

## ***Dobbs v. Jackson Women's Health Organization: Impact in the USA and in Canada***

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The news that the Supreme Court of the United States has reversed *Roe v. Wade* is not much to celebrate or to worry about. Abortion was legal before the *Dobbs* decision and remains lawful. The only practical difference is that some states will now restrict abortion by the age of the unborn child, and even fewer states will ban abortion entirely. This is nothing new for Americans. The famous Missouri Compromise resulted in free states where slavery was illegal, and slave states where slavery was legal. The *Dobbs* decision results in abortion states where all abortion is legal, abortion states where most abortions are legal, and a very small number of life sanctuary states, where all abortion will be illegal. The ultimate question, is whether the “Abortion Compromise” by the 2022 US Supreme Court will lead to a second civil war. As Abraham Lincoln wisely observed, a divided nation will not survive.

Most serious constitutional scholars who studied *Roe v. Wade* knew a long time ago that there was not a legitimate basis to hold there was a constitutional right to an abortion. There is no right to privacy in the Bill of Rights to support an odious right to terminate at will the life of another human being. It was bad law that advanced a political agenda and gave a legal license to mothers to pay medical clinicians to kill defenseless innocent unborn human beings with legal immunity, resulting in the deaths of millions of dead babies who were not defined as human beings or persons with legal rights.

It is an irony of history that women who were always biological human beings, once were denied their legal rights as persons. They were wrongfully denied their rights by men who possessed legal rights over them, in a culture that viewed women as property. Then there was enough common sense to accept that women, like African slaves, were human beings legally protected from murder, even though these class of human beings lacked the legal rights of legally recognized persons. However repulsive those social conditions may be considered today, at least men in the United States were historically never granted by any court or legislature an odious legal license to kill any class of human beings, analogous to the unnatural and constitutionally illegitimate right and license to kill granted to women by *Roe v. Wade* to kill their own innocent unborn children.

After *Dobbs*, the leftist media is exploiting a genuine psychological crisis to amplify the outrage of some women who depict themselves as second class citizens for losing their national license to kill. This is contrary to American values, for equality was never intended to grant either women or men an unlimited right to legally arbitrarily kill any class of innocent defenseless human beings without any legal consequences.

From the time of conception, the scientific and biological truth is that a new human being has come into existence. An unborn child is both a human being and a person, separate and distinct from its mother. Biological and scientific validation is irrelevant to some judges. The legal “truth” departs from reality, as legal fiction often prevails. Definition laws are passed that pretend an unborn child is not a human being or a person, in order to grant a legal license to kill that child. As a result, the mother and her co-conspirators, and the actual killers of her unborn child, are immune from a charge of murder.

Adults find ways to complicate and hide that simple truth that even a young child easily sees: “Mommy, I am going to have a baby brother or sister?” After all it was a child who was brave enough to tell the truth that the naked Emperor was not wearing any clothes.

The Supreme Court in *Dobbs* behaved like Pontius Pilate at the trial of Jesus, to delegate to others the authority that is rightfully the Court's. Yes, the matter of abortion regulation belongs to criminal law, which is in the exclusive jurisdiction of the states. But states cannot enact unconstitutional laws violating the Bill of Rights. What the 14<sup>th</sup> Amendment does grant to every human being in the United States is the national right

of equal protection of the laws prohibiting murder. The human victim's age or condition of existence is irrelevant to the constitutional right to protection from murder.

While the Court is to be commended for not caving in to pressure to abandon the illegally leaked draft of Justice Alito's opinion, and overruled *Roe* and *Casey*, the Court made it clear that it was not deciding the real issues in the case: 1) whether unborn children are human beings; 2) assuming unborn children are human beings, because there is zero contrary evidence, whether unborn human beings have any legal rights, and if so, what are those rights; 3) whether unborn human beings are legal persons with constitutional rights; and 4) whether unborn human beings are persons within the meaning of the 14<sup>th</sup> Amendment to the US Constitution, and entitled to equal protection from murder, just like every born alive human being.

Put another way, the Court left unresolved the ultimate question of whether some human beings are more equal than others, just like the disturbing message from George Orwell in *Animal Farm*.

Ultimately, the Christian idea of equality and the rule of law is at stake. With the demise of Christianity, and the rise of secular humanism, Marxist ideology, and woke cancel culture, the Christian roots of America are under daily attack. As Dr. Reverend Martin Luther King Jr. observed, "... an unjust law is no law at all." It is immediately obvious that any legal license to abort an unborn child violates the most basic law of equality mandated by the Bible, known as the "golden rule" to 'do under others as you would have done to you.' There can never be the rule of law unless there is a moral component to that law. The granting of an arbitrary license to kill an entire class of innocent human beings does not conform to the rule of law. The answer is clear: all abortion is incompatible with the rule of law.

