Teaching Correct Principles: Elective Abortion in the Doctrine, History, and Policy

Positions of the Church of Jesus Christ of Latter-day Saints and in the Views and Practices of the Members of the Church (Mormons)

Lynn D. Wardle

The Bruce C. Hafen Professor of Law

Brigham Young University

Provo, UT

USA

For Presentation at the University Faculty for Life Annual Academic Conference

At the J. Reuben Clark Law School, Brigham Young University

June 1-2, 2012

Bruce C. Hafen Professor of Law, J. Reuben Clark Law School, Brigham Young University. I am grateful to Travis Robertson, Stephanie Christensen, Chelsea Underwood, and Jennifer Rajan for their valuable research assistance. A related presentation that stimulated much of the thought and supplemented much of the research for this paper was Mormon Principles and Policies Regarding Prenatal Human Life, Specifically Human Embryonic Stem Cell Research presented at the University of St. Thomas Law School Terrence J. Murphy Institute for Catholic Thought, Law and Public Policy “Hot Topics/ Cool Talk” on Embryo Research November 16, 2011. I also have drawn on my other research and publications including Abortion in the Case of Rape: A Response to Todd Bindig, Abortion in the Case of Rape: Moral and Prudential Considerations, and A View of Mormon Ethics.
“I teach them correct principles, and they govern themselves.” – Joseph Smith


One of the challenges facing any cultural community is to maintain and transmit from one generation to another commitment to moral principles, policies and personal behaviors that are inconsistent with social values and practices that have become generally-accepted and widely-practiced. For example, how do church leaders create and nurture a faith community that maintains with integrity high moral standards in principle and practice relating to behaviors and values that it considers fundamentally immoral that have become socially approved and popular?

Elective abortion (used herein to mean abortions that are done not for reason of medical necessity but for reasons of personal preference and choice) presents a case study of a human behavior and social practice that once was widely proscribed and condemned as immoral but which, in the past five decades, has become socially accepted and widely practiced in American society. This paper will focus on how one particular faith community – that of the Church of Jesus Christ of Latter-day Saints (herein “Church”) -- has responded to the challenge of social acceptance and legitimation of elective abortion which is contrary to the long-established moral precepts of the religious community. It will review the statements made and policy positions taken by Church leaders, historically in the 19th century, and especially in the critical last 50 years during which elective abortion has become legal and socially-accepted in the United States. It will consider how effective that Church response has been in nurturing pro-life attitudes, opinions, policy positions, and personal practices of the members of the religious
community (who are sometimes called “Mormons” or “LDS”). It will identify some of the
significant Church actions and principles that seem to have contributed to the nurturing and
maintaining support for strong pro-life ethics, policies and personal behaviors of Mormons. The
conclusion

I begin with a disclaimer and caveat: I do not speak for the Church of Jesus Christ of
Latter-day Saints (“LDS Church”). I am presenting the perspectives of one Mormon scholar
(myself) about Mormon doctrinal religious principles and church policies concerning abortion
and related topics. I am a law professor who teaches family law and bioethical legal issues at
BYU; I am a fully-believing, practicing member of the Church (I served a mission at 19, and
have served continuously since in various local church teaching, service and leadership callings).

I will refer both to formal Church policies and also to informal “Mormon” social values
which refers to “cultural phenomena”\(^2\) reflecting more informal or customary values and beliefs
of the members of the Mormon Christian community. Culturally, I like most observant
Mormons, am strongly pro-life, I have written many law review articles criticizing \(Roe\) and
abortion-on-demand policies, and defending rights of conscience in health care.\(^3\) But there is

\(^2\) John W. Welch, \(Towards a Mormon Jurisprudence\), 21 Regent U. L. Rev. 79, 81 (2009). \(Id.\)
(“The term ‘Latter-day Saint’ is better reserved for official doctrines, policies, or programs of the
Church of Jesus Christ of Latter-day Saints.”)

\(^3\) See, e.g., Lynn D. Wardle, \(Rights of Conscience vs. Peer-Driven Medical Ethics: ACOG and
Abortion\), has been published in \(LIFE & LEARNING XVIII, PROCEEDINGS OF THE EIGHTEENTH
UNIVERSITY FACULTY FOR LIFE CONFERENCE AT MARQUETTE UNIVERSITY 2008\) at 23 (Joseph W.
Koterski, S.J., ed. 2011); Lynn D. Wardle, \(Protection of Health-Care Providers’ Rights of
Conscience in American Law: Present, Past, and Future\), 9 Ave Maria L. Rev. 1 (2010); Lynn D.
some diversity in the Mormon cultural community about these ethical and public policy issues.

