**

In redemptive history, the Lord divides, delivers, and destroys along the lines of the covenantal antithesis. Here are a few examples: Abel and

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84 It should be reiterated that Christian activity in the public square presupposes lawful means: litigation, advocacy, legislation, democratic input, debate, etc. In no way does following Christ mandate political revolution or even “civil disobedience” short of the State directing Christians to personally deny the faith. Acts 5:29.

Cain; Noah and the World; Isaac and Ishmael; Jacob and Esau; Moses and Pharaoh; David and Goliath; Elijah and Baal; Daniel and Babylon; Jesus and the Pharisees. This is why Paul identifies the battle lines as being drawn between the “knowledge of God” on the one hand, and “strongholds, arguments, and lofty opinions” on the other hand (2 Corinthians 10:5). It is a war of worldviews played out historically.

### **Metaphorically in Scripture**

This battle is also conceptualized metaphorically in the Scripture. Metaphors express this same battle as being drawn between: Light and Darkness (Colossians 1:13); Sheep and Goats (Matthew 25:33); Wheat and Tares (Matthew 13:30); Spirit and Flesh (Galatians 5:16); Alive and Dead (Ephesians 2:5); The Wise and the Fool (Proverbs). Augustine used a similar metaphorical approach in his timeless masterpiece, contrasting the City of God with the City of Man.<sup>85</sup>

### **Covenantally and noetically**

And again, true to Paul and Moses, Scripture depicts this battle as one dealing not simply with particular evil thoughts or specific evil deeds, but evil thinking – with patterns of thought, with worldviews. The biblical writers describe this phenomenon in terms of the noetic dimension of the battle. Those opposing God’s righteousness, covenant breakers, display erroneous *patterns* of thought, not just “bad” thoughts: Natural Men are: **“Futile in their thinking”** (Romans 1:21); **“None is righteous, no not one; no one understands, no one seeks for God.”** (Romans 3:10, 11); **“For those who live according to the flesh set their minds on the things of the flesh.”** (Romans 8:5); **“To the pure, all things are pure, but to the defiled and unbelieving, nothing is pure; but both their minds and their consciences are defiled”** (Titus 1:15); Prior to redemption, people are **“enemies [hostile] in your mind”** (Colossians 1:21). Covenant keepers are likewise described in terms of the noetic dimension of this battle: **“Do not be conformed to this world, but be transformed by the renewal of your mind.”** (Romans 12:2); **“Brothers, do not be children in your thinking . . . [I]n your thinking be mature.”** (1 Corinthians 14:20); **“[N]o longer walk as the Gentiles do, in the futility of their minds.”** (Ephesians 4:17); **“Walk in a manner worthy of the Lord . . . increasing**

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85 See, for example, St. Augustine, *The City of God*, Book XI, Ch. 8 § 7, Ch. 21 § 19 (London: Penguin Classics, 1984).

**in the knowledge of God**” (Colossians 1:10); “Finally, all of you, have **unity of mind**, sympathy, brotherly love, a tender heart, **and a humble mind**” (1 Peter 3:8).

### **Historically in culture**

Scripture also informs the reader that this noetic hostility, this antithesis, will be expressed historically, beyond the biblical narratives and descriptions:

Why do the nations rage and the peoples plot in vain? <sup>2</sup>The **kings of the earth** set themselves, and the **rulers take counsel together, against the LORD** and against his anointed, saying, <sup>3</sup>Let us **burst their bonds** apart and cast away their cords from us. (Psalm 2:1-3)

Note carefully: rulers, that is, those in positions of public governance, will seek to “burst the bonds,” the order or law, of Messiah. Natural man actively seeks autonomy. This conception of liberty however, produces death<sup>86</sup> – exactly the result of legalized abortion. The fish seek to be free by jumping from the fish bowl.

#### *4.1.4 The antithesis illustrated in law, culture, and the public square*

This war of worldview is not limited to the realm of abortion on demand. Because the Fall impacts all creation, one can expect to see this battle for redemption occurring in every sphere.

### **Science, Origins, and Religious Freedom**

As Paul noted in Romans 1:25<sup>87</sup>, one key area of antithetical cleavage centers on the Creator-creature distinction. One would therefore expect to see cultural fissures manifesting hostility to a Creator God and His work of creation. This is precisely what is seen in academia today. Indeed, a decided hostility – even in the face of contrary evidence – exists to all non-naturalistic theories of origins:

Richard Dawkins, evolutionist<sup>88</sup> :

Even if there were **no actual evidence in favor of the Darwinian theory** . . . we should still be justified in **preferring it** over all rival theories.

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86 Proverbs 8:36: “but he who fails to find me injures himself; all who hate me love death.”

87 See Romans 1:25 and note 17, *supra*.

88 *The Blind Watchmaker*, (New York: Norton, 1986), 287; cited in Nancy Pearcey, *Total Truth*, 168.

Kansas State professor and evolutionist<sup>89</sup> :

Even if **all the data point to an intelligent designer**, such an hypothesis is excluded from science **because it is not naturalistic**.

