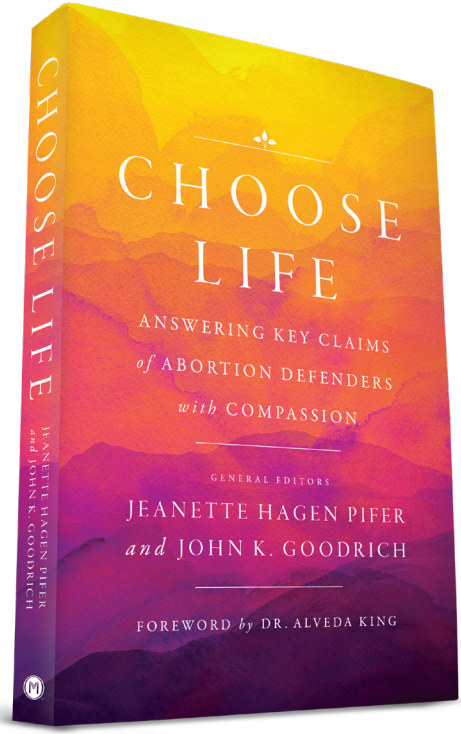

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A More Excellent Way: Moral Decision-Making beyond Government Law

—John K. Goodrich—

Like many people, I love a good courtroom drama. Whether fictional and comedic, like *My Cousin Vinny*, or based on historical events, like *Erin Brockovich*, I become easily engrossed in the performance of on-screen lawyers—their careful investigative work, their intense deposing of star witnesses, and most of all their shrewd dissection of legal arguments as they attempt to win the case.

Without question, my favorite trial movie of all time is *A Few Good Men*. In the film, Tom Cruise plays Lt. Daniel Kaffee, a recent Harvard Law School alum and talented JAG officer who is notorious for taking more interest in sporting events than in defending his clients. One of the more enjoyable legal segments of the film doesn't even take place in a courtroom. In the scene where we first meet Kaffee, the lieutenant is approached during softball practice by prosecutor Lt. David Spradling, who interrupts the team's fielding drills

to plea bargain a pending drug charge against one of Kaffee's clients. Midway through the exchange, Spradling presents the charge and begins the negotiation. Kaffee immediately rejects the offer, because as it turns out, his client hadn't actually been caught with an illegal substance. Instead, the defendant had mistakenly bought what amounted to ten dollars' worth of oregano. "Yeah, well, your client thought it was marijuana," Spradling asserted. "My client's a moron," Kaffee replied. "That's not against the law."[1]

This interaction between the two lieutenants comedically illustrates the manner in which many people in our society, even some self-avowed Christians, seek to justify their decision-making. They assume that as long as they have not broken the law, they can rest assured that they are morally upright people. Some even believe an action is wrong only when a lawbreaker gets caught—though that is a different ethical problem altogether.

But are legal statutes alone capable of providing everything we need for consistently making moral decisions? Doesn't discerning right from wrong, moral from immoral, require us to consider matters beyond what the law forbids? More to the point, does the Supreme Court's ruling on *Roe v. Wade* really establish that abortion is a *morally* legitimate choice?

The truth is there are too many people in our society who make significant, life-altering decisions simply on the basis of the legality of their options. And the same is true with respect to abortion, as Rebecca Todd Peters acknowledges—in fact, applauds—in her recent "progressive Christian" defense of the pro-choice position. "For many women," Peter maintains, "abortion is *not* a moral dilemma. It is not a dilemma, because they do not want to be pregnant (for any number of reasons), *the procedure is legal in this country*, and we have the medical knowledge of how to safely terminate their pregnancy.

These women feel no moral obligation to carry every pregnancy to term. They are simply sexually active women who have gotten pregnant."[2]

To be fair, Peters is not necessarily speaking for herself, but is reporting, although approvingly, what she perceives to be true of other women. Nevertheless, her declaration that the mere legalization of abortion (together with the relative safety of the procedure and a person's desire to obtain one) provides the moral ground needed to terminate a pregnancy is a striking admission. And it ultimately raises the question about how we, as morally culpable human beings, ought to determine right from wrong.

In this essay we will explain why moral decision-making requires more than taking our moral cues from local or federal legislation—that is, more than what we will call *legal positivism*.[3] This is especially true for those of us who claim to be followers of Jesus Christ. First, we will discuss the benefits of societal laws before exposing their inability alone to provide sufficient moral guidance. We will then explore how God expects Christians to engage in moral reasoning by introducing the two primary sources available to us for making moral judgments. Finally, we will examine how those two sources for discerning morality should factor into our evaluation about whether abortion is ethically permissible.

