

Resolving the Abortion Question

No matter how you slice it, abortion is a distasteful and to my mind an unfortunate consequence of humanity. It also seems that no matter the draconian measures, abortion has and always will continue to occur as a consequence of our human condition.. Setting aside any religious arguments against abortion, which have no place in American jurisprudence, there are two main questions regarding if and how terminating a pregnancy should be regulated or even permitted. These questions are one, does the law have any jurisdiction over a woman's body, and two, is aborting a fetus murder?

If aborting a fetus is classified as murder or any other illegal activity such as manslaughter, then the history of law is very straightforward whereby society has a vested interest in preventing such occurrences. Does the pregnant female body in and of itself provide a wall of privacy that insulates the female from any interference by society? It is highly unlikely that it does, given the modern and historical lengths society has been granted to prevent a wrong. Human bodies are regulated by law all the time from chemicals one can take without a prescription to incarceration for a variety of major offenses. Human bodies can and are regulated...movements restricted and activity prevented. A civilized society requires small restrictions on our behavior for the perceived greater good of us all. Yes, sometimes rightly so, sometimes not so. It is an imperfect system.

So then, is an abortion murder?

But what is murder? It is obvious one cannot kill a dead body. But how do we, meaning scientific medicine and the law, determine a body is dead? The answer is clearly human consciousness. The whole human vessel, our body, life, is designed to support consciousness. And currently we determine whether a body is alive by brainwave activity. We assume that if there is brainwave activity there is human life, again, a consciousness, whether such consciousness can express itself or not. I would say also that any perception of this plane of existence signals human consciousness and therefore human life. And if there is life, it can be murdered. The question of course now is, when is the fetus conscious. Science to date says a fetus is conscious at about six months of a pregnancy.

If we accept the premise that society has a vested interest in preventing a conscious human being from being arbitrarily snuffed out and we accept that society does and can regulate a body to prevent such an occurrence, then there is a right of society to prevent the termination of an unwanted pregnancy. But that right can only apply to a conscious human being, which apparently occurs at the end of the second trimester of a pregnancy. Therefore, prior to a fetus gaining consciousness, termination of the pregnancy could not constitute murder and as such would not be criminal.