Michael Ruse, evolutionist:

Evolution came into being as a kind of secular ideology, **an explicit substitute for Christianity**. I must admit that in this one complaint . . . the literalists are absolutely right. **Evolution is a religion**. This was true of evolution in the beginning, and it is true of evolution still today.<sup>90</sup>

The position of the modern evolutionist is that . . . **morality is a biological adaptation** no less than are hands and feet and teeth. Considered as a rationally justifiable set of claims about an objective something, **ethics is illusory**. I appreciate that when somebody says: “Love thy neighbor as thyself,” they think they are referring above and beyond themselves. Nevertheless, such reference is truly without foundation. **Morality is just an aid to survival and reproduction . . . and any deeper meaning is illusory**.<sup>91</sup>

Julian Huxley, evolution apologist<sup>92</sup> :

[A]nother struggle still in progress is between the idea of a purpose directed to a future life in a supernatural world [heaven] and one directed to progress in this world. [However], **until such major conflicts are resolved, humanity can have no single major purpose, and progress can be but fitful and slow**.<sup>93</sup>

Ernst Haeckel, evolutionist and eugenicist:

**Christianity is to be found an enemy to civilization**, and the struggle which modern thought and science are compelled to conduct with it is . . . a ‘*cultur-kampf*’.<sup>94</sup>

George Bernard Shaw, poet:

**Our only hope then is evolution**. We must replace the man by the superman.<sup>95</sup>

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89 *Id.*

90 *Saving Darwinism from Darwinians*, *National Post*, May 13, 2000, B-3; cited in Nancy Pearcey, *Total Truth*, 172.

91 Michael Ruse, “Evolutionary Theory and Christian Ethics,” in *The Darwinian Paradigm*, (London: Routledge, 1989), 262, 269, cited in John Piper, *When I Don’t Desire God*, (Wheaton, Ill: Crossway Books 2004), 247.

92 Huxley’s relative, Thomas, was known as “Darwin’s pit-bull.” Apparently, the genetic fruit did not fall far from the evolutionary tree.

93 Julian Huxley, *Evolution: The Modern Synthesis*, (1942; reprint London: Allen & Unwin, 1974), 578, quoted in James A. Herrick, *The Making of the New Spirituality*, (Downers Grove, IL, InterVarsity Press, 2003), 136.

94 *Id.* at 357; quoted in *Id.* at 166.

95 George Bernard Shaw, *Man and Superman*, (Baltimore, MD.: Penguin, 1955), 251-252; quoted in *Id.* at 169.

Christian faith is the enemy; ethics are illusory; and hope is to be found in evolution. These conclusions stem from worldviews – not scientific observations. Such statements are driven by philosophic idols of the heart – not evidence. This echoes the prophetic description uttered by David in Psalm 2 centuries ago.

### **Homosexuality and religious freedom**

And again, consistent with Paul in Romans 1, in addition to the Creator-creature distinction, sexuality and sexual conduct serve as another active fissure in this war of worldviews:

Paula Eittlebrick, Law professor, Michigan:

Being queer is more than setting up house, sleeping with a person of the same gender, and seeking state approval for doing so. It is an identity, a culture with many variations. ***It is a way of dealing with the world*** by diminishing the constraints of gender roles which have for so long kept women and gay people oppressed and invisible. ***Being queer means pushing the parameters of sex, sexuality, and family, and in the process transforming the very fabric of society. . . . We must keep our eyes on the goals of providing true alternatives to marriage and of radically reordering society's view of family.***<sup>96</sup>

Edmund White, Literature professor, Princeton:

I'm for it [same-sex marriage] because it seems to me it's aroused so much resistance that it's a battle worth fighting, say White, who now lives in Manhattan. "Domestic partnership or civil union has passed in every country in the European Union, and in Japan and Canada. ***Why not in America? Because we are the only one that's really Christian. It seems to me that the single biggest enemy to homosexuality is Christianity. . . . I hate it when gays try to accommodate Christianity*** and create their own gay group within the Catholic or the Mormon Church. ***Any self-respecting gay should be an atheist.*** And so I think it's a battle worth fighting, not because I want to live behind a white picket fence and ***be faithful*** to a lover and both wear wedding rings – ***I think that's stupid.***"<sup>97</sup>

Note: "queer theory" is about worldviews. It is about "radically reordering" society, that is, "bursting the bonds" of Messiah.<sup>98</sup> These

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96 "Since When is Marriage a Path to Liberation?", *Out/Look*, (Fall 1989), reprinted in *Lesbians, Gay Men, and the Law*, (Ed.) Wm. Rubenstein, 402, 403, 405.

97 Merrell Noden, "Edmund White's Own Story", *Princeton Alumni Weekly*, (10 March, 2004), available at [http://www.princeton.edu/~paw/archive\\_new/PAW03-04/10-0310/features2.html](http://www.princeton.edu/~paw/archive_new/PAW03-04/10-0310/features2.html).

98 Psalm 2:1-3.

cultural battles are not simply about “personal choices;” they are about exchanging one version of law and order (the Truth) for another (the Lie).<sup>99</sup> There is ethics: Christianity is an enemy; and there is eschatology: hope is found in something other than God and His ways – evolution and reordering society. Ironically, however, real redemption comes only *via* God and His anointed, which is why in concluding the Psalm 2 David exhorts his listeners:

<sup>10</sup>Now therefore, O kings, be wise; be warned, O rulers of the earth.  
<sup>11</sup>Serve the LORD with fear, and rejoice with trembling. <sup>12</sup>Kiss the Son,  
lest he be angry, and you perish in the way, for his wrath is quickly  
kindled. Blessed are all who take refuge in him (Psalm 2:10-12).

