

Transcending “Life” in the Biblical Protection of the Unborn: Perspectives towards a Jurisprudential Anti-Abortion Apologetic

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Populêre Christelike teenaborsieregslêer wat die konsep van “lewe” oormatig beklemtoon, vereis ernstige heroorweging, nie net omdat ’n verheffing van die konsep van “lewe” ’n eenvoudige wetenskaplike ondersoek (wat uiteindelik diverse uitkomst tot gevolg het) in die weegskaal plaas nie, maar ook dat die idee van die Beeld van God in die proses ontken word. Deur in gedagte te hou dat die Skrif duidelik is omtrent die heiligheid van die ongeborene, asook die feit dat die Beeld van God ook op die ongeborene van toepassing kan wees, word ’n wesenlike element en sin van dringendheid ingebring in ondersteuning van die opposisie tot die euwel van aborsie vanuit ’n Bybelse regsleerhoek. Nie net wakker hierdie artikel opnuut weer die belangrikheid aan van die idee van die Beeld van God onder Christelik-Bybelse (regsleer-) pogings om aborsie teen te staan nie, maar dit verskaf ook regsleerperspektiewe wat dikwels geïgnoreer word, en rig sodoende ’n waarskuwing oor hoe irrasioneel en arbitrêr kontemporêre pro-aborsieregslêer inderdaad is. Dit baan daarom die weg vir ’n effektiewe Bybelse teenaborsieregslêer-apologetiek wat die beperkings van die konsep van “lewe” oortref wat ongelukkig so dikwels kontemporêre Christelike pogings ten opsigte van die beskerming van die aggressiewe aanslag teen die hulpelose ongeborene verteenwoordig.

1. Introduction

Should a Christian jurisprudential approach regarding the validity or invalidity of the death penalty be structured around the rights on human

dignity, life and the opposition to cruel and degrading treatment, or should it proceed from a consideration that murder is an attack on the Image of God? (Or both, and if so, which qualification should be prioritised?) Are homosexual partnerships wrong because they have a negative influence on the family structure and procreation, or because the Bible prohibits them? (Or both, and if so, which qualification should be prioritised?) Is the idea of being human superior to the idea of being God's creatures created in His Image, the measure for emphasising the importance of ourselves? (Or both, and if so, which qualification should be prioritised?) Should a Christian jurisprudential approach regarding the invalidity of abortion only be based upon the right to life of the foetus or also on the Image of God? Regarding the latter enquiry, it is the idea that human society does not define mankind, that is to say, human society is not what makes man human, that necessitates further investigation, because, for the Christian, it is the fact that man is created in the Image of God that makes him human (whereas for the socialist, man is defined by society) (Perks, 1992:42).

In contemporary case law, acceptance of abortion is qualified by the right to life *via*, for example, the popular route of positivism, in which case the inference is that the foetus is not accommodated within the *right to life*; while the counter argument usually applies science to convince that the *right to life* justifies the illegality of abortion. The latter argument is prevalent with regard to Christian participation either *via amicus curiae* briefs or directly in abortion cases. In the United States and Canada, arguments based on science form the cornerstone of the anti-abortion claim that a foetus is a person entitled to legal rights, because these arguments provide what appears to be an objective basis for arguing that a foetus is a *distinct human life* from the moment of fertilisation (Shaffer, 1993-1994:74-75). The emphasis on life, science and the interrelatedness between life and science was also confirmed in the South African High Court judgment of *Christian Lawyers Association of South Africa and others v Minister of Health and others*,¹ in which the plaintiffs sought an order declaring the *Choice on Termination of Pregnancy Act*² unconstitutional and invalid. The plaintiffs pleaded that the "life" of a "human being" commences at conception, and that the *Choice Act* was in

1 1998 (4) SA 1113 (referred to as the CLA judgment).

2 92 of 1996 (referred to as the "Choice Act"). This Act permits abortion on request by a woman during the first 12 weeks of pregnancy; for medical or social reasons in the 13th to the 20th week of pregnancy; and after the 20th week, to save the life of the woman or to prevent the "foetus" being born malformed or injured.

conflict with the “right to life” clause of the *Constitution of South Africa* (Act 108 of 1996)³, because it allows the termination of human life at any stage between conception and birth.⁴ The plaintiffs contended that evidence is admissible and available to establish that a foetus has the right to life.⁵ This is indicative of a strong reliance on science by Christian activism in the public sphere, as convincing argument in opposition to abortion.

How credible is this approach? More specifically, and consequently, the following enquires are made: (1) To what extent is “life” *explained* by Scriptures? (2) Are there factors other than life, upon which the Christian must rely regarding opposition to abortion?⁶; and (3) What constitutes a diligent approach to Christian jurisprudential abortion apologetics?

2. The problem presented

According to Hauerwas, when people start talking about abortion, the first thing they discuss is “when *life* begins”. This is because people think that the abortion issue is determined primarily by the claims that *life* is sacred (Hauerwas, 1991:13). This implies that the reliance on life in order to oppose abortion could be that “life” is perceived as a “common measure”. The problem of discourse between persons of disparate views merges as the problems of presupposition and common ground. How does one get beyond a basic conflict in presuppositions? The answer is to find some common ground: “a principle neutral in the sense that all participants will accept it as a criterion of either the true, the good, or both” (Smolin, 1987-1988:360). In abortion jurisprudence, opposition to abortion relies in many instances on “life” as this “principle neutral in the sense that all participants will accept it as a criterion of either, the true, the good, or both”. However, this reliance on or search for a “neutral” or “common” principle is not credible. The facts of science are understood differently by Christians and non-Christians so that they are not neutral (Pratt, 1979:59-60).

3 Section 11, which states: “Everyone has the right to life”.

4 The High Court rejected the challenge on the basis that the word “everyone” excludes a “foetus”.

5 At 1117D-E. “Counsel mentioned expert evidence on when the life of a human being starts and the subsequent development of the foetus within the womb of a mother, as well as evidence on various aspects of reproduction, as examples of the testimony which the plaintiffs propose to adduce” at 1117F-G.

6 What about the fact that human beings are made in the Image of God? (Gen. 1:26-27; 5:1; 9:6; 1 Cor. 11:7; and James 3:9 – The New King James Version).