This paper begins in Part II with a brief review of the history of the legalization of abortion in the United States. It shows that 1973 was the pivotal year, when the decision of the Supreme Court of the United States in *Roe v. Wade*, and its companion case, *Doe v. Bolton*, mandated as a matter of constitutional interpretation the legalization of abortion-on-demand

---


throughout the United States. Effectively, Roe and Doe required all states to repeal all laws restricting elective abortion (at least those applicable before the third trimester of pregnancy). Since then, largely in the twenty years after Roe, the Supreme Court decided nearly forty major (and at least 46 significant) abortion cases that entrenched the abortion privacy doctrine in American constitutional law and expanded it to cover a host of related matters -- from parental consent to spousal notification, from disposition of fetal remains to abortion funding, from sidewalk “counseling” to abortion demonstrations, from applicability of routine health clinic regulations to restriction of partial-birth abortion, etc.

Part III of this paper next reviews the history of how the general leaders of the Church (called “General Authorities”) have treated elective abortion in Church doctrine. It notes that since the early days of the Church, the practice of elective abortion consistently and persistently has been condemned emphatically by Church leaders as a very grave personal sin and very serious social evil. The most recent intense period of statements by LDS General Authorities emphatically condemning abortion as personally immoral and socially evil began in the late 1960s, just a few years before Roe v. Wade was decided, and continued unabated for a quarter-century. The strong position of the Church condemning abortion has continued consistently since then with only mild ebb in the frequency and intensity of the expression of that position.

In the nineteenth century, abortion was clearly disapproved within the first dozen years of the Church existence, and was the subject of repeated, strong condemnations in sermons by General Church Authorities when the Church moved the the West. Today, official Church policy statements and multiple, repeated teachings and sermons by the highest Church leaders continue to take a clear, strong position that abortion is a severely immoral and socially destructive act and that those who submit, procure, perform, pay for, arrange for, or assist abortion are subject to
the most serious Church discipline, including excommunication. So the treatment of the
morality of elective abortion in Church doctrine has been clear and consistent.

Then, in Part IV, this paper will examine how lay members of the church (Mormons) have treated abortion in actual practice in their personal lives and in the sub-culture of their religious community. There is little dissonance between the official Church doctrine and the views and practices of lay Mormons. Most Mormons believe, support and practice the moral principles espoused by their Church leaders regarding the immorality and ethical ugliness of elective abortion.

Next, in Part V, the Church’s public policy stands regarding other bioethical ethical issues are considered. The contrast between that and the LDS Church’s general reluctance to take positions on political issues, and with their neutral, moderate position on some other bioethical issues underscores the unique strength of the LDS position that elective abortion is a grave moral and social evil. Likewise, the strong, emphatic, clear statement of Church leaders against elective abortion contrasts with less strong, less emphatic, less definitive statements regarding some other contemporary issues involving biomedical ethics (especially embryonic stem cell research). That contrast reveals that the LDS Church leaders and members consider elective abortion to be that Mormons consider elective to be a uniquely grave moral evil and a uniquely serious threat to society.

In conclusion (Part VI), this paper identify some elements that may have contributed to the successful effort by LDS Church Leaders to support a strong culture of life that is reflected in the actual beliefs and practices of the members of the Church regarding elective abortion despite strong cultural dissonance. Of course, every religious community is unique and the approach that succeeds in one community may not succeed, or succeed as well, in another community.
However, the experience of the Mormon community indicates that some combination of factors may be effective in creating and maintaining support within a religious community for values and behaviors that reflect and embody the principles espoused by the church leaders.

II. The Transformation of the Social-Acceptance and Legality of Elective Abortion in America, 1960-2010

The social acceptance of elective abortion has undergone a major transformation in the United States of America during the past fifty years. In a nutshell, elective abortion was condemned and prohibited at common law in England from at least the twelfth century, and in the United States from colonial times, until about 1960. After World War II, with the development and application of penicillin and other drugs that reduced the risk of morbidity and mortality of abortion procedures, a movement to legalize abortion began. In 1962 the American Law Institute proposed that laws prohibiting abortion be modified to allow for therapeutic legal abortion in cases of risk to maternal health, fetal deformity, and rape or incest, and by 1972 thirteen states had adopted abortion reforms based on that ALI proposal. While the ALI proposal and these thirteen state laws did not legalize elective abortion generally, they reflected a lessening of social disapproval of abortion generally. More significantly, in 1970, four other

---

6 The transformation of the moral rating of abortion has been a world-wide phenomenon, not limited to the United States alone. See **. However, as this paper focuses on the LDS faith community in the United States, the discussion of the history of abortion is limited to the United States.

7 See generally JOSEPH W. DELLAPENNA, DISPPELLING THE MYTHS OF ABORTION HISTORY (2006); LYNN D. WARDLE & MARY ANNE WOOD, A LAWYER LOOKS AT ABORTION 27-49 (1982); *.