This means, *inter alia*, that Christians *must* be present in the public square declaring the Truth to those who govern the public square, especially when truth stumbles. To avoid this conflict – to abandon the public square – is to consign the public square to the realm of stumbled Truth – a circumstance which displeases God because “there was no justice” (Isaiah 59:15).

### **Abortion and the Law**

And, this hostility, this antithesis exists in the courtroom as well. Illustrating this is testimony from the recent American trials involving the gruesome infanticide procedure labeled “partial birth abortion.” Note the noetic manifestations in this testimony: hostility, suppression of truth, vain reasoning, *et al*:

#### **Nebraska case:**

*DAY FOUR: Thursday, April 1, 2004.*

*Excerpts from direct examination of Dr. Leroy Carhart, M.D.:*

*Q. Are you currently a member of the Board of Directors for Physicians for Choice, Physicians for Reproductive Health and Choice?*

*A. Exactly. I am*

*Q. And are you also on the National Board of Directors of the Religious Coalition of Reproductive Choice?*

*A. Yes, ma’am. I am*

*Q. Doctor, are you board certified?*

*A. No, ma’am. I’m not*

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99 Yet, again illustrating the Pauline teaching of Romans 1:25.



*Q. Okay. And, Doctor, is the fetus living at the point at which it's stuck at the calvarium, lodged at the cervical os?*

*A. Normally, my 16 and 17-week patients are – the fetuses are alive at the time of the final delivery.*

*Q. And what's your next step, at that point, if the fetus has lodged at the cervical os?*

*A. Under 17 weeks, I would use a forcep ... remove the part of [the] fetus that was easily reachable. Hopefully try to use small bites to work the way up and remove the rest of the fetus so that it comes out intact. If not, then remove whatever part that I could get easily and then go back and remove the rest.*

*Q. Okay, Doctor, have you had a circumstance ... where the fetus has been not intact, partially dismembered, and yet part of the fetal trunk passed the naval passed the umbilicus, has come outside the body of the mother?*

*A. ... But, certainly, when an upper extremity comes through the vagina, and I have to remove it, at that point – the shoulder, the shoulder joint actually tends to be more substantial than other joints in the body. So mostly if I can grab above the elbow, I will get part of the scapula, and sometimes even part of the chest wall from that extremity; ribs, and possibly even lung tissue or other tissue inside of the chest cavity.*

~

*Q. My question is, simply, I want to get to the actual process that you utilize in trying to bring the fetus out intact.*

*A. I rarely try to dismember a fetus after the 20th week. I'm not sure I understand how to get my point and what I'm doing to be understood. If I – if nothing is coming through the os and nothing has come through the os and it appears to be that waiting another hour or four hours is going to not produce any different change than what I have seen already, at that point we will put the patient in the operating room and remove the fetus. I may grab a foot and bring it down. ... If I bring an arm down and bring it outside of the uterus and possibly even outside of the vagina, depending on where the uterus is, I'm not going to put that arm back inside of the woman's body to take that bacteria back inside, so I'll remove that arm ...*

**California case:**

*DAY THREE: Thursday, April 1, 2004*

*Excerpts from direct examination of Dr. "Doe" (testifying under a pseudonym):*

*Q. And just to be clear, the calvarium, again, is just the fetus\* head, correct?*

A. Correct.

Q. In those cases in which you are doing a D&E and the fetus delivers partially intact except for the calvarium getting stuck in the cervix, you have to insert forceps and crush the calvarium; is that right?

A. I would separate the calvarium from the fetal – how I would perform the procedure is, I would separate the calvarium from the fetal body, thorax, and then insert the forceps to crush the calvarium to be able to deliver it.

Q. Let me just ask you. Can you describe for us how you get the forceps around the calvarium before crushing it?

A. In a situation where the fetus is delivered up until the calvarium?

Q. That's right.

A. Again, as I testified, I would separate the calvarium from the fetus, so ~

Q. Let me stop you right there. How would you separate the calvarium from the fetus?

A. Under direct visualization, I would use, seeing outside of the cervix within the vagina that I can see directly, I would use scissors to cut the neck and separate the – I am not in the uterus, I am in the vagina, separating the fetal calvarium from the fetal body.

DAY FIVE: Friday, April 2, 2004.

Excerpts from direct examination of Dr. Carolyn Westhoff:

THE COURT: I want to know whether that woman knows that you are going to take a pair of scissors and insert them into the base of the skull of her baby, of her fetus. Do you tell her?

THE WITNESS: I do not usually tell patients specific details of the operative approach. I'm completely –

THE COURT: Do you tell her that you are going to then, ultimately, suck the brain out of the skull?

THE WITNESS: In all of our D&E's the head is collapsed or crushed and the brains are definitely out of the skull but those are –

THE COURT: Do you tell them that?

THE WITNESS: Those are details that would be distressing to my patients and would not – information about that is not directly relevant to their safety.

THE COURT: Don't – whether it's relative to their safety or not don't you think it's since they're giving authorization to you to do this act that they should know precisely what you're going to do?