Government Law

The Bible consistently affirms the importance of establishing national laws and appointing government leaders in order to execute justice in keeping with those laws. David acclaims that the law God gave to Israel is perfect and revives the soul (Ps. 19:7). In fact, it is the righteousness of this law that was supposed to signal Israel's

greatness before all its neighbors (Deut. 4:5–8). Thus, God promised that if the Israelites obeyed His commandments, they would indeed prosper (Deut. 30:15–16), and that if Israel's king himself were to obey the law, the length of his reign would be great (Deut. 17:18–20).

The Bible also has much to say about the importance of governing authorities. Although such leaders are rebuked in Scripture from time to time (1 Cor. 2:6–8), the Bible repeatedly instructs its readers to recognize that God Himself has appointed rulers to their particular positions of leadership. God's people should therefore submit themselves to the governing authorities, so long as such obedience does not result in compromising God's other moral standards—"We must obey God rather than men" (Acts 5:29). Thus, in the Old Testament, God repeatedly reminds Israel's exiles that, even when they are under the rule of a foreign king, God remains sovereign still, for "the Most High rules the kingdom of men and gives it to whom he will" (Dan. 4:17, 25, 32). It is for this reason that Paul instructs believers living in the heart of the Roman empire, "Let every person be subject to the governing authorities. For there is no authority except from God, and those that exist have been instituted by God. Therefore whoever resists the authorities resists what God has appointed" (Rom. 13:1–2).

Despite the many public benefits that national laws and leaders provide, the Bible is also clear that the rulers and judges of this world should not be trusted uncritically (1 Cor. 6:1–6). Governments have been appointed to reward good and to curb evil (Rom. 13:3–4), but when someone relies exclusively or even primarily on legal systems, politicians, or judicial bodies to discern right from wrong, they will inevitably find themselves incapable of living a consistently moral life. As Christian ethicist Scott Rae so clearly explains, "the law is

the *moral minimum*. Obeying the law is the beginning of our moral obligations, not the end."[4] What Rae is suggesting is that sometimes law and ethics do not agree. In fact, decisions are routinely required of us as human beings that either contradict or extend beyond the purview of the law. Ethicist Deni Elliott clarifies this point when she observes, "Legal and ethical guidelines are not the same. A proposed action may be 1) both legal and ethical, 2) legal but not ethical, 3) ethical but not legal, or 4) neither legal nor ethical."[5] When law and ethics agree, decision-making is typically easy. Unfortunately, this is not always the case. "Most of the pressing demands of morality," Rae maintains, "are in those spaces where the law is not definitive, where the law is silent, or where the law allows one to do something unethical."[6] And for that reason, it is important to distinguish what is *legal* from what is *ethical*, what we *can* do versus what we *should* do, and then commit to doing what is right.

A couple of examples of this discrepancy will help to illustrate the point. It is clear to the vast majority of people today, for instance, that racial discrimination is immoral. Yet racial segregation was legal in the United States as recently as 1964. Does that mean it was morally acceptable during or before the Jim Crow era of America's history for an individual to discriminate against another person on the basis of race? No, absolutely not. Regardless of what the law permitted, it was the moral responsibility of all people then—just as it is now and at all times—to treat one another with dignity and respect, despite racial or ethnic differences.

The same discrepancy is apparent in the case of marital infidelity. Despite the attraction of younger generations to lifestyles involving open relationships and polyamory, the vast majority of people agree that committed couples should be monogamous.[7] In Western societies, however, no criminal statutes exist to prevent or discourage

someone from acting unfaithfully to their marriage partner. Does this suggest it is morally acceptable for a person to cheat on their spouse? No, not at all. Even without laws that would enforce marital fidelity, it is the moral responsibility of all people at all times to be faithful to their spouse for as long as they remain married.

Additional examples could easily be provided (e.g., lying, murder, profanity), but the validity of the above two normative moral principles should be immediately clear to most people, even if no laws exist to enforce them. Is the same true of abortion? Is intentionally ending the life of a preborn baby morally problematic even though abortion is legal in most contemporary Western societies? And how can we know? In our final two sections we will explore the two primary sources of moral authority that people should consider as they seek to make ethical decisions that extend beyond the reach of government law.

Natural Law

In place of *legal positivism* (the determination of right and wrong based simply on what the law permits), the better way for Christians, and all people, to decipher how they should and should not conduct their lives is by drawing upon the natural and supernatural sources from which moral standards are knowable in our world. In other words, we need to use both *reason* and *revelation*. In this section we will explore the former, and in the next section we will examine the latter.