7 The author’s emphasis.

Carter states that what has become commonplace in liberal theory is that actions must be justified according to principles that are accessible, through dialogue, to *all* citizens. Many seem to agree on the need for the development of a mediating language in order to facilitate a conversation open on the same terms to all citizens. In liberal theory, the argument that society should do *X because God wills it* is not merely wrong in the sense that it is insufficiently justified – it is, literally, incomprehensible (Carter, 2002:14). Of serious concern is the impact this has on Christian debate (and apologetics). According to Hauerwas, the more theologians seek to find the means to translate theological convictions into terms acceptable to the non-believer, the more they substantiate the view that theology has little of importance to say in the area of ethics (Hauerwas, 2001:69). Christian ethicists assumed that a coherent morality required a *single* primary principle from which all others could be derived or tested (Hauerwas, 2001:71). The need for common ground in ethical debate in contemporary society is so extreme, that a religious view (in the traditional sense) that wants to be included, will inevitably be transformed into secular axiomatic concepts of convincing, which could have dire consequences to the original religious view. Voyé comments that the Church⁸ is becoming more and more undifferentiated from other religious and agnostic or atheistic perspectives. This is as a result of the Church's attempt at proclaiming a general ethical message at the expense of a dogmatic message (Voyé, 1999:287) – “Instead of speaking of ‘the laws of God’, ‘the rules of the church’, more and more frequently representatives of the Catholic Church refer to ‘human rights’ and to ‘human values’, without mentioning a specific doctrinal background” (Voyé, 1999:278).

According to Carter, if the language of public debate must be secular, religious citizens are required to “bracket” their religious selves, leaving behind, before entering the public square, the very aspect of personality that lends meaning to their lives. The idea that religious citizens must remake themselves before joining debate might have an abstract logical appeal, but in practice it simply represents another form of official pressure on the religious to be less than their full selves (Carter, 2002:17-18). Christian ethicists think that, if they wish to remain political actors, they must translate their convictions into a non-theological idiom (Hauerwas, 2001:68). To assume that people should discuss public policy based on shared moral premises is to assume that all worldviews share

8 Although Voyé is specifically referring to the Catholic Church, one could say that this comment is applicable to churches in the wider context as well.

basic moral premises (Niles, 2003:576). Bahnsen states that people are often led to believe that all distinctly Christian commitments need to be put aside when research is done in an area which is not directly related to matters of Sunday worship (Bahnsen, 1996:3).

According to Bahnsen, those who wish to gain dignity in the eyes of the world's intellectuals by being "neutral" only do so at the expense of refusing to be *set apart* by God's truth (Bahnsen, 1996:7). The attempt by many churchmen to synthesise Christian commitment with humanistic or secular perspectives in philosophy and the sciences, is contrary to Scripture's own self-witness as God's inspired and infallible Word (Bahnsen, 1978:14). This synthesis of Christian commitment with secular perspectives leans strongly towards rationalistic humanism, and in fact, this tendency can be attributed to the strong influence of rationalistic humanism in contemporary ethical debate. With the rise of rationalistic humanism and its claim to scientific method, many have concluded that the gospel is no longer intellectually defensible, at least the kind of gospel held in Scriptures as the infallible word of the living God and the supreme and binding authority in all matters of belief and conduct (Perks, 1992:30-31). Rationalism has constructed a faith-reason dichotomy between the Christian religion and so-called scientific or empirical truth (Perks, 1992:31).

Budziszewski states that the Enlightenment rejected the former balanced view which postulated that God's revelations in the Bible and in creation had been thought to work together – the natural law being presupposed by and illuminated by the divine. According to the Enlightenment, philosophers who proposed the autonomy of reason rejected this balanced view, believing that the natural law stands by itself, and that divine law is superstitious nonsense (2006:57). According to Perks, our task must be to rebuild a consistent theology in terms of that principle of *sola Scriptura* to the contemporary world, hereby releasing the command word of God into the life of the church and into the world (Perks, 1992:31-32). Christian jurisprudential, ethical and moral debate must begin from its own starting place – according to its own presuppositional point of departure (principle), which is the Gospel of Jesus Christ (Banner, 1998:22-23).

What is this presuppositional point of departure regarding a biblically based opposition to abortion? This enquiry has serious implications

9 Also see Bahnsen, 1996:17-18 – "... 'It is Christ as God who speaks in the Bible. Therefore, the Bible does not appeal to human reason as ultimate in order to justify what it says...'" Also see Bahnsen, 1978:15, 22-23, 84, 106-107.

regarding the relevance and application of the concept of "life" (a popular concept in abortion jurisprudence, even from Christian approaches) in Christian (biblically-based) anti-abortion jurisprudence. In this regard, the risk pertaining to a purely scientific approach due to the "life" factor is emphasised. Not only is an infatuation with only the "life" concept questionable against the background of a biblical anti-abortion apologetic but it also tempts the debate into a secular rationale where science becomes the only aid, and a poor aid at that, because it is impossible for science to indicate the commencement of life (says the secularist and rightly so).¹⁰

This question as to what life is, is not so simple, whether it concerns debate in secular or Christian circles. In the words of Durand: "Any rational scientist who places a sample of fresh semen under a microscope will acknowledge that life begins before conception as sperm cells are clearly alive and active prior to fertilization".¹¹ Does the concept of life not also pertain to cells, animals, and biological organisms? In other words, how useful is the argument regarding life as qualification for the protection of the unborn? What is more, a Christian anti-abortion apologetic which relies solely on life from a scientific point of view, exposes itself to a range of counter arguments which lead to both circular reasoning and unexplainable axioms of departure. In fact, by relying solely on science in the determination of foetal status, one becomes a prisoner to scientific naturalism which defines man in terms of physical and biological functions, "stripping man of his specifically human qualities as a person (Taylor, 1966:272). Consequently, we find a reduction of man to the level of nature, regarding man as a mere object, as "nothing" but a part of nature (Taylor, 1966:272). The human body is in fact a complicated total structure in which different structures of individuality are intertwined, and consisting of the following structures: (1) physically qualified structures of the building-blocks of the body; (2) the biotically qualified structure of the living organism (here the auto-

10 In addition, the concept of life can have further meaning, for example, it can be associated with (1) the basic processes of energy utilisation, maintenance of structure and information, reproduction, and evolution that are shared by all living things; (2) biolife in the context of the individual cell; (3) the cerebral functioning that gives rise to consciousness; and (4) the region between a person's ears (but lying far beyond the level of any individual nerve cell) (Jordaan, 2005:241).

11 Durand, Michiel, "Zera – A Necessary Concept in the Discussion of Abortion", paper delivered at the Colloquium on Legal Ethics, University of the Free State, Faculty of Law, 17-18 March 2006.

nervous system regulating the organic functioning plays an important role); (3) the physically qualified structure of the animal nervous system; and (4) the act-structure of the human body which comprehends the above-psychical normative functions as knowledge, imagination and willing (Taylor, 1966:270-271).