*THE WITNESS: That's actually not the practice I have of discussing surgical cases with patients.*

*THE COURT: I didn't ask you that. I said don't you think they ought to know?*

*THE WITNESS: No, sir, I don't.*

*Q. Do you tell a woman who is considering a D&E that the fetal arms, legs, extremities may be dismembered is in the course of a dismemberment variation D&E, Dr. Westhoff?*

*A. I tell patients that we will remove all of the fetus and the uterus and membrane, the placenta and membranes from the uterus as safely as possible and that that proceeds somewhat differently for all patients.*

~

*Q. How often will it be necessary to collapse the fetal skull during D&E whether the D&E proceeds by a dismemberment or more relatively intact, Doctor?*

*A. For the vast majority of D&E's [] be necessary it either crush or collapse the fetal skull.*

*THE COURT: Do you tell the woman that? Do you use the word crush?*

*THE WITNESS: Your Honor, I do not.*

*THE COURT: I didn't think so.*

Despite this candid acknowledgment of the horror of this procedure, and despite the obvious judicial repulsion at the medical callousness displayed, in each case, the restrictions on the procedure were deemed “unconstitutional.”<sup>100</sup> Something more than the facts are operating.<sup>101</sup> This

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100 Partial Birth Abortion Ban Act of 2003. Pub.L. 108-105, § 1, 117 Stat. 1201 codified at 18 U.S.C. § 1531 (Nov. 5, 2003) held unconstitutional by *Carhart v. Ashcroft*, 331 F.Supp.2d 805 (D. Neb. 2004) (approx. 195 pages with detailed factual findings) *aff'd Carhart v. Gonzales*, 413 F.3d 791 (8th Cir. 2005) *petition for cert. filed* (U.S. Sept. 23, 2005)(No. 05-380); *National Abortion Federation v. Ashcroft*, 330 F.Supp.2d 436 (S.D.N.Y. 2004); *Planned Parenthood Federation of America v. Ashcroft*, 320 F.Supp.2d 957 (N.D. Cal. 2004); see also, *Partial-Birth Abortion: A Clash of Worldviews*, Bill Haynes, Senior Policy Analyst for Cultural & Worldview Studies American Center for Law & Justice, (2005) <http://www.aclj.org/Issues/Resources/Document.aspx?ID=443> (accessed on 27 December 2005).

101 Not insignificantly, a joint statement issued on 13 December, 2005 by leading abortion providers, National Abortion Federation, Center for Reproductive Rights, Planned Parenthood Association of America and ACLU Reproductive Freedom Project, urges the Reporter of the United States Supreme Court to avoid using the following language in describing this gruesome procedure: “partial birth abortion,” and “late term abortion.” This statement urges the Reporter to instead use this terminology: “first federal ban on abortion.” The Left understands that words have meanings, and in the spirit of Psalm 2 and Romans 1:18, these abortionists “take

is a war of worldviews and must, if it is to be won, be fought in terms of worldview: metaphysics, epistemology, and ethics.

#### 4.1.5 *The role of law and antithetical engagement*

How then should the law utilize these realities? What is the law's role in cultural engagement? The law is the mechanism within the civil order for bringing conflict – litigation – and for the Christian advocate – this conflict serves redemption. Absent such conflicts, there can be no cultural redemption. Why? Because it is through conflict that redemption is established:

Indeed, under the law almost everything is purified with blood, and without the shedding of blood there is no forgiveness of sins (Hebrews 9:22).

Because blood has been shed by Christ, culturally the Christian eschews bloodshed, and yet, the *application* of that shed blood requires cultural conflict – litigating key cultural issues in the public square. As Dr. John Piper remarked: “Christianity is war.” (Piper, 2004:103). Accordingly the task of the Christian, individually, corporately, and publicly, is to ***do damage to evil***:

The individual believer has a comprehensive task. **His is the task of exterminating evil from the whole universe.** He must begin this program in himself. As a king reinstated, it is his first battle to fight sin within his own heart. This will remain his first battle till his dying day.

We must go one step further. **It is our duty not only to seek to destroy evil in ourselves and in our fellow Christians, but it is our further duty to seek to destroy evil in our fellow man . . .**

Still further we must note that **our task** with respect to the destruction of **evil is not done if we have sought to fight sin itself everywhere we see it. We have the further obligation to destroy the consequences of sin in this world as far as we can . . .** (van Til, 1980:86-87).

How is this to be done? Again, the Christian approach to law is not to coercively impose some ecclesiocracy.<sup>102</sup> Rather, Christians wield a sword

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counsel together,” and intentionally seek “by their unrighteousness” to “suppress the truth.” (Romans 1:18), <http://www.usnewswire.com/>, (accessed on 14 December, 2005). “Let God be true though every one were a liar.” (Romans 3:4).

