

The right to life is an essential human right

## **Its relationship to abortion, however, is complicated.**

by [Allyson McKinney Timm](#) in the [October 2022](#) issue



Illustration by Lilli Carré

I was born in a Dallas hospital, during that time when fathers paced outside delivery rooms. I have a hazy image of what childbirth demanded of my mother: dilation did not progress; there was an emergency Cesarean surgery that left a conspicuous pink scar on her lower abdomen. My brother's birth left a second scar and a puzzling difficulty walking, which was never diagnosed despite another emergency hospitalization. She eventually regained her strength, but the ordeal of childbirth was precarious for her, and ramifications lingered.

She prefers to recall the joy and gratification of our much-hoped-for birth events. But that isn't the whole story. The pain was excruciating enough that at one point this normally demure woman grabbed her obstetrician indecorously—by his Star of David necklace—and pulled him toward her, demanding to know whether another pelvic

exam was truly necessary. She was suffering. When I see photos of her as a pregnant young woman, my heart is filled with gratitude and an awareness of the debt I owe her.

What I don't feel is entitlement. She did not owe me or anyone else the suffering that it took to bring us into the world.

As a Christian and a human rights advocate, I begin with the premise that human life is meaningful from its earliest appearance. I believe that vulnerable life in its first stages deserves our serious regard. At Justice Revival, the organization where I work, we affirm that unborn life has value and meaning and that the ways we treat that life have moral implications. For me, this rules out any celebratory approach to abortion. It moves me to seek out every just and humane avenue to make the practice increasingly rare.

But that is only the beginning of the analysis. Childbearing is a unique act of Christlike oblation. As such it is above and beyond what anyone should feel privileged to demand from any other human being—one's own mother included. Reducing the miraculous gift of birth to a legally coerced mandate takes the creative power God gave humanity to "be fruitful and multiply" and confers it on the magistrates of Rome. The US Supreme Court's recent ruling overturning *Roe v. Wade* doesn't honor motherhood; it degrades it.

And yet the *Dobbs vs. Jackson Women's Health Organization* decision represents a long-sought victory for groups like Texas Right to Life, groups that are jubilant that the court has overruled 50 years of precedent under *Roe* and dispensed with the constitutional liberty to decide for oneself whether to continue a pregnancy. They contend that the strict legal prohibitions that US states are now free to enact represent the valuing of human life. Other antiabortion activists—and state legislators—go further, arguing that abortion should be prosecuted as murder, based on the legal claim of a fetal "right to life."

To leap from respect for life in the womb to equating abortion with murder is to respond to the profound inquiry into the significance of the earliest moments of human life by cutting it off at the knees. There is only one country in the world—El Salvador—that prosecutes abortion as murder; abortion is not murder under human rights law, and it was a constitutional right in this country for five decades.

With the simple syllogism that all abortion is murder, there can be no mercy for the ten-year-old rape victim in Ohio who went to Indiana to end the dangerous pregnancy that resulted from her abuse. Despite national outrage at the case, the Indiana attorney general has threatened to prosecute the abortion provider.

Those who call for prohibiting abortion often focus myopically on ontological questions about when life begins or when personhood attaches. These are questions that have long eluded meaningful consensus, questions that courts of law are ill-equipped to adjudicate. And implicit in such arguments is a misplaced assumption that the status of fetal life is the sum of the relevant analysis.

But the claim of a putative fetal right to life also reveals what else is at play: the extraordinary responsibilities the court has empowered lawmakers to impose on girls and women of childbearing age. As some [states](#) move to outlaw virtually all abortions, our nation is not only stripping more than half of its citizens of constitutional rights but effectively subjecting many to the most momentous of life duties.

A right does not exist in a vacuum. It can only be understood in relation to the obligations it imposes. “To assert a right is, in essence, to demand something to which one is entitled,” and that others are “obligated to fulfill” on your behalf, explains [philosopher Richard Amesbury](#). A right thus generally [correlates with a duty](#), often on the part of the government. I have a right to life, and my right means that the state must not execute me unjustly or allow someone to murder me with impunity.

Childbearing, however, is a singular kind of duty. It is a world away from what the right to life demands in every other context. The claim of fetal right to life implies a personal duty to render bodily sacrifice and to risk one’s life and health in favor of another. There is only one other context in domestic or international law in which such an obligation been imposed: the ignoble context of [enforced surrogacy](#) under chattel slavery.

In an influential 1971 essay, philosopher Judith Jarvis Thomson assumes, for the sake of argument, that a fetus is a human person—and yet maintains, by way of a thought experiment in which a person wakes up to find their kidneys supporting the circulatory system of a famous violinist, that the natural right to life does not entail a duty on the part of a mother to grant a fetus the use of her body. Her moral

reasoning accords with the law in analogous cases.