8 AMERICAN LAW INSTITUTE, MODEL PENAL CODE § 230.3 (1962).
states (Alaska, Hawaii, New York, and Washington) legalized abortion-on-demand for a limited period during pregnancy (ranging from twelve to twenty-four weeks of pregnancy).\(^9\)

Advocates of elective abortion were dissatisfied with the slow progress in repealing laws that generally prohibited elective abortion and began a litigation campaign to overturn those old laws in the courts. On January 22, 1973, the Supreme Court of the United States announced its decisions *Roe v. Wade*,\(^{10}\) and *Doe v. Bolton*.\(^{11}\) By a 7-2 vote in each case, the Court declared unconstitutional (in *Roe*) the 19th century Texas abortion law that, codifying the common law, prohibited abortion except when necessary to save the life of the mother, and declared unconstitutional (in *Doe*) most of the provisions of the 1962 ALI Model Penal Code that maintained the general prohibition of abortion but expanded the exceptions to include the three “hard cases” noted above.\(^{12}\) The rulings in *Roe* and *Doe* effectively invalidated the abortion laws in all fifty states. Moreover, the expansive *Roe* opinion (1) rejected outright the claims that protection of maternal health justified restriction elective abortions generally, (2) declared that the unborn victim of abortion (fetus or embryo) was not a “person” and did not possess any constitutionally protectable “right to life,” (3) described the decision of a pregnant woman whether to have an abortion as a private matter protected as a fundamental constitutional right against state regulation by the constitutional doctrine of privacy, and (4) declared that because of the “wide divergence of thinking” among theologians, philosophers and doctors about when “life” begins, the state may not protect pre-natal life against abortion before the fetus is viable


\(^{10}\) 410 U.S. 113 (1973).

\(^{11}\) 410 U.S. 179 (1973).

\(^{12}\) See *supra* note __ [6] and accompanying text.
(which it suggested was after 24-28 weeks of gestation), though it suggested that some ordinary health regulations would be allowed at least during the second trimester. In short, Roe and Doe not only invalidated virtually all existing abortion laws in the entire country, but legitimated the principle and practice of elective abortion as a fundamental value in our constitutional order.

Roe and Doe were only the tip of the iceberg of judicial protection of elective abortion in American law. Since then, the Court decided nearly forty major abortion cases that has not only embedded the constitutional doctrines (first the “privacy” doctrine, later the “liberty” doctrine) in American constitutional law but dramatically expanded it. Chief Justice Burger, joined in the original Roe and Doe opinions with a separate concurring opinion optimistically suggesting that the Court decisions did not endorse “abortion on demand” and would not have the “sweeping consequences attributed to them by the dissenting Justices.”13 Thirteen years later, he wrote a strong dissent in Thornburg v. American College of Obstetricians and Gynecologists.14

13 410 U.S. 208 (Burger, C.J., concurring).

14 476 U.S. 747, 782-83 (1986) (Burger, C.J. dissenting). In Thornburg, Pennsylvania statute which required that a woman be informed of the name of the physician who had performed the abortion, the "particular medical risks" of the abortion procedure to be used, the risks of childbirth, the possibility of detrimental physical and psychological effects of medical assistance benefits available for childbirth and prenatal care of the fact that the father would be liable for assistance in supporting the child, and of agencies offering alternatives to abortion was invalidated. For the Court, Justice Blackmun sharply condemned the provisions as designed to deter the exercise of freedom of choice. Requirement of disclosure of facts of fetal development was also invalidated after Justice Blackmun characterized them as nothing less than an attempt to discourage abortion and intrude into the privacy of the woman and her physician. Other
conceding that: “I regretfully conclude that some of the concerns of the dissenting Justices in Roe . . . have now been realized.” As Appendix 1 shows, in less than forty years, the Supreme Court has decided at least 46 major cases dealing with some aspect of abortion, and at least 37 cases that have dealt with some aspect of constitutional protection for elective abortion.

While it is clear that the Supreme Court decisions in Roe and Doe alone did not trigger the transformation of the social acceptance of elective abortion, and it seems clear that the trend toward acceptance of elective abortion as morally approved had begun and grown in the decade before those 1973 decisions, still, Roe can be identified as the pivotal event in the social transformation of the moral acceptance of elective abortion. A study by Judith Blake published provisions were impermissibly designed to protect the life and interests of the viable fetus subject to abortion. The majority invalidated requirements that the physician performing post viability abortions exercise the degree of care required to preserve the life and health of an unborn child intended to be born alive and to use the abortion technique that would provide the best opportunity for the unborn child to be born alive unless it would present a significantly greater medical risk to the woman's life or health, and that a second physician be present during the performance of an abortion when the fetus was possibly viable. Having condemned what it considered the wrongful intent of the Pennsylvania legislature, the majority refused to accept good faith of the state's construction of the statute, and found that it would require pregnant women to bear increased medical risks in order to save viable fetuses, failed to explicitly contain a medical-emergency exception, and curtail the performance of post viability abortions—all in contravention of the fundamental right of abortion privacy. Four justices dissented

See infra note _ and accompanying text.