102 The Bible clearly teaches a sense of separation between church and state – Saul, Jeroboam and Uzziah were kings, not priests, and when they sought to encroach upon the role of the priests, trouble ensued. (1 Samuel 13:9-15; 1 Kings 12:32-13:5; 1 Chronicles 26:16-21). For a detailed discussion of this separation principle, see, Greg L. Bahnsen, *Theonomy in Christian Ethics*, 3rd Edition (Nacogdoches, TX:

of righteousness in the legal arena, and therefore, attorneys are essential to this antithetical battle. As one theologian noted:

[The legal] profession must have fearful influence in forming the moral opinions of the community. **The concern which the country has in their professional integrity, and in their righteous and truthful exercise** of these vast powers, is analogous to that which the church has in the orthodoxy of her ministers. Nor are these influences of the legal profession limited to things secular; for the domains of morals and religion so intermingle that the moral condition of a people, as to the duties of righteousness between man and man, greatly influence their state towards God. It may well be doubted whether **an acute and unprincipled bar does not do more to corrupt and ruin many communities than the pulpit does to sanctify and save them.** (Dabney, 1980:2)

Simply put: bad lawyers do more damage to a culture than good pastors and priests do good. Thus, attorneys, (and the lawsuits they prosecute) are an essential means by which Christ's relevancy to culture is advanced. To avoid litigation, to scamper from conflict, not only stifles redemption<sup>103</sup>, but also undermines the epistemic and ethical lordship claims of Christ:

Christian faith is either relevant to all of life or it is relevant to none of it: the claims of God are either total, or He is not God. To ask Christianity to stay in its own territory is to ask it to stay in all of life (Rushdoony, 1970:178).

And, this necessarily includes the courtroom in general, as well as addressing abortion in particular.

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Covenant Media Press, 1978, [2002]), 389-419. Yet, this does not mean that religion ought to be censored or eliminated from the public square. And certainly, under the proper historical and textual understanding of the U.S. Constitution, religion, especially the Christian religion, should not only be tolerated, but should be a most welcomed participant in the public square. See, Daniel L. Dreisbach, *Thomas Jefferson and the Wall of Separation between Church and State*, (NYU Press: NY, 2002); and Philip Hamburger, *Separation of Church and State*, (Harvard University Press: Cambridge, MA; 2002). Justice Frankfurter lamented the uncritical growth of this "wall of separation" metaphor when commenting, "A phrase begins life as a literary expression; its felicity lead to its lazy repetition; and repetition soon establishes it as a legal formula, indiscriminatingly [sic] used to express different and sometimes contradictory ideas." Daniel L. Dreisbach, cited and quoted in Alan Sears & Craig Osten, *ACLU vs America*, (Nashville, TN: Broadman & Holman: 2005), Daniel L. Driesbach, appendix 3, 216. See also, Jeffery J. Ventrella, "What's God Got to Do With It? The Prima Facie Propriety of Public Religious Expression" (forthcoming 2006, *Thomas M. Cooley Law Review*).

103 See Romans 1:25; 2 Corinthians 10:3-5; 10:5; Psalm 2:1-3 as well as text accompanying notes 81-86, *supra*.

#### **4.2 Transformational incrementalism: the nature and character of principled cultural change**

Scripture, as shown, describes an historical conflict, the antithesis. That conflict is God-initiated and serves redemption in history. Moreover, Scripture also pictures the implications of God having crushed the serpent. The implications of this victory in principle set forth the nature and character of principled culture change. First, progressive change, that is, conflict serving redemption, occurs antithetically.<sup>104</sup> Second, change occurs *progressively*:

For to us a child is born, to us a son is given; and the government shall be upon his shoulder, and his name shall be called Wonderful Counselor, Mighty God, Everlasting Father, Prince of Peace.<sup>7</sup> *Of the increase of his government and of peace there will be no end*, on the throne of David and over his kingdom, to *establish it* and to *uphold it* with *justice* and with *righteousness* from this time forth and forevermore. *The zeal of the LORD of hosts will do this.* (Isaiah 9:6-7).

Third, Christ's victory produces a *dominantly Christian culture* at some point:

They shall not hurt or destroy in all my holy mountain; *for the earth shall be full of the knowledge of the LORD as the waters cover the sea* (Isaiah 11:9).

Fourth, this victory occurs incrementally. This is typified in the conquest of Canaan:

The LORD your God will clear away these nations before *you little by little*. *You may not make an end of them at once*, lest the wild beasts grow too numerous for you. <sup>23</sup>But the LORD your God will give them over to you and throw them into great confusion, until they are destroyed (Deuteronomy 7:22-23).

This incremental advancement can be seen in other patterns as well: the Abrahamic promises speak of nearly boundless stars and sand on expansive sea shores<sup>105</sup>; the psalms speak of entire nations being Messiah's inheritance and that all kings would serve him<sup>106</sup>; and Daniel prophetically

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104 Genesis 3:15. Also see Romans 1:25; 2 Corinthians 10:3-5; 10:5; Psalm 2:1-3; 2:10-12; and Isaiah 59:15; as well as the text accompanying notes 81-101, *supra*; especially, notes 102-103, *supra*; as well as Hebrews 9:22; Piper, 2004:103; Van Til, 1980:86-87; Dabney, 1980:2; Rushdoony, 1970:178.

105 See, for example, Genesis 26:4 and Exodus 32:13.

106 See, for example, Psalms 2 and 72.

describes a succession of kingdoms, the last of which, a supernatural kingdom<sup>107</sup>, that expands and supersedes its precursors<sup>108</sup>.

This same imagery is used by Messiah when He describes the Kingdom. Jesus in a series of Kingdom parables notes that the Kingdom is like a wheat field – tares exist, but the field, which is the world, is a wheat field (Matthew 13:38). Moreover, the Kingdom will display, over time, *quantitative* growth<sup>109</sup> as well as *qualitative* growth.<sup>110</sup> And, energizing this progressive expectation is prayer, prayer commissioned by Christ Himself that ought to seek God’s will being done – on earth – as it is heaven (Matthew 6:10). Though the battle is God-initiated, supernatural, spiritual, and borne on prayer, this battle does occur – and can only occur – in history. Abortion takes the life of innocents in history. Accordingly, engagement must occur in history and must not simply produce activity, but effectiveness.