Consider the case of organ donation. As with pregnancy, one person has the remarkable opportunity to potentially sustain the life of another, through an extraordinary gift of bodily sacrifice that will demand physical intrusion, risk to one's health and well-being, and possible ongoing medical consequences. The success of the mission is not assured.

Our justice system has determined that no one can compel a physical offering of a person's own body—a person's enfleshed being. Values of personal liberty and bodily autonomy give rise to strict legal requirements of [explicit personal consent](#). Without it, courts will not order so much as a blood transfusion. Bodily integrity is so sacrosanct that [a person can protect her organs even after death](#). The law aligns with Thomson's conviction that "if a human being has any just, prior claim to anything at all, he has a just, prior claim to his own body."

When patients in need have asked the courts to compel a gift of bodily tissue, they have been [unequivocally rebuffed](#)—even when that was the only foreseeable hope of saving a close relative's life. Such is the inviolable boundary around bodily autonomy in cases that are not as reliably gendered as pregnancy.

In one [seminal case](#), a Pennsylvania court that refused to order a life-saving bone marrow transplant criticized the potential donor's refusal as immoral but sounded a grave warning against judicial intervention:

For a society which respects the rights of *one* individual, to sink its teeth into the jugular vein or neck of one of its members and suck from it sustenance for *another* member, is revolting to our hard-wrought concepts of jurisprudence. Forceable extraction of living body tissue causes revulsion to the judicial mind. Such would raise the specter of the swastika and the Inquisition, reminiscent of the horrors of this portends.

The same respect for privacy and bodily integrity that prohibits compelling organ donations [must prohibit](#) compelling childbirth, too. A nascent human can only be nourished and birthed through the flesh and blood of the person whose womb it inhabits.

Declaring abortion to be murder would be like charging a father with manslaughter for not giving a kidney to his child. However praiseworthy the lifesaving gift might

be, one shudders to think of our government assuming the power to compel it, on pain of criminal prosecution.

Some argue that pregnancy follows from individual choice and that the consent was given at another moment. But this is not a safe assumption in a society where [one of five women](#) survives sexual violation, an injustice our criminal justice system still [struggles to deter](#), or where health care and contraception are unavailable to many.

Some argue that pregnancy is natural. Although it results from natural causes, this does not make it uniformly positive or morally justifiable. Many states are poised to relegate rape survivors to [bearing their rapists' babies](#) or suffering childbirth in adolescence despite the trauma and degradation of [incestuous abuse](#). [Ectopic pregnancies](#) and [fatal fetal](#) anomalies that occur naturally may not be healthy or survivable—for the newborn or the pregnant person.

There are other cases in which the human right to life is well settled. A survey of them confirms just how exceptional the purported legal right to be nurtured in the womb and birthed into this world is.

Under human rights law, governments like ours are obliged to “[respect, protect, and promote](#)” the right to life. Respect means [no summary executions](#). A Minneapolis police officer was judged a murderer because he needlessly claimed George Floyd’s life. What did the [law require](#) of the officer? His duty was essentially one of discernment and restraint—to use only the force necessary and proportionate to the situation and to use lethal force only as a last resort.

To protect life, the state must prevent and deter unjust killing. In the wake of [300 mass murders](#) so far this year, unabated gun violence is among the greatest threats in America. Rising hate crimes fueled by racial and religious animosity are part of this problem. [Stand your ground](#) laws that embolden the brazen lynching of men like Ahmaud Arbery and boys like Trayvon Martin constitute another glaring failure.

In each case, the obligation on individuals is minimalistic—restraint, a responsibility to choose nonviolence or simply walk away, to do anything except to kill. In none does the right to life impose an *affirmative* duty on private individuals. Even in the few states that recognize a legal “[duty to rescue](#)” a person in peril, this never extends to risking one’s own life or limb.

Our Supreme Court has been loath to burden even the state itself. In one [notorious case](#), Justice Antonin Scalia scorned the responsibility to protect life by telling a mother named Jessica Gonzalez that the police had no duty to enforce a legal restraining order against her violent partner. Her three little girls had been murdered after her frantic calls to police were brushed aside. If any court opinion were “egregiously wrong from the start” (Justice Samuel Alito’s words for *Roe*), surely it was this one. A human rights tribunal ruled, in stark contrast, that the little girls’ right to life had been violated. The tribunal saw clearly that the state should have done more to protect these children.

But pregnancy, childbirth, and maternity cannot be likened to any other legal duty that the right to life implies in these cases. Far from a duty to leave the other alone, pregnancy is the obligation never to be left alone, for 40 weeks or more. In the best of cases, this will mean illness, medical needs, physical transformation, and the daily consciousness that one’s body is now working in service of another.