Bearing the above in mind, it is important to make a thorough biblically qualified investigation regarding, amongst other things, the nature of “life” and whether “life” is the only measure to be applied in debate regarding opposition to abortion from a biblical-jurisprudential perspective. A biblical abortion apologetic that is not based on a clarification of foundational concepts such as that of “life” is left wanting.

3. The Image of God

What is the Biblical relevance of “life” in the jurisprudential quest to oppose abortion? What does Scripture say is “life”? Although there are numerous references to “life” in Scripture¹², the meaning given by Scripture regarding what precisely is meant by “life” when attempting to determine the unborn’s relationship to “life”, remains vague.¹³ In addition, there are some Scriptural references that are on the periphery regarding an overlap between the foetus and life. For example, Genesis 2:7¹⁴ and

12 See Gen. 2:9; 3:22; Ex. 21:23; 21: 30; Job 33:30; Ps. 72:14; 119:50; Prov. 2:19; 3:18; 3:22; 8:35; 15:24; 29:24; Eccl. 7:12; Is. 38:12, 15-19; Jer. 39:18; Luke 12:15; John 1:4; 5:21, 24, 26, 40; 3:36; 6:33-35, 47, 54, 63; 8:12; 10:15; 11:25; Rom. 4:17; 2 Cor. 4:10; Col. 3:3; 1 Tim. 6:13; 2 Pet. 1:3; 1 John 1:2; 1 John 2:16; 3:14; 5:11-12; Rev. 21:27; 22:14; 22:17; 22:19. “Life” in many of these texts refers to an “eternal” aspect, see: Prov. 8:35; Ps. 119:50; John 1:4; 3:36; 5:21, 24, 26, 40; 6:47, 54, 63; 8:12; 1 John 1:2; 3:14; 5:11-12; 6:33-35; Rev. 21:27; 22:14; 22:17; 22:19.

13 This is not altogether true in the sense that there are biblical references which point at the possibility of life referring to our physical existence on earth as contrasted to death (in the context of the end of our physical existence on earth), see Num. 4:19; 35:31; Deut. 19:21; 30:15; Jer. 21:8. In this regard, a valid argument can be made regarding the fact that “life” can be relevant to the unborn. There are also biblical references to “life” *per se* which have the potential to refer to life in the context of our existence on earth, see Job 10:12; 12:10; 27:8; Jer. 39:18; Matt. 6:25; 12:23; John 13:38; 1 Cor. 6:3; Gal. 2:20; and James 4:14, which also can give rise to a valid argument that “life” can be relevant to the unborn. Both of these contexts of references to “life” gain added meaning and relevance when taking the classical “conception” references in the Bible into consideration, namely: Gen. 4:1; Job 3:3; 10:8-12; Ps. 51:5-6; 139:13-16 and Jer. 1:5.

14 “And the Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living being”. According to Berkhof, Gen. 2:7 makes a clear distinction between the origin of the body and that of the soul: “The body was formed out of the dust of the ground; in the production of it God made use of pre-existing material. In the creation of the soul, however, there was no fashioning of pre-existing materials, but the production of a new substance. The soul of man was

Leviticus 17:11.¹⁵ Be that as it may, the "Image of God" perspective regarding insight into the concept of "man" (or being human) requires emphasis.

According to Berkhouer, the general judgment of theologians has been that the Bible gives us no scientific teaching on man, no anthropology, which should or could concur with scientific anthropological research on man in the many aspects of his existence or with philosophic anthropology (Berkhouer, 1962:194-195). Berkhof states that, according to Scripture, the essence of man consists in this, that he is the Image of God. Therefore, he is distinguished from all other creatures and stands supreme as the head

a new production of God in the strict sense of the word..." In these simple words the twofold nature of man is clearly asserted, and their teaching is corroborated by other passages of Scripture, such as, Eccl. 12:7; Matt. 10:28; Luke 8:55; 2 Cor. 5:1-8; Phil. 1:22-24; Heb. 12:9. The two elements are the *body* and the *breath* or spirit of life breathed into it by God, and by the combination of the two, man became a 'living soul', which means in this connection simply 'a living being' (Berkhof, 1958:183). However, it would be difficult to try and prove or disprove the inclusion of the foetus into the category of "life" regarding the requirements of *body* and *breath*. According to Berkhof, Hebrew has no word for "body" as an organism (Berkhof, 1958:193), which makes it difficult to provide a link between foetus, body, organism and life. Regarding the requirement of breath, Davis states that it has been pointed out that there is a significant connection in Old Testament thought between life and *breath* (*ruach; neshamah*), and that this connection may be observed in texts such as Gen. 6:17; Job 33:4; 34:14-15; Hab. 2:19; Zechariah 12:1; and Ps. 104:29-30. Regarding "breathing", Davis comments that the intention of texts such as Ps. 104:29-30, was not to describe the physiological details of prenatal development or to provide the basis of value judgments about prenatal life. The ancient Hebrews had only the most rudimentary knowledge of human physiology, and knew little or nothing of the respiratory system; the word for "lung" does not even occur in the Old Testament (Davis, 1984:101). On the other hand, the concept of "human being" is viewed by some as giving meaning via the word "nephesh" (the breathing one) (Beckwith, 2001:28). Ethicist John Swomley agrees with this, commenting that Genesis 2:7 qualifies human life as a result of birth (Beckwith, 2001:28).

- 15 " '... For the life of the flesh is in the blood, and I have given it to you upon the altar to make atonement for your souls: for it is the blood that makes atonement for the soul'. " In this text, blood is indicative of life, and therefore, the foetus, having blood, signifies life. In this regard, Frame states that the blood of even subhuman living creatures had a special preciousness in the Old Testament period. In the ordinances of Leviticus 17:11 and 17:14, God required of His people a careful regard for the lives of all of His creatures, even those whose lives were to be sacrificed to meet the needs of man. Man's dominion over living creatures is even more explicitly limited in Scripture than is his dominion over the inanimate world, Frame, 1988:89. The "blood" requirement in fact also has a connection to the Image of God and not to life in Gen. 9:6. Davis comments that a literalistic hermeneutic of Gen. 9:4 regarding a connection between life and blood, might lead one to conclude that blood transfusions are prohibited by the Bible – a conclusion actually drawn by Jehovah's Witnesses (Davis, 1984:102).

and crown of the entire creation (Berkhof, 1958:205).¹⁶ The essence of man is therefore completely separated from the requirement of “life” as the essence of man. Scripture does not define the Image of God in terms of specific qualities or abilities: rather, Scripture teaches that *human beings as such* are individually created in God’s Image¹⁷, and that a “human being” is anyone who belongs to the race of Adam and therefore bears God’s Image¹⁸. Therefore, even in Reformed circles the concept of life needs to be approached with care. For example, Frame’s statement that the use of science as absolute qualification for determining whether the unborn child is less than a human person from the point of fertilisation (Frame, 1988:103), still begs the question as to what precisely is meant by “human person”. Another example is Davis, who states that a Christian ethic of abortion must be firmly grounded in biblical principles, such as the sanctity of human life created in God’s image and likeness (Davis, 1984:35). Although Davis hints at placing the measure for opposition to abortion on “God’s Image and likeness”, it is not necessarily correct to refer to “the sanctity of *‘human life’* created in God’s Image and likeness”, because “human life” is not, according to Scriptures, the essence of man, nor is it clearly defined in Scriptures.