Indeed, after the high-point of abortion law reform in 1970 and before the Supreme Court
in *Science* magazine reporting on three specially-commissioned Gallup polls between 1962-69 and a 1965 National Fertility study to track public opinion regarding abortions for four specific reasons found that during the decade preceding *Roe v. Wade*, 410 U.S. 113 (1973), disapproval of abortion “where the health of the mother is in danger” fell from 16% to 13%; disapproval of abortion “where the child may be born deformed” fell from 29% to 25%; disapproval of abortion “where the family does not have enough money to support another child” fell from 74% to 68%, and disapproval of abortion simply because the parents do not want more children fell from 91% (in 1965) to 79%. Another study by Blake of public opinion surveys from the mid-1960s to the mid-1970s (ending four years after Roe) found that disapproval of permissive legal abortion fell from 85% to 63% in one set of surveys, from 57% to 52% in another set (smaller time period), and from 91% to 76% in a third (five-year period). Gallup surveys showed that “opposition to elective abortion . . . clearly declined . . . from the high of 85 percent in 1968 to 63 percent in decisions in January 1973, only one state liberalized its abortion laws, and that by adopting the moderate ALI Model Penal Code principles. See Wardle & Wood, *supra* note __, at 43.

17 Judith Blake, *Abortion and Public Opinion: The 1960-1970 Decade*, 171 Science, 540, 541, table 1 (Feb. 12, 1971). She also concluded (presciently) in 1971 that: “a Supreme Court ruling concerning the constitutionality of existing state restrictions is the only road to rapid change in the grounds for abortion.” *Id.* at 548.

1974 and 1977.”¹⁹ (However, she also noted also that most of the rise in approval of elective abortion came before the Supreme Court decision in Roe.)²⁰

The first public Gallup Poll about the legality of abortion, in 1975 (just two years after Roe), found that nearly 60% of those polled thought abortion should be legal only in some – but not all - circumstances persons, while those who thought that all abortions should be illegal and those who thought that all abortions should be legal were about 20% each. However, over the next two decades, however, support for legalized abortion-on-demand grew to about 33% while opposition to legalizing any abortion fell to as low as 12%.

²¹ In the past fifteen years, however, the group of persons those supporting legalization of all elective abortions has shrunk and now is only moderately (9%) larger than the percentage of persons who believe that no abortions should be legal.²² Thus, over time, most of the change in public opinion recorded by the Gallup Poll organization has been on the polar extremes, the percentage of persons thinking that all abortions

¹⁹ Id. at 50.

²⁰ Id. at 57-58. She concludes: “[I]t is by no means clear whether the cause fo elective abortion is better or worse off today [1977] than it would have been had the states been allowed to continue to adopt liberalized abortion statutes without judicial prodding. For those interested in assessing the effectiveness of judicial review as a mechanism of social change, it is a questions worth asking.” Id. at 61.


²² Id.
should be allowed or prohibited.\footnote{Id. at 1. “At the same time, there have been notable changes over the years in the balance of support for the more extreme opinions at either end of the abortion policy spectrum. In the initial years after the Roe v. Wade decision, the number of Americans holding the extreme positions was roughly the same, at the 20% level. In the 1980s, attitudes gradually shifted toward the pro-choice position, so that by 1990, the liberal extreme outnumbered the \textit{conservative} extreme by a more than two-to-one margin. This trend peaked in June 1992, with 34% saying abortion should be legal in all cases and only 13% saying it should be completely banned. However, in 1996, a sharp reversal occurred, with a drop in the number holding the extreme pro-choice position (this fell to 22% by 1997). . . . Most recently Gallup has found about a quarter of Americans (26%) saying abortion should be legal in all cases, a little over half (56%) saying it should be legal in certain cases and 17% saying it should be illegal in all cases.”} The pro-abortion-on-demand polar extreme swelled for over a decade then deflated and today the polar positions are roughly equal again.\footnote{Id. at 1-3.}

Interestingly, however, the consistent majority have reflected the belief that abortion is a moral issue in the sense that they believe that it should be allowed only in certain (e.g., generally only in hard case) situation. Thus, the Gallup Poll organization reported in 2002 that: “A notable aspect of Gallup’s long-term measure of public opinion on abortion is the \textit{consistency in Americans’ outlook over the last quarter century.} From 1975 through today, a majority of Americans have almost continually held that abortion should be legal ‘only under certain circumstances.’”\footnote{Lydia Saad, \textit{Public Opinion About Abortion – An In-Depth Review, pgns Special Report} at 1 (January 22, 2002), available at http://www.gallup.com/poll/9904/Public-Opinion-About-}
that abortion is morally unacceptable and whether they believe that it is so morally unacceptable and harmful socially that it should prohibited by law.