### **4.3 Strategic engagement: a tri-perspectival methodology**

Because cultural change is systemic, any strategic methodology for effecting change ought to account for a full-orbed view of reality. Merely altering legal standards – political salvationism – without more, will not suffice. This is because truth is tri-perspectival, that is, reality can be apprehended from a number of complementary perspectives.

#### **4.3.1 Perspectives About Perspectives**

For example, consider a baseball game<sup>111</sup>. Baseball is played at a particular venue, usually a stadium. Now, a spectator can view the game from behind home plate, or from the third base line, or from the right field “bleacher seats.” Yet, he or she will see the same game – but from different perspectives. But there is more. In baseball, three complementary perspectives inform the batter: What’s the sign? What’s the count? And,

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107 “A stone was cut out by no human hand . . .” (Daniel 2:34).

108 “But that stone that struck the image became a great mountain and filled the whole earth.” (Daniel 2:35).

109 He put another parable before them, saying: “The kingdom of heaven is like a grain of mustard seed that a man took and sowed in his field. [32] It is the smallest of all seeds, but when it has grown it is larger than all the garden plants and becomes a tree, so that the birds of the air come and make nests in its branches.” (Matthew 13:31-32).

110 He told them another parable: “The kingdom of heaven is like leaven that a woman took and hid in three measures of flour, till it was all leavened.” (Matthew 13:33).

111 For those more familiar with cricket, the analogy still applies.

where's my bat?<sup>112</sup> These perspectives convey necessary aspects of the task of batting: the Norm or Rule; the Situation; and the Personal. Absent any one of these considerations and batting cannot be fully understood in the game of baseball. The same holds true when living in God's created world. Jesus taught: "Sanctify them in the truth; your word is truth" (John 17:17). Here, Jesus indicates that a norm, an incorruptible, immutable standard exists: adultery is wrong; theft is wrong; lying is wrong, murder, including abortion, is wrong. But, norms must be applied; they cannot and do not exist abstractly. As Dr. John Frame explained:

*The law was designed to be used in the world. God revealed His law to be used, to be applied to the situations of human life.* To use law, some knowledge of the world is necessary... No matter how elaborate a linguistic explanation is, it is always the responsibility of the hearer to relate the explanation to the situation in which he is living and thus to understand the language. . . . *Therefore, any law will require knowledge of the world if it is to be properly applied.* (Frame, 1987:66)

And, indeed, the scripture reflects this perspective as well: ". . . [F]aith apart from works is dead" (James 2:26b). The meaning of a norm cannot be fully known until that norm or standard is applied to a particular situation. Is embezzlement theft? What constitutes hearsay? Does one of a myriad of hearsay exceptions apply? Aquinas touches the nub of this point by posing whether an absolute law (standard or norm: The City's gates must be locked) can ever be disobeyed if the situation changes: A City member who has escaped an enemy is fleeing back to the City for refuge.<sup>113</sup> But, there is more. Standards must be applied to situations – by people. And, the status of the person is crucial. Jesus framed this point bluntly: "This people honors me with their lips, but their heart is far from me."<sup>114</sup> Ideas may have consequences<sup>115</sup>, but people change cultures:

Culture is not like some fog that you drive into, over which you had no influence or control. When a culture is a certain kind, **it is always because of the people that are in that culture. This means that cultural change**

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112 In baseball, a "sign" is a coded message to the players regarding an anticipated play; it establishes the norm. The "count" is the tabulation of "balls" and "strikes." Different rules and different strategies pertain depending upon the count, that is, the situation. And, the notion of one's personal bat communicates that persons personally (!) play baseball.

113 Thomas labels this situation as *praeter verba legis*. See Russell Hittinger, *The First Grace*, (Wilmington, Delaware, ISI Books: 2003), 106.

114 Mark 7:6b, alluding to Isaiah 29:13: "And their fear of me [worship] is a commandment taught by men."

115 Richard Weaver, *Ideas Have Consequences*, (Chicago: U. of Chicago Press, 1984).



**always means change in people**, because culture is the people and people shape the culture. (Tripp, 2004:93)

Ignoring this perspective relegates the best law and application to be mere busyness. Rather, cultural change requires the intentional coordination of all three perspectives: Norm, Situation, and Person, or what is deemed in Blackstonian parlance<sup>116</sup>, Orthodoxy, Orthopraxis, and Orthopathos. This structure recurs in many contexts.

As to Missiology, note the articulation of Dr. Dave Harvey:

[T]he best way to create a platform for **truth** [orthodoxy] in the common culture is by authenticating our truth through our **service**, [orthopraxis] and authenticating our truth through our **humility** [orthopathos]. . . . [The unsaved] need to encounter **methods** [orthopraxis] and **motives** [orthopathos] that are as noble as the **message** [orthodoxy] that we're seeking to deliver to them. (Harvey, 2002:6)

Or consider Paul's argument for pursuing evangelism in 1 Corinthians 9: 9-13. In sum:

Though meat sacrificed to idols is nothing, he instructs the Christians to be sensitive to those who are weak, avoiding needless offense (*compassion-existential-orthopathos*). In a Jewish context, he becomes a Jew to the Jews, adapting his approach to the context, though he is liberated from the ceremonial law (*concession-situational-orthopraxis*). Yet, he remains bound under the Law of Christ, the moral imperatives of the faith (*compromise-normative-orthodoxy*).