Davis states that the biblical doctrine of the *imago* is primarily a *relational one*: Man, as *imago Dei*, possessing inalienable dignity and worth, is to be understood not primarily in terms of innate capacities or faculties (whether intellectual, moral, or spiritual) but in terms of his unique relationship to his transcendent Creator and covenant Lord: “It is not intrinsic powers of speech, imagination, and rational thought that lend transcendent worth to human nature, but man’s unique calling to live in loving fellowship with the triune God for all eternity” (Davis, 1984:36-37). In this regard, it can therefore be said that it is not the number of chromosomes, organs, limbs, and/or a nervous system that lend importance to the determination as to the presence of man or being human. Rushdoony places the emphasis on the meaning of man in the context of God’s creation and calling. The answer to the question: “What is man?” is a question raised by Scripture itself (Ps. 8:4). The point of Psalm 8 is that man is that creature made by God to exercise dominion over the earth under God (Rushdoony, 1994:903).¹⁹ According to Rushdoony, to define man beyond His creation and calling is to wander into

16 Also see Berkhouer, 1992:36-37.

17 Genesis 1:26-27; 5:1; 9:6; 1 Cor. 11:7; James 3:9.

18 See Gen. 5:1-3ff.

19 See Gen. 1:28; Ps. 8:6.

an endless morass: "God did not create man so that man might study and understand himself but rather that man might serve and glorify God. The surest definition of man, is his calling" (Rushdoony, 1994:903).

Berkhouer states that the actualities of man's humanness are not described neutrally and objectively, but always in their unbreakable relationship with the divine "Thou".²⁰ Berkhouer adds that Psalm 139 is completely concerned with man, primarily in and through this "vertical" dimension: God's miracle, His eyes, His book, His nearness, His knowledge and searching.²¹ According to Berkhouer, man, without this relation, cannot exist, he is a phantom, a creation of abstracting thought, which is no longer conscious of the relationships, the basic actuality, of humaneness, which concerns itself with that which can never exist: man in himself, in isolation. This man, now, in the impossibility of his being isolated and independent, is the whole man (Berkhouer, 1962:197-198).

Complications do arise regarding the true substance in terms of the Image of God.²² Emanating from this debate is the issue whether the "body" forms part of the "Image of God".²³ This implies that even if the body is accepted as being part of the Image of God (hereby making a scientific

20 See Ps. 139:13016; Job 10:8-12. See Herman Dooyeweerd's support of this view, Taylor, 1966:270-273.

21 See Ps. 139:5-6.

22 Berkhouer comments that in an examination of the Biblical witness regarding man, it is soon discovered that it never provides any kind of systematic theory about man as the Image of God. Berkhouer adds that although this term is far less "central" in the Bible than it has been in the history of Christian thought, this apparent discrepancy vanishes when we note that Scripture's references to the Image of God, have a special urgency and importance (Berkhouer, 1962:67). However, Berkhouer asks: "Is not the content of the image of God an unfathomable mystery for us?" (Berkhouer, 1962:74). Attempts to understand the riddle of the Image of God have produced numerous proposed solutions, many of them not depending primarily on certain Scriptural passages, and that these attempts can hardly be said to arouse much confidence (Berkhouer, 1962:74). The scope of God's Image in humanity is not specified in Genesis 1:26-27. Berkhouer also emphasises the complexities coupled to what precisely is meant by the "Image of God", (1962:35-36); and speaks of the Bible not having any kind of systematic theory about man as the Image of God (1962:67). Also see Berkhouer (1992:74). According to Davis, centuries have produced a wide range of interpretations of the image (*tselem*) and likeness (*demuth*) of God in man. These interpretations have generally focused on features of man's consciousness as the seat of the *imago Dei*: man's intellectual, moral, and spiritual capacities. Davis comments that this view is one-sided in light of the biblical data and reflects the influence of a Greek understanding of human nature (Davis, 1984:36).

23 Sproul (Sproul *et al.*, 1995:9) comments that the context of the passage (Genesis 1:26-27) helps to define the Image of God, which, *inter alia*, refers to the *human body* as the means through which we experience reality, express ourselves and exercise

investigation into the “bodily status” of the “foetus” relevant) – which is difficult to prove – the body will remain only part of the qualification and therefore not of much importance regarding the scientific approach to explaining foetal status. To complicate matters, there is the view that, according to Genesis 1:27, man and woman together, form the Image of God – not man alone, or woman alone (Budziszewski, 2006:24).

Bearing the above in mind, it will be rather problematic to determine the point of establishment of the Image of God. It is also clear that the Image of God does not correlate with scientific demands. However, the Image of God requires renewed emphasis in anti-abortion jurisprudential debate from a Christian point of view. Viewing the unborn as implicated in the Image of God provides the Christian with an added sense of seriousness and urgency regarding the protection of the unborn. Although there might therefore be difficulty in determining when the Image of God is established (as clarified by the discussion regarding an understanding of the Image of God), the fact remains that there are biblical texts indicative of (1) some or other *possible* relationship with the point of establishment of the Image of God and/or (2) the mere sacredness of the unborn (which may also implicate “life”) from the time of conception, namely:

Genesis 4:1 reads:

Now Adam knew Eve his wife; and she conceived, and bore Cain, and said, ‘I have gotten a man from the Lord’.

Job 3:3 reads:

May the day perish on which I was born, and the night in which it was said, ‘A male child is conceived’.