Another measure of the social acceptance of abortion is in the number, rate and ratio of abortions performed. As Table 1 shows, the number of reported abortions (using the best available data,⁶ rise from 1972 until 1980 (when 30% of all known pregnancies in the United States were aborted), plateaued for about a decade, then began a slow but steady decline that seems to be continuing (with only a small rebound in the last four years).⁷

<table>
<thead>
<tr>
<th>Year</th>
<th># Aborts</th>
<th>Ab Rate⁶</th>
<th>Ab Ratio⁶</th>
<th>% Repeat⁷</th>
<th>%&lt;19 Yr</th>
<th>% unm'd</th>
</tr>
</thead>
<tbody>
<tr>
<td>1972</td>
<td>587,000</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

ABORTIONS IN THE UNITED STATES, In Even and “5” years, 1972-2008

⁶ Ironically, the best data about abortion incidence and practice comes from the private Alan Guttmacher Institute rather than the government Centers for Disease Control.

⁷ The rate of abortions per 1000 women 15-44 peaked in 1980 (at 2.93 percent) as did the ratio of abortions per known pregnancies number of abortions (at 30 percent), while the raw number of abortions peaked in 1990 (at 1,609,000).
<table>
<thead>
<tr>
<th>Year</th>
<th>Population</th>
<th>Growth Rate</th>
<th>Rate of Change</th>
<th>N/A</th>
<th>1973</th>
<th>1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>1973</td>
<td>745,000</td>
<td>16.3</td>
<td>193</td>
<td>N/A</td>
<td>32.8</td>
<td>71.0</td>
</tr>
<tr>
<td>1974</td>
<td>899,000</td>
<td>19.3</td>
<td>220</td>
<td>15.2</td>
<td>32.5</td>
<td>72.4</td>
</tr>
<tr>
<td>1975</td>
<td>1,034,200</td>
<td>21.7</td>
<td>249</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>1976</td>
<td>1,179,000</td>
<td>24.2</td>
<td>265</td>
<td>22.7</td>
<td>32.1</td>
<td>75.4</td>
</tr>
<tr>
<td>1978</td>
<td>1,410,000</td>
<td>27.7</td>
<td>294</td>
<td>29.5</td>
<td>30.8</td>
<td>76.5</td>
</tr>
<tr>
<td>1980</td>
<td>1,554,000</td>
<td>29.3</td>
<td>300</td>
<td>33.0</td>
<td>29.6</td>
<td>79.4</td>
</tr>
<tr>
<td>1982</td>
<td>1,574,000</td>
<td>28.8</td>
<td>299</td>
<td>36.8</td>
<td>27.5</td>
<td>80.9</td>
</tr>
<tr>
<td>1984</td>
<td>1,577,000</td>
<td>28.1</td>
<td>297</td>
<td>N/A</td>
<td>26.4</td>
<td>81.8</td>
</tr>
<tr>
<td>1985</td>
<td>1,589,000</td>
<td>28.0</td>
<td>298</td>
<td>40.5</td>
<td>26.2</td>
<td>82.3</td>
</tr>
<tr>
<td>1986</td>
<td>1,574,000</td>
<td>27.4</td>
<td>294</td>
<td>41.4</td>
<td>25.7</td>
<td>82.3</td>
</tr>
<tr>
<td>1987</td>
<td>1,559,110</td>
<td>26.9</td>
<td>289</td>
<td>42.2</td>
<td>25.4</td>
<td>82.4</td>
</tr>
<tr>
<td>Year</td>
<td>Population</td>
<td>Urban</td>
<td>Rural</td>
<td>N/A</td>
<td>Male</td>
<td>Female</td>
</tr>
<tr>
<td>------</td>
<td>------------</td>
<td>-------</td>
<td>-------</td>
<td>-----</td>
<td>------</td>
<td>--------</td>
</tr>
<tr>
<td>1988</td>
<td>1,590,800</td>
<td>27.3</td>
<td>288</td>
<td>N/A</td>
<td>25.6</td>
<td>82.6</td>
</tr>
<tr>
<td>1990</td>
<td>1,609,000</td>
<td>27.4</td>
<td>280</td>
<td>45.0</td>
<td>23.0</td>
<td>82.0</td>
</tr>
<tr>
<td>1992</td>
<td>1,529,000</td>
<td>25.9</td>
<td>275</td>
<td>47</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>1994</td>
<td>1,423,000</td>
<td>22.5</td>
<td>266</td>
<td>N/A</td>
<td>21.85</td>
<td>81.66</td>
</tr>
<tr>
<td>1995</td>
<td>1,359,400</td>
<td>22.5</td>
<td>259</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>1996</td>
<td>1,360,200</td>
<td>22.4</td>
<td>259</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>1998</td>
<td>1,319,000</td>
<td>21.5</td>
<td>250</td>
<td>—</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>2000</td>
<td>1,313,000</td>
<td>21.3</td>
<td>245</td>
<td>48</td>
<td>19.37</td>
<td>83.08</td>
</tr>
<tr>
<td>2002</td>
<td>1,293,000</td>
<td>20.9</td>
<td>242</td>
<td>—</td>
<td>—</td>
<td>82.010</td>
</tr>
<tr>
<td>2004</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>1,206,200</td>
<td>19.4</td>
<td>224</td>
<td></td>
<td>47</td>
<td>—</td>
</tr>
<tr>
<td>2006</td>
<td>*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>1,212,400</td>
<td>19.6</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>
Religiosity has long been correlated with opinions about abortion. For example, a special Gallup report in 2002 noted: “The overwhelming majority of people who say religion is very important in their lives believe abortion should either be illegal or legal in only a few circumstances. Similarly, most people who say religion is not very important in their lives believe abortion should be legal in most or all circumstances. [Other demographic factors] “largely overlap with the underlying religiosity [factor].”\textsuperscript{28}