He employs the triangle "***all for the sake of the gospel, that I may share with them in its blessings.***" Notice his teleological and unobstructed, yet urgent focus: His passion is to "**win more**", "**win Jews**", "**win those under the law**", "**win those outside the law**", "**win the weak**", becoming "***all things to all people***" to "***save some.***"

It is in this context that he urges Christians to **run the race to win, not aimlessly.**<sup>117</sup>

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116 "Blackstone" in this context references the Blackstone Legal Fellowship, an internship for law students sponsored by the Alliance Defense Fund (ADF) and named after Oxford's first Professor of Law, Sir William Blackstone. See, [www.telladf.org](http://www.telladf.org) for details. For an historical and philosophic analysis of Blackstone's continuing legacy, see, Robert Stacey, (Jeffery J. Ventrella, Gen. Ed.), *Sir William Blackstone and the Common Law*, (Eugene, OR: ACW Press, 2003).

117 Jeffrey J. Ventrella, *The Cathedral Builder*, blog entry, 12 April, 2005, [https://www.blackstonefellowship.org/cathedral/2005\\_04\\_10\\_blackstonefellowship\\_archive.html](https://www.blackstonefellowship.org/cathedral/2005_04_10_blackstonefellowship_archive.html), (password protected).

This analytic model is rooted in prelapsarian creation: God is supreme as the Creator, who institutes worship and rest, implying his transcendent normativity – orthodoxy; the natural world exists, in part, to be replenished, subdued, and dominated, implying situational conduct – orthopraxis; and Man is tasked with marriage, procreation and labor, reflecting the personal perspective – orthopathos. And, this model is rooted in Christ, who is the Way – Situation; Truth – Normative; and Life – Personal. This is because Christ’s offices likewise manifest these perspectives: Prophet – Normative; Priest – Personal; and King – Situation.

#### 4.3.2 *Tri-perspectivalism and the Law*

And, this model inheres in law. Consider contract law. What is the essence of contract law? While the “black letter” elements of contract law include offer, acceptance, and consideration, the essence of contract law is vow or promise. Promises are to be enforced. But is every promise enforced? No. The law, in order to enforce a promise, reviews not only the *person* promising, but also considers the situation as well as the *object* of the promise. Accordingly, if assent is garnered by coercion – the *situation* – the contract is *void ab initio*. Similarly, if the person lacks capacity, the contract fails to form. And, if the contract is for an invalid purpose, such as murdering another, the law refuses to enforce such promises, even though offer, acceptance, and consideration exist.<sup>118</sup>

#### 4.3.3 *Strategic tactics to end developmental apartheid*

This analytic model is key tool for fashioning full-orbed effective tactics for ending the destruction of the unborn. What is abortion? Most “pro-choice” people would respond that abortion is “terminating pregnancy;” most “pro-life” people would say that abortion kill babies. But, the reality is this: Women – *personal* – who are pregnant – *situation* – have abortions – *norm*. Abortion as a cultural problem is tri-perspectival and therefore, abortion as a legal issue requires a tri-perspectival remedy. Put differently, this issue will not likely be won by simply focusing on the status of the unborn – as critical as that point is because it is not the only point impacting abortion. What is necessary is a multi-faceted informed approach for ending legal abortion. This can be accomplished as follows:

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118 Legal abortion therefore signals a radical departure from standard notions of commercial law: contracts for illegal purposes, like killing another human, are unenforceable.

### **As to Norm – Orthodoxy**

With this perspective, the legal analysis is straightforward. This perspective focuses on the wrongness of taking innocent life: *Abortion = Women who are pregnant have abortions*. This perspective legally focuses on protecting the innocent life taken by abortion. Efforts advancing this perspective would include: (1) Direct Efforts to Ban Abortion – (a) Constitutional amendments (National), (b) Constitutional amendments (State or Provincial) and (c) Criminal Sanctions regarding abortion or aspects of its administration. (2) Efforts Designed to Protect Speech – (a) Protecting dissent, (b) Protecting interactive protest, (c) Protecting interactive counsel of women seeking abortion and (d) Protecting the promotion of speech offering abortion alternatives.

### **As to Situation – Orthopraxis**

This perspective focuses on abortion from another angle: *Abortion = Women who are pregnant have abortions*. This situational perspective exists and also must be legally addressed. Efforts predicated upon this perspective would include: (1) Clinic Regulation: licensing, health standards, medical standards, reporting standards, (2) Mandatory pre-procedural ultra-sound testing and disclosure, (3) Informed consent that includes not only technical medical data, but also explaining associational risks and correlations of abortion, such as breast cancer, and legal waivers, including explicit description of the waiver of the mother-child parental relationship, (4) Favorable statutes of repose for prosecuting malpractice claims, and (5) Fetal homicide statutes.