When we seek to discern right and wrong by observing the natural order of the world, we are drawing upon "natural law." Rae defines natural law as the "general, objective, and widely shared moral values that are not specifically tied to the special revelation of

Scripture"—values like justice, truth, human dignity, and the preservation of life.[8] "These values," Rae continues, "are a consensus that comes out of the observations and conclusions of humankind over the centuries. In the same way that God has revealed truth about the sciences in creation and revealed truth in the observations of humankind in the social sciences, natural law refers to God's revelation of morality from all sources outside of Scripture. In this sense, natural law is general revelation applied to moral values."[9] Of course, there will be people in every society and in every time period who will disagree with this or that moral norm. But the fact that there exists general agreement on numerous ethical issues across most people groups helps to establish the validity of natural law.

What, then, does natural law teach us about the morality of abortion? In brief, natural law suggests that abortion is *immoral*. Obviously, this is not universally recognized today, nor has it been throughout history, so this moral point cannot be established simply by appealing to historical consensus (the same, of course, is true of slavery and sex trafficking).[10] Nevertheless, it is important to note that a slight majority of Americans agrees that abortion is immoral, as recent Gallup polls demonstrate.[11] Even though the statistical evidence is not overwhelming, we can explain the lack of consensus at least in part by appealing to the failure of many people to recognize the humanity and personhood of the unborn. In other words, once basic science is allowed to enter the discussion, popular arguments in favor of abortion often unravel. And thanks to the scientific advances of the last century, compelling arguments for the immorality of abortion are gaining wider acceptance.

The natural law argument against the morality of abortion is proven by demonstrating three simple premises. *First*, from the moment of conception (fertilization), an unborn entity is a

full-fledged member of the human community. *Second*, it is morally wrong to kill any member of the human community. *Third*, every successful abortion kills a full-fledged member of the human community. *Therefore*, every successful abortion is morally wrong.[12]

The second and third of these premises hardly require defending, since they are already widely accepted. After all, regarding premise two, most people and basically all civilized societies recognize that killing human beings is immoral. This is because all humans have a fundamental right to life, and killing someone results in the permanent, irreversible denial of that right.[13] Exceptions to this rule have been observed—for instance, in circumstances of just war, self-defense, and capital punishment—though these examples remain hotly contested and do not apply to the case of abortion. Furthermore, some have defended abortion by appealing to how an unborn child's right to life conflicts with the mother's right to liberty—that is, her right to control her own body. However, as Robert Spitzer explains, "Objective necessity requires that the child's right to life supersede the mother's right to liberty, because life is the necessary condition for the possibility of liberty."[14]

Moreover, regarding premise three, all people considering an abortion recognize that a successful procedure terminates whatever unborn entity is in their womb, whether they consider it to be a person or an appendage. As Carol Sanger asserts, "Women—even young women—understand very well what an abortion is. They understand that abortion ends pregnancy and that if they have an abortion, they will not have a baby: that is its very point."[15]

The real debate, therefore, centers on the validity of the first premise—the humanity and personhood of the unborn. Chapters 4, 5, and 6 of this volume provide comprehensive defenses of fetal personhood from natural law perspectives, making the case through

appeal to philosophy, biology, and law. For now, I will present only a brief argument for the humanity of the unborn by demonstrating that the overwhelming consensus among expert scientists is that human life begins at conception (fertilization).

Recent scientific literature has established that life, and thus humanness, begins at fertilization. Embryologist Brian Dale makes this link in his aptly titled book *Fertilization: The Beginning of Life*, in which he writes that fertilization is the "fascinating process where two highly specialized cells interact to form a *new life*."[16] The same point is made by Samuel Webster and Rhiannon de Wreede in their textbook *Embryology at a Glance*: "Animals begin life as a single cell. That cell must produce new cells and form increasingly complex structures in an organised and controlled manner to reliably and successfully build a new organism. . . . Embryology is the branch of biology that studies the early formation and development of these organisms. Embryology begins with fertilisation."[17] Ronan O'Rahilly and Fabiola Müller agree in their book *Human Embryology and Teratology*: "It needs to be emphasized that life is continuous, as is also human life, so that the question 'When does (human) life begin?' is meaningless in terms of ontogeny [i.e., the development of an organism]. Although life is a continuous process, fertilization . . . is a critical landmark because, under ordinary circumstances, *a new genetically distinct human organism is formed* when the chromosomes of the male and female pronuclei blend in oocyte [i.e., in the egg]."[18]