Job 10:8-12 reads:

Your hands have made me and fashioned me, an intricate unity; yet You would destroy me.⁸ Remember, I pray, that

dominion (also see confirmation of this in Berkhof, 1958:205). But is this so simple? Berkhouer speaks of an increasing reluctance to exclude man’s body from the Image of God (Berkhouer, 1992:75), and comments that Scripture never makes a distinction between man’s spiritual and bodily attributes in order to limit the Image of God to the spiritual (Berkhouer, 1992:77). Van Rad would not rule out man’s body as *part* of the image in man. In fact, he thinks that the idea of the image sets out from corporeality as something *visible*. Berkhouer comments that there has been increasing reluctance to exclude man’s body from the image of God (Berkhouer, 1962:75). According to Bavinck, the body is *part* of the image, while Berkhouer comments that Scripture never makes a distinction between man’s spiritual and bodily attributes in order to limit the Image of God to the spiritual, as furnishing the only possible analogy between man and God (Berkhouer, 1962:77).

You have made me like clay. And will You turn me into dust again?⁹ Did You not pour me out like milk, and curdle me like cheese,¹⁰ clothe me with skin and flesh, and knit me together with bones and sinews?¹¹ You have granted me life and favor, and Your care has preserved my spirit.¹²

Psalm 51:5 reads:

Behold I was brought forth in iniquity, And in sin my mother conceived me.²⁴

Psalm 51:6 reads:

Behold, You desire truth in the inward parts: And in the hidden part You will make me to know wisdom.²⁵

Psalm 139:13-16 reads:

For You have formed my inward parts; You have covered me in my mother's womb.¹³ I will praise You, for I am fearfully and wonderfully made; marvellous are Your works; and that my soul knows very well.¹⁴ My frame was not hidden from You, When I was made in secret, And skillfully wrought in the lowest parts of the earth.¹⁵ Your eyes saw my substance, being yet unformed. And in Your book they all were written, The days fashioned for me, When as yet there were none of them.¹⁶

Jeremiah 1:5 reads:

Before I formed you in the womb I knew you; before you were born I sanctified you; and I ordained you a prophet to the nations.²⁶

There are also other references to the biblical importance of the unborn. Davis states that a point worthy of note is the use of the term *brephos* to describe John in the womb. Elsewhere in the New Testament the same term is used freely of infants and the newly born (Luke 18:15; 1 Pet. 2:2; Acts 7:19). According to Davis, here we again have language indicating an understood continuity between prenatal and postnatal existence (Davis,

24 Psalm 51:5 is not unique regarding the estrangement from God at the very earliest stages of life. In this regard, see Ps. 58:3; Job 14:4; 15:4; 25:4 (Davis, 1984:46).

25 See Davis, 1984:41-42, confirming that Psalm 51:6 confirms that even in his prenatal state, David was being taught the moral law of God.

26 In this regard, Davis discusses several additional biblical texts which portray the unborn as recipients of a special calling and consecration to God's service (see especially Isaiah 49:1, 5, Davis, 1984:48-49).

1984:43). Davis also refers to Genesis 25:22 indicating that both Jacob and Esau are recognised *before birth*, as actors in the drama of redemption (Davis, 1984:46-47).²⁷

According to Davis, the above texts indicate that categories normally applied to postnatal man are applied also to the unborn and he adds that: “far from showing that the unborn are *less than persons*²⁸, these texts appear, in fact, to point in the opposite direction” (Davis, 1984:49). In fact, it should rather be stated that: “far from showing that the unborn are less than the *Image of God*, these texts appear, in fact, to point in the opposite direction”.

4. Responses to prominent secular jurisprudential pro-choice approaches

In the preceding section the importance of the biblical view on the unborn was discussed, also proposing that more emphasis should be given to the Image of God in relation to the protection of the unborn, irrespective of secular terminological demands. With a firm biblical foundation established in the concepts of “life”, and especially the “Image of God”, the Christian abortion apologist needs to rationally criticise the contemporary jurisprudential insights regarding the pro-choice approach.

The idea that the conflict between humanism and Christianity is one of fact versus faith, which has been promoted so much by the “scientific” establishment in our day, is a lie. The conflict is, in truth, one of faith *versus* faith (Perks, 1992:19-22). Facts do not speak for themselves, they are spoken about by a theory (Perks, 1992:14-15). It is impossible to demonstrate that a woman’s “right” to procreative autonomy is superior to an embryo’s “right” not to be aborted, and therefore, in the final analysis all such claims must have the flavour of arbitrary assertions (Campos, 1994:1815) – of theory. However, moral claims are made within an atmosphere of objective standards of logic/rationality, and from this emanates the quest for moral discussion to be aligned as best as possible to rational assent. This understood from another angle, while there is no neutrality in scientific facts, the Christian and the non-Christian are able to communicate “and actually come to surface agreements while our radical differences remain” (Pratt, 1979:60). These surface agreements can be understood to include the possibility of agreement between both sides to the argument that the one side’s argument is more rational than the

²⁷ Also see the relevance of this text to Romans 9:10-13, (Davis, 1984:47).

²⁸ The author’s emphasis.

other's. This insight needs to be applied to the abortion debate, which provides many foundational fronts in rational criticism of the pro-choice sector. The Christian anti-abortion apologist is responsible for defending the unborn, based upon rational argument. In the context of Acts 26:25²⁹, the Christian legal advocate should speak the truth in a manner that is rational and that rejoices in the truth.

From a jurisprudential perspective, the irrational debate emanating from: (1) positivism's arbitrariness, (2) the partisan prioritisation of the pregnant woman's rights, (3) the rationality of fertilisation, as well as (4) the confusion proclaimed by contemporary abortion jurisprudence, should serve as intellectually superior beacons in the Christian's opposition to the irrationality of the contemporary jurisprudential approach to abortion. Regarding the latter, what this irrationality is indicative of is a type of passive attitude regarding true intellectual fervour in providing more credibility in the law regarding the protection of the unborn. The irony here is that even though contemporary secular abortion jurisprudence provides indications that it views the unborn as important especially from the 2nd and 3rd trimesters, it still lacks the necessary substance and zest to provide this insight with more impetus. Is this how a secular world that preaches the inviolability of the rights to life and human dignity should be treating the unborn?

What the listed themes regarding contemporary jurisprudence's irrational approach to the abortion issue provide, are not answers explaining the ultimate truth of the status of the unborn. Rather, these themes indicate not only that the secular pro-choice approach also relies on theory (which is in many instances arbitrary and irrational), but also that such theory is out of step with their own slogans, namely the slogan of reason and a loving consideration for mankind.