The potential influence of religion is not surprising. For persons of faith who take the Bible seriously, it seems pretty clear that, “although relatively few passages say much directly about abortion or the status of unborn children, the assumption of Scripture is that the fetus is a human being and an image of God. Thus the life of the fetus may not be taken without destroying someone who is the image of God.”\textsuperscript{29} The Old Testament is filled with verses that describe the divinely-formed humanity of the pre-natal child in utero,\textsuperscript{30} describe children as a

\textsuperscript{28} Saad, \textit{supra} note __, at 1-2.

\textsuperscript{29} John W. Mahaffy, Abortion and the Bible, a study presented to the Committee on Abortion of the Presbytery of the Dakotas, in March 1971, available at http://mahaffynet.net/Mahaffynet/Writings/JWM/ABORTION%20AND%20THE%20BIBLE.pdf (seen 30 May 2012).

\textsuperscript{30} \textit{See, e.g.}, Job 31:15 (“Did not He who made me in the womb make him, And did not one fashion us in the womb?”); Jeremiah 1:5 (“Before I \textsuperscript{a}formed thee in the belly I \textsuperscript{b}knew thee; and before thou camest forth out of the womb I \textsuperscript{c}sanctified thee, and I \textsuperscript{d}ordained thee a prophet unto the \textsuperscript{e}nations.”): Psalms 22:9-10 (“But thou art he that took me out of the womb: thou didst make
blessing from God, \(^{31}\) condemn child sacrifice in any form or for any purpose, \(^{32}\) and portray God as the defender of the defenseless (the paradigmatic example of which is the unborn child). \(^{33}\) The New Testament, also, references the sacred and unique nature of prenatal life, \(^{34}\) and the special me hope when I was upon my mother’s breasts, I was cast upon thee from the womb: thou art my God from my mother’s belly.”): Isaiah 44:2 (“Thus saith the Lord that made thee, and \(^{a}\) formed thee from the womb, which will help thee; Fear not, O Jacob, my servant; and thou, \(^{b}\) Jesurun, whom I have chosen.”); Isaiah 44:24 (“Thus saith the Lord, thy \(^{a}\) redeemer, and he that \(^{b}\) formed thee from the womb, I am the Lord that \(^{c}\) maketh all things; that stretcheth forth the heavens alone; that spreadeth abroad the earth by myself;”); Genesis 25:22 (“The children [Jacob and Esau] struggled together within her”).

\(^{31}\) See, e.g., Psalms 127:3 (“Lo, children are an heritage of the Lord: and the fruit of the womb is his reward.”); Psalms 127:5 (“Happy is the man that has his quiver full of them: they shall not be ashamed, but they shall speak with the enemies in the gate.”); *

\(^{32}\) See, e.g., Leviticus 18:21; 20:1-5; Deuteronomy 12:31; 18:10 (“Thee shall not be found with you anyone who makes his son or his daughter to pass through the fire, one who uses divination, one who practices sorcery,”); Deuteronomy 19:10; 2 Kings 17:17 “The caused their sons and their daughters to pass through the fire . . . .): Proverbs 6:17; Isaiah 1:15; Jeremiah 22:17; Jeremiah 7:30-34; Ezekiel 16:20-21, 36-38; 20:31 (*add texts).