Some who say they are horrified or outraged by the *Dobbs* decision exploit this news as political opportunists, to seek re-election, posing as the champion of women's rights. They should at least tell the truth. Abortion remains legal and the Supreme Court lacked the courage to leave open the door to another case that will serve as the legal foundation to make abortion illegal once and for all. The protests are all about the retention of political power by those who want a legal license to kill innocent human beings and seek to destroy any opponent who stands for truth, justice, equality, morality, the rule of law and the supremacy of God.

Canadian Prime Minister Trudeau called the reversal of *Roe v. Wade* "horrific," perhaps for good reason. Perhaps he intuitively knows that there is no constitutional right to privacy in Canada. It is specifically left out of the Canadian Charter of Rights and Freedoms. The expectation of privacy doctrine in search and seizure constitutional law has no application to abortion. If anything, s. 7 of the Charter which grants "everyone" the right to life includes all human beings, at any age, and in every condition of humanity, protects all unborn children from the time of conception from murder, including planned and deliberate abortion. The question arises: Can Parliament enact a law to limit "everyone" in s. 7 of the Charter to only legally defined human beings?

What makes abortion legal is a legal definition in s. 223 of the Criminal Code which defines who is and who is not a human being. Currently a biological human being is not a legal human being until that biological human being is born alive. Since only legal human beings are protected by law from murder, all biological human beings outside the legal definition of human being may be legally murdered with immunity from prosecution.

The Supreme Court of Canada had an opportunity in the *Mary Wagner* case to decide the question whether Parliament's law was constitutional or not, and without reasons anonymous judges refused to hear her case, despite meeting the Court's own test for an issue of national importance. The obvious inference is that the Court was afraid to hear the case, because facing the truth would have required the court to declare all abortion in Canada illegal and a crime of homicide, a result it desperately wanted to avoid. As a result, Canadians continue to live with unlimited Parliamentary authority to decide on any grounds who is and who is not a human being.

The Supreme Court of Canada and the Parliament of Canada have done their best to establish that unborn human beings are not legal persons in law for the purpose of denying unborn human beings equality under the law and to deny the truth of science. The alternative would open the door to making abortion illegal.

With respect to the issue of abortion, the Supreme Court of Canada is guilty of advancing its own political agenda under the English “living tree” doctrine, with the result it ignores the text of the Charter of Rights and legislates from the bench. Ignored by the Court is the proper construction of the “supremacy of God” and the “rule of law” in the context of expounding upon the meaning of s. 7 of the Charter and the exceptional limitation allowed by s. 1 of the Charter. Deference to the foundational principles of the Preamble to the Charter mandates the Court to reject artificial distinctions between human beings based on age, condition of life, and location of existence. The Court has been a colossal failure in this regard.

Those who advocate for a right to abort in the name of women’s rights cite to liberty and personal autonomy rights rooted in s. 7 of the Charter. But these arguments all collapse, for personal liberty and autonomy must yield when it comes to a license to kill an innocent human being, especially one who is vulnerable and dependent upon its caregiver. The case for abortion fails when scientific truth is accepted over legal fiction and legal definitions that classify human beings between those accorded with the right to life and those who are denied the right to life.

Section 15 of the Charter grants equal protection of the law to every individual. Only natural human beings can be individuals. This includes every living unborn human being from the time of conception. It is a legal fiction to pretend otherwise. Genuine equality means that no human being must be denied legal protection from murder.

It is a sad reality that years of propaganda, manipulated language, and myths have brainwashed people into believing the big lie that an unborn human being is only “potential life” and that as a result mothers who are carrying their children’s bodies within their bodies have an unrestricted legal right to kill at will their offspring.

The *Dobbs* decision is not legally binding in Canada, and is not relevant except in two ways. One, there is no constitutional right to abortion in either the USA or Canada. Second, truth will always prevail, for legal fiction will eventually be exposed for the evil it is. In Canada’s case, this will take a very long time.

When Canadians develop a moral backbone and have the courage to act upon the truth, the horror of the deaths of millions of innocent children will be blamed upon the Supreme Court of Canada and the Parliament of Canada. Political will to repeal s. 223 of the Criminal Code, together with the appointment of judges to the Supreme Court of Canada, who are faithful to the authentic rule of law and the supremacy of God, begins with electing people to Parliament who are dedicated to conforming to the rule of law. So far, only the Christian Heritage Party of Canada offers candidates that match their party’s pro-life platform. The uncomfortable truth is that the vast majority of Canadians are selfish, focused on financial security, and are willing to defer to the actions of a tyrannical government instead of focusing their passion and motivation to elect a federal government dedicated to truth, justice, the right to life, equality of all human beings, the supremacy of God and the authentic rule of law.