If these handpicked excerpts were not enough,[19] a recent University of Chicago doctoral dissertation shows this to be nothing less than the consensus opinion of the academic community. Through a survey that received responses from over 5,500 biologists from more than 1,000 leading universities around the globe, Steven Andrew Jacobs has demonstrated that an overwhelming percentage of life

science professionals agree that life begins at fertilization. According to Jacobs, each of the scientists he surveyed was asked to affirm or reject five statements that in various ways endorse fertilization as the moment when life commences. Of the 5,557 respondents, "only 240 participants did not affirm at least one of the statements (4%)," "86% affirmed at least half of the items they assessed, and 64% affirmed each item they assessed. Thus, regardless of the phrasing of the question," Jacobs summarizes, "a majority of biologists [as high as 96%] affirm the underlying biological view that a human's life begins at fertilization."[20] "These data," he concludes, "would then not only suggest that fetuses are biological humans but that fetuses are humans because they are developing in the human life cycle."[21] That being the case, the first premise of the natural law argument for the immorality of abortion is secure.

Admittedly, there are abortion defenders who grant that embryos and fetuses are humans because they have the right genetic material. However, these same people deny that unborn humans are persons and have the right to life. This is because, according to their understanding, a human becomes a person sometime after fertilization, whether late in pregnancy or even after birth. Answering this claim requires a much lengthier discussion than we have space for here. I will leave it to chapters 4 to 6 to respond to these arguments from a natural law perspective, and to chapter 3 from a biblical perspective. For now, I will simply say that it is entirely arbitrary to assign the beginning of personhood to a moment or developmental phase following conception.[22] Attempts to do so eventually lead to problems in a variety of other cases involving the sanctity of life. Thus, it is best to assign personhood to any and all human beings, regardless of age or functional ability. Provided, then, the accuracy of the first, second, and third premises of the argument made above,

the natural law argument against the morality of abortion is sound.

The Law of Christ

We have just seen that natural law theorists spend their time showing how the universal availability of reason makes all humanity responsible for keeping rationally discernable moral truths. Theologians, on the other hand, maintain that moral absolutes have also been revealed through inspired Scripture. Here we will survey some of the principles derived from the Bible that inform how we should make moral decisions in general, and how we should respond to the abortion epidemic in particular.

In the Old Testament, God prescribes the Law of Moses as the behavioral standard His people were to live by as they sought to maintain a relationship with Him. The New Testament, however, is quick to point out that obedience to the Mosaic Law is neither sufficiently possible nor ultimately necessary for those who are believers in Jesus. Indeed, Paul announces that "we are released from the law, having died to that which held us captive, so that we serve in the new way of the Spirit and not in the old way of the written code" (Rom. 7:6).

Now, while followers of Jesus are not obligated to keep the commandments of Moses in order to maintain a relationship with God, their lives should reflect the core principles of the divine law as they seek to love God with their entire selves, and to love others as themselves (Matt. 22:36–40; citing Deut. 6:5; Lev. 19:18). As Paul charges the believers in Galatia, "you were called to freedom [from the law], brothers. Only do not use your freedom as an opportunity for the flesh, but through love serve one another. For the whole law is fulfilled in one word: 'You shall love your neighbor as

yourself'" (Gal. 5:13–14; citing Lev. 19:18). The legal statutes that Paul insists Christians have been freed from are the 613 commandments belonging to the Law of Moses—not law codes established by contemporary political and legislative bodies. In place of the Mosaic Law, Christians are to live in the Spirit and thereby pursue a lifestyle characterized by a particular virtue—namely, *love of others*. By living in the Spirit and loving others, Christians will, counterintuitively, fulfill the law.

Paul has a clever label for this principled mode of living—"the law of Christ." Paul instructs the Galatians, "Bear one another's burdens, and so fulfill the law of Christ" (Gal. 6:2). Biblical scholar Thomas Schreiner explains, "The 'law of Christ' is equivalent to the law of love ([Gal.] 5:13–14), so that when believers carry the burdens of others, they behave as Christ did and fulfill his law. In this sense Christ's life and death also become the paradigm, exemplification, and explanation of love."[23] Such burden carrying takes many forms in the modern church, though its defining feature is self-sacrifice for the benefit of others. For just as Jesus gave of Himself for all people, so believers should imitate Jesus' generosity by giving of themselves for the well-being of their fellow humans; believers are instructed to "do nothing from selfish ambition or conceit, but in humility count others more significant than yourselves. Let each of you look not only to his own interests, but also to the interests of others" (Phil. 2:3–4). Applying this ethic is not the result of the believer's own willpower alone. Christians are recipients of the Holy Spirit and thereby divinely transformed into the likeness of Christ as they are enabled to obey God and love people. It is for this reason that Paul can say that "the fruit of the Spirit is love" (Gal. 5:22).