\(^{33}\) Deut 14:29 ; 24:17-21 ; 26:12-13 ; 16:11 16:14 (*); Job 29:12-13 ; 31:16-23 (*);

\(^{34}\) Galatians 1:15 (“But when it pleased God, who separated me from my mother’s womb, and called me by his grace”); Luke 1:41-44 (“And it came to pass, that, when Elisabeth heard the salutation of Mary, the babe leaped in her womb; and Elisabeth was filled with the Holy Ghost: and Elizabeth was filled with the Holy Spirit and she exclaimed with a loud cry, ‘Blessed are you
role model of children in Christ’s kingdom (and admonitions to adults to become like them).35 The wanton lifestyles of the Roman empire in the time of Christ and the apostles included the widespread practice of elective abortion, which the apostles and Christian fathers condemned as “works of darkness.”36 One of the corruptions of that day that the apostle Paul specifically condemned in his epistles was “pharmakeia,”37 “a Greek work meaning ‘the employment of drugs with occult properties for a variety of purposes including, in particular, contraception or abortion.’”38 Likewise, “the early ‘Christian Fathers,’ including Clement, Athenagoras, among women, and blessed is the fruit of your womb! And why is this granted me, that the mother of my Lord should come to me? For behold, when the voice of your greeting came to my ears, the babe in my womb leaped for joy’”;

36 Ephesians 5:11.
37 Galatians 5:19 (condemning fornication, impurity, indecency, idol-worship, sorcery [pharmakeia]); see further Romans 1:31 (“without natural affection”)
38 John Noonan, *An Almost Absolute Value in History*, in The Morality of Abortion: Legal and Historical Perspectives 6, 8-9 (J. Noonan ed. 1970), cited in Wardle & Wood, *supra* note __, at 28. For example Ancient Epitome of Canon XCI declares: “Whoever gives or receives medicine to produce abortion is a homicide.” Likewise, Canon XXI. of Ancyra, and Canon II. of St. Basil provide: “She who purposely destroys the foetus, shall suffer the punishment of murder. And we pay no attention to the subtile distinction as to whether the foetus was formed or unformed. And by this not only is justice satisfied for the child that should have been born, but also for her who prepared for herself the snares, since the women very often die who make such experiments.”
Tertullian, Augustine, Jerome, and Basis, recorded clearly how deeply they abhorred the practice of abortion.\textsuperscript{39} For example, the Didache (or “Teachings of the Lord to the Gentiles by the Twelve Apostles”) from the first century expressly commands: “Thou shalt do no murder . . . thou shalt not murder a child by abortion, nor kill them when born . . .”\textsuperscript{40}

Thus, it is clear that a significant change has occurred regarding general social approval and practice of elective abortion. It also is clear that a faith community can influence to some extent the opinions of the members of that community regarding the morality and legality of abortion. However, membership in a religious community is no guarantee of acceptance of or conformity to the moral teachings of the faith regarding disapproved practices for which there is strong support in society generally. Members of religious communities are also influenced by the same factors that influence other members of the larger society. Thus, one study found that in the dozen years following the \textit{Roe} decision, mainstream religious opposition to elective abortion slipped by 10-20 percent.\textsuperscript{41}

That brings us back to the introductory question that is the focus of this paper: How do leaders of a faith community create and maintain within the community support for high moral

\textsuperscript{39} Wardle & Wood, \textit{supra} note __, at 28.

\textsuperscript{40} Didache 2:2 available at http://www.spurgeon.org/~phil/didache.htm (seen 31 May 2012); for another translation see Didache 2:2 available at http://thedidache.com/ (seen 31 May 2012).

standards in precept and action relating to values and practices that it considers fundamentally immoral that have become accepted and popular in society generally?

III. The Doctrines and Policies of the Church of Jesus Christ of Latter-Day Saints

Concerning Elective Abortion

A. Organization of the LDS Church, its Leadership, and the Importance of Teaching

Statements condemning abortion have been made by LDS General Authorities in General conference for about 170 years, beginning just a few years after the church was organized in 1830. The number and tempo of such statements dramatically increased in recent years.

Some background on the organization of the Church is important. The Church priesthood leaders of the wards (like parishes) and stakes (like dioceses) and area (geographic groupings of many stakes) are lay members—unpaid ordinary members who have their day jobs (as teachers, lawyers, doctors, businessmen, government officials, farmers, etc.) and who generally give 10-20 hours of service per week at night and on weekends in their lay ministry assignments. The overall church leadership, called “General Authorities” (about 120 in number), are full-time paid church employees and direct the work of the local and area lay leaders, and they also direct the work of the large staff of tens of thousands of paid and volunteer employees and volunteer missionaries of the church. Fifteen of the General Authorities (the President of the Church and his two counselors who constitute First Presidency, and the Council of Twelve Apostles) are sustained by the members as “prophets, seers and revelators.” The President of the Church is considered to be God’s living Prophet who, when speaking in his prophetic role, reveals the mind and will of God to his people on the earth.