### **As to Person – Orthopathos – Women**

Finally, in order to be full-orbed in addressing abortion, another perspective must be legally engaged. With this perspective, the women affected by abortion are addressed: *Abortion = Women who are pregnant have abortions*. Efforts directed toward advancing these particular legal interests as related to abortion would include: (1) Protecting the operation and speech of pregnancy resources centers, (2) Developing mandatory post-abortion care and counsel, and (3) Developing a mechanism, such an escrowed account, funded by the abortion industry designed to provide post-abortion legal restitution for those women who incur post-abortion syndrome, though not rising to the level of medical malpractice.

#### **4.4 Purposeful strategic engagement: recapturing the robes of culture**

Within culture, institutions exist which provide or withhold “approval.” An imprimatur granted to conduct directs the culture to affirm that conduct. Removing an imprimatur stigmatizes the conduct and directs the

culture away from it. Within the West, there exist three institutions which confer approval, each of which traditionally don robes when acting officially: The Clergy; the Judiciary; and the Academy<sup>119</sup>. Or, put differently, legal efforts must be focused so as to affect the confession room, the courtroom and the classroom. The robes serve as gatekeepers for cultural convention. The robes codify stumbled Truth. From where do the aberrations originate in the public square? Is it not from the Academy, the Judiciary, and the Clergy. Once detached from normative standards, these conventions simply serve as signposts for prevailing cultural orthodoxy – and will, left unchecked, mandate the silencing of dissent. As the Church seeks to take Christ into the public square in an effort to steady stumbled Truth, it must direct its best arguments toward the most culturally significant targets: the robes. The Robes must be recaptured. The Clergy with grace and truth must stand against abortion and promote a culture of life; the Academy must teach against abortion and promote a culture of life; and the Judiciary must apply the law that “we can’t not know,” and thereby promote a culture of life – a culture advancing the common good. Developmental apartheid has no place in a culture’s future because it is inherently futureless.

## 5. Conclusion

The Eighteen American Tourists visiting China were not expecting much from the evening’s scheduled lecture. They were already exhausted from a day of touring in Beijing. But what the speaker had to say astonished them. One of the things we were asked to look into was **what accounted for the success**, in fact, **the pre-eminence of the West** all over the world, “he said. “We studied everything we could from the **historical, political, economic, and cultural perspective**. At first, we thought it was because you had **more powerful guns [MIGHT]** than we had. Then we thought it was because you had the **best political system [WISDOM]**. Next we focused on your **economic system [WEALTH]**. **But in the past twenty years, we have realized that the heart of your culture is your religion: Christianity. That is why the West has been so powerful. The Christian moral foundation of social and cultural life was what made possible the emergence of capitalism and then the successful transition to democratic politics. We do not have any doubt about this.**

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119 These traditional robes correlate with the tri-perspectival analytic structure that has been discussed previously. See, John 17:17; James 2:26b; Frame, 1987:66; and Tripp, 2004:93; as well as the text accompanying notes 111-118, *supra*. Briefly put, the Clergy is “personal;” the Judiciary is “situational;” and the Academy is “normative.”

This was not coming from some ultra-conservative think tank in Orange County, California, or from Jerry Falwell's Liberty University in Lynchburg, Virginia. This was a scholar from one of China's premier academic research institutes, *the Chinese Academy of Social Sciences* (CASS) in Beijing, in 2002 (Aikman, 2003:5-6). Note carefully: Here, an officially atheistic and prominent member of the Academy surveys the Western public square. What he finds is astonishing. What do him and his team find? These researchers from communist China, those who are the progeny of the godless "cultural revolution," a revolution that practices and approves forced abortion, see what the West obscures: They learn that where Truth has been steadied in the public squares, there is liberty, vitality, and growth. Why? Why not simply focus on economics, military might, and savvy political strategies?<sup>120</sup> Here is why: They see what the West seems bent on suppressing: That the public square bears the fingerprints of the culture's moral foundation, its objects of worship. Ultimately, cultural matters are not primarily about laws, taxes, programs, or elections; they are about worship. Because, as a culture's worship gains collective traction in the culture, and when practices stemming from that worship become "approved" by the Robes of culture, Truth either stands or stumbles – to the ultimate benefit or detriment of all. Apartheid is obviously stumbled Truth, but not simply as to racial considerations. While abortion's evil can be occluded by legal jargon and slogans about affirming choices, this reality remains: abortion is a choice that fosters developmental apartheid. Apartheid cannot, in the nature of the case, serve the culture's common good. When Christ the Lord is publicly honored as Lord, the common good flourishes – not as an utopia, but as a society where life, liberty, the pursuit of happiness are celebrated – where freedom follows faith, benefiting all. In this culture, every human person – believer and unbeliever – is extended dignity, and that unalienable dignity ought to be legally protected, irrespective of the person's developmental circumstance.

Regarding the *Choice on Termination of Pregnancy Act*, the real choice is clear: It is time to choose to finish business in South Africa; it is time to

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120 Remarkably, this scientist's initial thinking regarding military weaponry, politics, and economics, parallels the prophet's lament: Thus says the Lord: "Let not the wise man boast in his **wisdom**, let not the mighty man boast in his **might**, let not the rich man boast in his **riches**, [24] but let him who boasts boast in this, that he understands and knows me, that I am **the Lord** who **practices steadfast love, justice, and righteousness in the earth**. For in these things I delight, declares the Lord." (Jeremiah 9:23-24)

choose to eliminate all forms of apartheid. It is time by God's grace to stop developmental apartheid. For the common good, there can be no other choice.

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