Maternity is not primarily a matter of restraint. To continue a pregnancy is a choice that will ultimately demand more than almost any other human undertaking. What woman in childbirth has been able to afford restraint? Pregnancy is a commitment to use the full force of body, mind, soul, and will to achieve, with God’s help, something miraculous.

That commitment surely involves taking on a duty to protect—to nourish, sustain, envelope, and carry—and much more. It is a duty to assume bodily risk and render bodily sacrifice on behalf of another, with profound emotional, psychological, and physical implications. This extraordinary bundle of duties is being taken to new extremes by states like [South Dakota](#), with laws that will compel someone to carry to term a fetus with fatal abnormalities, to bear the public scrutiny of visible pregnancy, and to be reminded daily of the certain death that looms.

Military conscription is perhaps the one other case where the state may demand bodily risk and sacrifice of its citizens—but in service of the collective, not another individual. In the United States, this has historically come with compensation, a promise of health benefits, and special status for life. Mothers as a class receive none of that.

Unlike the case of a prisoner on death row—whom the state has the ready means to sustain without co-opting another’s body—with pregnancy no alternative

arrangement can obviate the need for the self-giving birth act that will ultimately be required. This is why the antiabortion claim cannot fairly be termed a right-to-life claim. It seeks to impose an extraordinary duty on a private individual and vindicate a radically different privilege from every agreed-upon expression of the right to life. Whatever our moral judgments may be, a more fitting term would be “right to geniture” or simply “right to birth.”

Only by occluding the lived, flesh-and-blood experience of the person (most often a woman) who sustains and births a nascent life does one overlook the singular nature of the duty some states are imposing, in ever more extreme circumstances, by outlawing abortion. Failing to consider what pregnant women suffer is not only callously androcentric; it has yielded a fundamental deficiency in prohibitionists’ logic and revealed just how partial a concept of rights lies beneath the facile allegations of murder.

If human rights are critiqued for fostering [self-interested individualism](#)—to which Christians, in particular, have objected—surely this is its pinnacle: demanding birth from our mothers as a matter of legal right.

From a human rights perspective, the state’s responsibility to promote the human right to life extends to [ensuring that basic needs](#) like food, shelter, education, and health care are available. Protecting the environment, safeguarding against epidemics like COVID-19, and not returning asylum seekers to perilous countries are all obligations that flow from the right to life.

The United States, however, has the highest maternal mortality rate among high income nations, [two to three times](#) worse for Black girls and women, thanks to pervasive poverty and scant health care access. Ensuring people the care needed to survive pregnancy and childbirth would be a fine way to demonstrate reverence for their lives and their children.

But many US Christians—and surely many conservative opponents of *Roe*—are unsympathetic to the necessities of survival being a matter of right. Meanwhile, nearly [three-fourths of US abortion patients](#) cite economic necessity as a primary reason for ending their pregnancies. How dramatically might the need for abortion drop if the [roughly 167 million](#) Americans who identify as Christian were moved to unite behind policies that meet the needs of 140 million low-income Americans? As long as the poor will be with us, it seems abortion will be, too—not because it is



God's best for us, but because we have yet to manifest a more just world.

Those who believe that childbearing is a woman's moral duty are certainly at liberty to preach it, teach it, and proclaim it. I would defend their right to do so. But they are not entitled to use the coercive power of the state to impose this belief—because nowhere else does the law demand so much and provide precious little in return.

Which duty is greater: sharing one's bread with the poor, or allowing one's body to be broken open for another? Collectively welcoming a fearful immigrant to US shores, or personally welcoming a fragile newborn into the world, through the sacrifice of flesh and blood? Leaving another person alone, or undergoing a birth event that will change one's life forever?

Motherhood is the greater duty, by a league. The very qualities that make birth a heroic feat warn against reducing it to a forcible obligation. This is not a legal duty the state should be authorized to impose; it is a grace into which some are called, a kindness unlike any other. Birth into this world is not a legal right; it is a blessing from a loving God, a reflection of divine generosity, through the sacrifice of those who are called to motherhood.

Christians have a role to play in supporting parental nurture and helping the families and children in our lives. We have an equally vital role in moving our government to safeguard life, by combating the deadly injustice of poverty and violence, racism, and misogyny.

But insisting that our emergence into this world is an entitlement, which we deserved for lawmakers to extract from our mothers on our behalf? Surely that is not what God asks of us.

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[Jon Mathieu](#), the *Christian Century's* community engagement editor, discusses this article and issues it raises with its author [Allyson McKinney Timm](#).