There are additional moral qualities believers ought to exhibit as a result of the Holy Spirit's work in their lives, but this brief overview

is sufficient to demonstrate that *Christian ethics* is ultimately a form of *virtue ethics*. Rather than being defined by a laundry list of "dos and don'ts" (though there are certainly many black-and-white moral norms prescribed by the biblical authors), the Christian teaching on morality principally involves God's people becoming like Jesus Christ, by internalizing His character traits and living them out in the circumstances and relationships of everyday life.

Let's elaborate further on how to make virtuous decisions by focusing our attention on Romans 12. In this passage, Paul calls Christians to "be transformed by the renewal of [their] mind," so they might make good moral choices—that is, so they can "discern what is the will of God, what is good and acceptable and perfect" (Rom. 12:2). At least part of what it means to have one's mind renewed and to discern God's will is addressed in the remainder of the passage, as Paul progresses from topics like the "mind" and discernment (12:2) to modest thinking and "sober judgment" (12:3). In other words, Christian decision-making fundamentally involves *humility*. The believer must adopt a humble estimation of one's own self-importance—committing "not to think of himself more highly than he ought to think, but to think with sober judgment" (12:3). Next, Christian decision making requires *integrity*. The believer must determine to do what is right and to resist doing what is wrong regardless of the circumstances—committing to "abhor what is evil" and "hold fast to what is good" (12:9). Finally, Christian decision-making demands *generosity*. The believer must give oneself for others—finding concrete ways to "love one another with brotherly affection" and to "outdo one another in showing honor" (12:10). These principles, Paul assures us, will guide us faithfully as we seek to live out God's mercies in our decision-making as new creatures in Christ.

The practical implications of these biblical principles for the

morality of abortion should be clear. Here I will highlight two. *First, Christian men and women should value the lives of the unborn.* As people called to "love your neighbor" and to care for "the least of these" (Luke 10:25–37; Matt. 25:40), Christians must recognize that there is no one on earth who is as much a neighbor to a pregnant woman as her unborn child, and no one who is more vulnerable and in greater dependence on another person as a child in utero. Thus, the love of Christ compels His followers to value unborn lives. This mandate to love does not only apply to the mother and father of an unborn child; it also applies to the baby's entire family and their whole community. And of course, this love should not evaporate once the baby arrives. Often, that is when the needs of the child and of the parents become greater. But this love should be present even during pregnancy.

Second, Christian men and women should go to great lengths to ensure the survival and safe delivery of unborn children. There are many reasons why women consider abortion, and even why they might believe abortion to be a morally acceptable decision. Pro-choice author Rebecca Todd Peters asserts, "In circumstances where pregnancy or parenting a child, or an additional child, represents undue physical, financial, or psychological hardship, the possibility of an abortion represents a *moral good* that secures a woman's well-being and often the well-being of her existing family."[24] But is this true? How is extinguishing innocent life good for anybody? And what about the well-being of the *baby*? Christians must love others in such a way that they put the good and well-being of vulnerable unborn children above their own convenience, preferences, and supposed well-being. During pregnancy, no one can replace the mother in the care of her unborn child. No one else can consume the right foods, breathe the right air, protect the baby from alcohol and narcotics, or

protect the baby from those who believe preborn life is dispensable. As people who value and prioritize the lives of the unborn, Christians must therefore be willing to care for their own children and to see their pregnancies through to birth.

Conclusion

Morality and legality are not the same thing. Considering what the law sanctions and prohibits is *significant* to our moral decision making, but it is never *sufficient* for deciding right from wrong. The morally conscious person must also consider the moral norms revealed through both natural law and the Bible. Reason (natural law) shows us that human life begins at conception, and thus even the earliest stages of human development must be protected. Moreover, because revelation (the Bible) calls God's people to live generously and sacrificially, Christians must advocate for the protection of unborn children and go to great lengths to help the mothers of unplanned pregnancies, even at great expense to themselves. Followers of Jesus are called to consider not merely what the *government permits*, but what *God expects*. And God expects those devoted to Him to make moral decisions based on the standards of morality revealed in Scripture, modelled by Jesus, and encoded into the transformed hearts of God's Spirit-indwelt followers. This virtue-based mode of decision-making is what Paul calls "a more excellent way" (1 Cor. 12:31) and it should lead all Christians, indeed all people, to *choose life*.

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