4. 1 Positivism's arbitrariness

Positivism in contemporary abortion debate proclaims a clear distaste for anything religious/philosophical/transcendental/moral in law. For example, in the judgment of *Christian Lawyers Association of South Africa v Minister of Health*, Judge McGreath stated:

Regarding the question whether the term 'everyone' or 'every person' as used in the Constitution of South Africa applies to the unborn child from [the] moment of conception does not depend on medical or scientific evidence as to when the life of a human being commences and

29 "I am not mad, most noble Festus; but speak forth the words of truth and soberness."

the subsequent development of the foetus up to [the] date of birth. Nor is it the function of this Court to decide the issue on religious or philosophical grounds.³⁰

In true positivistic fashion the said judge searched the contents of the Bill of Rights in the South African Constitution in order to *infer* from the text whether the unborn do have a right to life, and found that the clause on the Rights of the Child (s 28) states that a child is anyone under the age of 18 years, and that age commences at birth. Judge McGreath argued that if age only commences at birth, the unborn can have no age, and if there is no age on the part of the unborn, that the unborn may therefore not call upon the protection of the right to life.³¹ The Canadian judgment of *Tremblay v Daigle*³² stated:

The Court is not required to enter the philosophical and theological debates about whether or not a foetus is a person, but, rather to answer the legal question of whether the Quebec legislature has accorded the foetus personhood ... Decisions based upon broad social, political, moral and economic choices are more appropriately left to the legislature, (Shaffer, 1993-1994:68).

For a court to decide between what is “religious” and what is not, is for the Court inevitably to prefer certain worldviews, with their inherent value systems, to others, which is a fundamentally moral process of decision-making (Niles, 2003:588). Therefore, how credible can such an arbitrary unfounded reason be that issues connected to life and its origin are not to be decided from religious or scientific angles? In other words, what rational argument is there to say that the law requires a separation between religion/science and the legal perception of life? The onus should be placed on the positivists to argue rationally towards a vindication for the separation between the law and moral/religion/philosophy. In the quest to refrain from the complexities of ascribing to religious views, the positivistic attitude begs the question as to what the credible criteria are that his or her opinion is based upon, bearing in mind of course the futility of seeking refuge under the shield of neutrality.

4. 2 A partisan prioritisation of the pregnant woman’s rights

Another point of criticism is the blindly-followed rationally unqualified argument that the pregnant woman’s rights enjoy priority over those of the

30 1118B-D.

31 In this regard see 1122 B-F of the said judgment.

32 (1989) 2 S. C. R. 530, 62 D. L. R. (4th) 634.

unborn. Taking note of Justice Blackmun's ultimate conclusion, that no legislature may "by adopting one theory of life ... override the rights of the pregnant woman that are at stake", Richard Epstein protests that "this formulation of the issue begged the important question because it assumes that we know that the woman's rights must prevail even before the required balance takes place (Horan and Balch, 1987:76). In this regard, it is interesting to note that the Supreme Court had before it in *Roe*,³³ briefs describing foetal development and containing the familiar photographs of the human form of the foetus. All of the Justices chose to ignore the actual characteristics of the foetus – and only considered viability as relevant (which is primarily a relational characteristic defined by the foetus's ability to survive without the assistance of his or her mother) (Smolin, 1988:404). The *Roe* Court did not even attempt to approach or consider the views of medical experts at the time.³⁴

The jurisprudential argument for the justification of abortion should not only prioritise the view that only the pregnant woman has certain rights. An arbitrary and one-sided reference to the woman's right to privacy, for example, in order to justify abortion, without determining foetal status, provides an unfair and biased approach.³⁵ Medical, moral and legal certainty first needs to be pursued in order to clarify the nature of the foetus (Haley, 1974:183). In criticism of the *Roe* case this issue received much attention, stating that *Roe*, without deciding whether or not a child in the womb is a human being, determined that he is a non-person and that he can be killed, therefore, at the discretion of others. If the justices regarded the matter as doubtful, they ought at least to have followed the general tendency in American law and tradition and given the benefit of the doubt to innocent life, and in the words of Rice (1973:310-311): "Unfortunately, in ruling that the child in the womb is a non-person without stopping to consider whether or not he is a human being, the Court acted like the hunter who sees movement in the undergrowth and shoots in reckless disregard of whether it is a man or a deer causing the movement." According to Davis, if there is a clear possibility that personhood is present from fertilisation, then the more ethically responsible approach is to act on that assumption and treat developing human life as personal at every stage of prenatal development (Davis, 1984:61).

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

34 See C. E Rice, "Overruling *Roe v Wade*: An Analysis of the Proposed Constitutional Amendments", *Boston College Industrial and Commercial Law Review*, Vol. 15, (1973), 310-313.

35 See S. A. de Freitas, "A Critical Retrospection regarding the legality of abortion in South Africa", *Journal for Juridical Science*, Vol. 30 (1), (2005), 131.

It should also be noted that the issue regarding the woman's rights in determining whether the unborn should be protected is questionable. In other words, what authority is relied upon in order to make "rights" the measure for determining the validity of abortion? Coleman states:

Dogs are not "persons in the whole sense", nor have they constitutional rights, but that does not mean that the state cannot prohibit killing them [...] Dogs, draft cards, and the post offices all enjoy the law's protection from destruction even though none are "persons in the whole sense", and even though none have constitutional rights (Coleman III, 1984:17).

Therefore, the perceived importance of rights *per se* in qualifying the woman's free choice to have an abortion (not to mention the plethora of interpretations of the rights themselves, for example the right to privacy), is questionable. In this regard, the contradiction that is developing in India is rather worrying (for the liberal feminist that is). In India there is a profound philosophical incoherence involved in arguing for abortion in terms of the rights of women to control their bodies and at the same time demanding that women be prevented by law from choosing specifically to abort female foetuses. This implies that the women's movement must fundamentally rethink both the role and the conceptualisation of rights (Menon, 1992:548 and 549).

4.3 The importance (rationality) of fertilisation

Popular Christian debate in opposition to abortion relies strongly on fertilisation as the dividing line between life and non-life. Although opinions on the scientific qualification of foetal status will need to rely on some or other presuppositional point of departure (and in science one would eventually reach a point which cannot be further explained), the Christian should apply a rational argument in opposition to abortion based on the importance of fertilisation. The rationality of fertilisation³⁶ as the beginning of life might well be *more convincing* than, for example, viability or breathing (or even the fact that the sperm or oocyte (egg cell) can be perceived as having life). At fertilisation the nature and the unique

36 In clinical medical parlance, the term "fertilisation" and "conception" should not be used interchangeably. Conception refers to the act of becoming pregnant (the implantation of the growing embryo in the wall of the uterus) – by the time of implantation considerable development of the embryo (beginning at fertilisation) has already occurred. The zygote is the new single cell formed at the completion of the process of fertilisation (Mathews-Roth, Draft Document, 3).

genetic qualities of each of us as an individual human being are determined. At fertilisation, all things are fixed: the colour of the eyes, the hair, the skin, the form of the nose and ears, the strength of the person and all characteristics (Shaffer, 1994:75).³⁷ According to the secular world's own measure of rationality, science indicates to us that the foetus is more than merely "an entity with potential life" or "a biological or living organism. In fact, it would be ridiculous to speak of a foetus being part and parcel of the pregnant woman's body, because this would mean that the pregnant woman has four eyes, or four legs, or double the amount of chromosomes that a human normally has! (De Freitas, 2005:140).

From a legal perspective, Coleman states that the only option to a government that truly respects "individual" (or entity rights, for example that of legal persons) rights is to adopt "distinct existence" as the sole criterion for standing as an "individual" (or entity), which means to attach standing from fertilisation, when distinct existence begins. Standing based on sentience means sentient individuals (entities) are more worthy than non-sentient individuals (entities). Standing based on psycho-physiological unity makes a like distinction based upon brain waves, while viability and birth differentiate based upon independence. Standing based on fertilisation, on the other hand, requires no unverifiable judgment to distinguish between worthy and unworthy individuals (entities) – it is the objective beginning of individual existence (or of an entity) (Coleman, 1984:26). In the words of Coleman:

Choosing a point that minimizes individual value judgments is itself a value judgment [...] If no standing definition eliminates all individual discretion, the definition that eliminates the most is best. Fertilization eliminates the most discretion because it bases standing upon an event alone rather than upon a judgment (Coleman, 1984:26-27).

Coleman's comment says much regarding the rationality of perceiving the foetus to be more than is generally viewed to be the case.

4.4 A confusing contemporary abortion jurisprudence

In its defence of the pro-choice approach, contemporary abortion jurisprudence is (ironically) replete with irrationalism, and in this regard

37 Also see Beckwith and Geisler, 1991:16-17; Coleman 1984:20, 22-23; Mathews-Roth, 1982:68-70, Alcorn, 2005:1-3.

the anti-abortion apologist is to cast down the reasoning of the unbelievers.³⁸ In this regard, the judgment of *Roe v Wade* pioneered the jurisprudential attack against protection of the foetus as well as the confusion that we find in contemporary abortion jurisprudence. A new chapter in the history of abortion in America began in *Roe*, which was revolutionary because among other things, it invalidated virtually overnight the abortion laws of every state, including those that followed the Model Penal Code³⁹, and for all practical purposes, abortion on demand, previously a crime, almost everywhere suddenly became a matter of constitutional right (Frankowski, 1987:23). Although the liberalisation of legal abortion practices in the United States were on the increase prior to 1973 (and therefore *Roe* cannot entirely be blamed for the legalisation of abortion in the United States), it remains an undisputable fact that *Roe* opened the floodgates concerning the legal applications for abortions. Bork states that *Roe* imposed on the United States, rules permitting more widespread abortion than is allowed by the laws of any other Western democracy (Bork, 1990:337). What the *Roe* decision boils down to is that as long as a woman can find a physician willing to perform an abortion, she has a constitutional right to obtain that abortion at any time during pregnancy.

In this regard, Horan and Balch make it clear that when the Court asserts that such an extreme position is required by the Constitution, one would expect an especially compelling rationale, and that few have found *Roe* convincing in this regard (Horan and Balch, 1987:60).⁴⁰ In the history of

38 See 2 Corinthians 10:5.

39 Between the mid 1960's and 1972, nineteen states relaxed their abortion laws by adopting legislation that followed the American Law Institute's Model Penal Code published in 1962. Under the Code, abortion remained criminal unless the doctor was convinced that the mother's physical or mental health was in danger, or that the baby was likely to be born with serious physical or mental problems, or that the pregnancy was the result of "felonious intercourse". All nineteen states permitted abortions intended to preserve the life or health of the woman. Some allowed for the termination of pregnancy resulting from rape or incest; some when it was likely that the baby would be born with substantial deformities. Only four states required no grounds whatsoever. The other thirty-one states did not change their laws despite the activities of various pro-abortion pressure groups, see Frankowski, 1987:21-22.

40 It is important to note that the most significant departure from *Roe* came about approximately two decades after *Roe* in the case of *Planned Parenthood of Southeastern Pennsylvania v Casey* 505 U.S. 833 (1992), which effectively overruled much of *Roe* while reaffirming the 'central holding' of *Roe*, see E. William, "To Be and Not To Be: Inconsistencies in the Law Regarding the Legal Status of the Unborn Fetus", *Temple Law Review*, (1998), 968-971, 990-991. Concerning the *Casey* decision, William adds: "It expressed concern about how overruling *Roe* would reflect on the reputation of the Court – that it may appear the Court bowed to political

American constitutional jurisprudence, few Supreme Court decisions – of which *Roe* was one – have come to be recognised as so faulty, and with such damaging social consequences that history has branded them not only as controversial or erroneous but also as watersheds of ignominy. Virtually every aspect of the historical, sociological, medical, and legal arguments Justice Blackmun used to support the *Roe* holdings has been subjected to intense scholarly criticism, and that editors of the *Michigan Law Review*, introducing a Symposium on the Law and Politics of Abortion, wrote that “the consensus among legal academics seems to be that, whatever one thinks of the holding, the opinion is unsatisfying” (Horan & Balch, 1987:57-58).⁴¹ These criticisms have been ignored in abortion jurisprudence around the world.

In conclusion of this section, the question should be posed as to why contemporary jurisprudence has not yet defined life properly. In this regard, Carter aptly states:

For many people, the question (as to what is life) might indeed be a religious one. But that does not free the state from the obligation to define life. In the absence of a definition of life, including its beginning and its end, the state could neither take a census nor prosecute murder. Indeed, liberalism itself requires a definition of the human, for in liberal theory,

pressure, or that it would be an admission that the Court was previously in error. What is particularly disturbing about the *Casey* plurality, however, is what is missing from it. The opinion notably avoids addressing the single most important issue confronting the Court – whether or not *Roe* was correctly decided. It failed to address the merits of either side of the abortion issue presented in *Roe*, and more pertinent to this discussion, it failed to comment on the issue of whether a fetus is a person. Consequently, abortion law is left with the premise that a fetus is not a person, and the overall legal status of the unborn remains in a state of confusion and inconsistency”, *ibid.*, 990-991. In fact, approximately three years prior to *Casey*, the case of *Webster v Reproductive Health Services* 492 U. S. 490 (1989) presented the first sharp departure from *Roe*, although the *Webster* decision did not overturn *Roe* and rule abortion unconstitutional, see Beckwith & Geisler, 1991:63

41 See, *ibid.*, for further references to similar criticisms concerning *Roe*. For research confirming *Roe*'s erroneous application of history in order to sketch the vagueness of the past in supporting a true anti-abortion stance see: Horan & Balch, 1987:62-66; and Steegmann, 1987:392. *Roe*'s arbitrary reliance on the right to privacy in support of abortion also has received much criticism. In this regard see: Smith, 1983:291, 313-314; and Bork, 1990:113-114. Also see Justice Blackmun's support (thirteen years after *Roe*), in the case of *Bowers v Hardwick* (478 U.S. 186 (1986)), of the practice of homosexual sodomy, the latter practice justified by the right of privacy, according to Blackmun; and Bork's diligent criticism thereof, 1990:116-126. Also see Haley, 1974:149-150; O'Meara, 1974:337. 339-340; Frankowski, 1987:32; and Bork, 1990:113-114, 263-264.

rights attach to individuals. If one needs a theology to determine what a human being is, and if that need is itself a disqualification under the Establishment Clause, then liberalism becomes a constitutionally impermissible theory of justice (Carter, 1992:591).

Law as integrity demands proper jurisprudential explanations and proposals on the concept of life. Even the court's effort at trying to escape the difficult process of determining the nature of life, is doomed to failure as is witnessed in the *Roe* decision. In this regard, Frankowski reports that a major flaw in *Roe* was the assumption by Justice Blackmun that there is no need to "resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer" (Frankowski, 1987:30). In reply to this, the question has to be posed as to whether this claim is justified in view of the fact that at the same time Justice Blackmun referred to the foetus as having only "potential life". Similarly, Justice Stewart, in his concurring opinion, spoke of "potential future human life" (Frankowski, 1987:30). In fact, the Court, by deciding that the state interest becomes compelling only at viability, indicates that it perceives that life begins at this very point, an assumption that is contrary to the Court's previous statement that the judiciary is not in a position to speculate as to the answer to the question of when life begins (Frankowski, 1987:30).

In addition to *Roe* having played a major role in pioneering an unlimited approach to abortion practises, many of the jurisprudential principles relied upon in *Roe* have since become embedded in the reasoning of pro-choice abortion jurisprudence. *Roe* set the tone for the prioritisation of rights over any other legal principle that might be thought of, and, even if rights were the only measure, *Roe* prioritised the woman's rights at the cost of the possibility of the unborn having any right whatsoever. Consequently, *Roe* paved the way for setting the example in the neglect of further enquiry as to the status of the unborn, and instead placed the emphasis on the state in the abortion equation.

But the confusion goes further than *Roe*. International and national legislation, together with the accompanying court decisions, exhibit diverse angles of approach concerning the criteria to be taken into account when deciding on the validity of abortion. Vagueness and unconvincing criteria also accompany this unfortunate approach. Consequently, the secular law sphere has nothing to be proud of concerning this issue. This observation is reinforced by the unfortunate lack of re-evaluation and the

appropriate consideration of such an important issue by the international human rights community in general. It indicates a deplorable attitude towards the protection of the human being, resulting in a fragile status of life and a degradation of human dignity. The values that the legal community in general emphasise so much, such as the upholding of human dignity, are degraded in the law sphere in general by this weak approach to the origin of life.⁴²

5. Conclusion

The contemporary popularity of the "life" concept in many Christian circles as instrument in supporting the protection and sanctity of the unborn, has serious implications not only in jurisprudential anti-abortion apologetics, but also in satisfying a truly biblical view on the status of the unborn. In the elevation of the "life" concept for the protection of the unborn, the idea of man as being created in the Image of God has been neglected. Although the concept of "life" has biblical support in opposition to abortion, as well as the fact that the true nature and precise point of establishment of the Image of God is far from being a simple issue, the fact remains that an emphasis on man as having been created in the Image of God provides added urgency to reconsider the true evil of abortion, and to strengthen a truly biblical anti-abortion jurisprudential apologetic. God's Word clearly indicates the importance of the unborn, also bearing in mind that the unborn can be viewed as part of the Image of God (and as the bearer of life) from the moment of conception up to and ending in the physical death of that person. In this regard, Christians should not be led astray by the temptation to participate exclusively in secular and ungodly jurisprudential jargon, such as the approach regarding life accompanied by the tendency to understand life only in a scientific manner. However, this does not negate an effective and rationally coherent opposition by Christian anti-abortion jurisprudence against the numerous weaknesses and confusions in contemporary secular jurisprudential views on the status of the unborn.

The contemporary secular jurisprudential themes discussed, namely: (1) positivism's arbitrariness; (2) a partisan prioritisation of the pregnant woman's rights; (3) the importance of fertilisation; and (4) a confusing contemporary abortion jurisprudence, are themes that seem to go

42 For more on this, see S. A. de Freitas, "The Fragility of Life in the Secular Law Sphere", *Journal for Christian Scholarship*, 3rd and 4th Quarter, (2001), 107-127.

unopposed within Christian biblically-based jurisprudential circles, consequently necessitating a renewed emphasis.

It is however, also important to note that situated at the root of a truly biblical anti-abortion apologetic should be a concerted effort to develop an argument that is grounded on the axiomatic idea that the rationality of Deism needs to be measured against the irrationality of Theism. The intellectual snobbery that surrounds theism is made incomprehensible when one is reminded that God is simply a more plausible source for establishing the good and the true than is either human reason or human nature (not that this insight makes theism true) (Smolin, 1988:399). In conclusion, the importance of Romans 2:14-15⁴³ truly needs to come to fruition in abortion apologetics. The Christian abortion apologist needs to be reminded and to remind others of the universality of certain norms. In the abortion context, the love command regarding the inherent love that a mother has for the unborn child will be difficult to disprove. Ranging from the clear message in post-natal magazines and educational material on parenthood, to the psychological trauma proceeding from the abortion process, it is clear that it is against the conscience of society (even though this is transgressed on numerous occasions) to ignore the importance of the unborn. If Christians take Romans 2:14-15 to heart, not only will the realisation increase that the unborn require protection, but it will also lead to the Christian mission to infiltrate the public sphere and defend the plight of the unborn, which will include an effort to be educated in a well-versed jurisprudential anti-abortion apologetic that is biblically sound.

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43 for when Gentiles, who do not have the law, by nature do the things contained in the law, these, although not having the law, are a law to themselves 14, who show the work of the law written in their hearts, their conscience also bearing witness, and between themselves their thoughts accusing or else excusing them¹⁵.

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