__ D&C *; Sustaining ____ Ensign, May 2012 at __.

__ Thus, Mormons are admonished in word of a modern revelation: “Wherefore, meaning the
Twice each year, in the first weekend of April and of October, Mormon General Authorities speak in General Conference from SLC to all of the members. Their talks represent the official teachings of the leaders of the church. The official policy positions of the Church institutionally (for both internal Church governance as well as for public policy issues) are set forth in official statements and Handbooks issued by the First Presidency and/or the Council of the Twelve Apostles. They are accessible in print form and online. Additionally every six months the General Authorities and Auxiliary presidencies (about one-six of them in any given conference) give sermons in the semi-annual General Conferences reflecting, explaining, persuading, and often elaborating upon the official positions of the Church. Those General Conferences sermons are widely broadcast over television, cable, internet and radio channels around the world, and then re-distributed in full in broadcast and DVD forms, and in the next month’s issue of the monthly Ensign magazine which all members of the church are encouraged to read. Summaries of them are published in the weekly Church News newspaper (insert). Great efforts and resources are devoted to disseminating the sermons given in the General Conferences to all of the members of the church. They also often become the subject of local sermons, Sunday School classes, and other gatherings of the local wards and stakes of the Church in the church, thou shalt give a heed unto all his words and b commandments which he shall give unto you as he receiveth them, walking in all c holiness before me; 5 For his a word ye shall receive, as if from mine own mouth, in all patience and faith.” See also verses 6-7 (“ 6 For by doing these things the a gates of hell shall not prevail against you; yea, and the Lord God will disperse the powers of b darkness from before you, and cause the heavens to c shake for your d good, and his name’s e glory. 7 For thus saith the Lord God: Him have I inspired to move the cause of “Zion in mighty power for good, and his diligence I know, and his prayers I have heard.”).
months following the General Conference.

The great emphasis upon and apparatus created and used to disseminate to members of the Church the sermons and teachings of the General Authorities, especially the General Conference sermons, underscores the importance of the two-sided coin of “teaching correct principles.” As to most social and legal policy issues, the Church follows the practice of Joseph Smith who replied to a question about how he governed such a large group of people: “I teach them correct principles and they govern themselves.”44 Likewise, the Lord revealed to the

44 The Organization of the Church, Millennial Star, Nov. 15, 1851, at 339, available at http://jesuschrist.lds.org/josephsmith/v/index.jsp?vgnextoid=dd2f001c6b340010VgnVCM100001f5e340aRCRD&vgnextfmt=tab2 (seen 28 June 2011); see also Messages of the First Presidency, vol. 3, p. 54 (James R. Clark comp., 1965-75). When the Mormons were forcibly driven out of Missouri under the infamous “extermination order” of Governor Lilburn Boggs, See William G. Hartley, Missouri’s 1838 Extermination Order and the Mormon’s Forced Removal to Illinois, __Mormon Historical Studies __, available at http://www.mormonhistoricsitesfoundation.org/publications/studies_spring_01/MHS2.1Hartley.pdf (seen 30 May 2012), Church leaders bought a large tract of land in Illinois, much of it swampy, on the banks of the Mississippi River, and the religious refugees settled there. Within five years, the new settlement, called “Nauvoo” became the largest city in Illinois. During that brief period of prosperity, “a member of the [Illinois] Legislature, asked Joseph Smith how it was that he was enabled to govern so many people, and to preserve such perfect order; remarking at the same time that it was impossible for them to do it anywhere else. Mr. Smith remarked that it was very easy to do that. ‘How?’ responded the gentleman; ‘to us it is very difficult.’ Mr. Smith replied, ‘I teach them correct principles, and they govern themselves.’” John Taylor, “The
Prophet Joseph Smith that it is not appropriate that men should be commanded by God in all things, but, rather “men should be anxiously engaged in a good cause, and do many things of their own free will, and bring to pass much righteousness . . . .”45 This creates an environment that fosters individual responsibility to search and study and use their own abilities and resources and inspiration to make important decisions.46 Thus, in most cases, the Church says very little officially about what it thinks the law or legal policy should be. Rather, the Church policies generally address the individual moral/spiritual dimensions of the issues, the foundational moral principles, internal institutional concerns (such as the standing within the Church of persons who engage certain behavior that violates the commandments of God or Church moral policies), the core theological principles that might be implicated by a social policy. Thus, Church public policy regarding abortion is one of a very few legal policy issues as to which the contemporary Church has taken a definite and clear position. But even that operates in a framework in which members of the Church are urged and expected to study it out for themselves and, referencing and respecting a few landmark positions provided by the Church, are expected to generally


45 D&C 58:26-27.

decide for themselves on the details and particulars. While only selectively definitive in content, this approach is generally pluralistic in process (reflecting one of the great paradoxes of Mormonism). In the absence of specific direction, Mormons, generally tend to take pragmatic principles approaches and tolerate a reasonable diversity of viewpoints on issues such as bioethics ethics (in contrast to the approach of ethicists generally, who are sometimes prone to “hyper-rationalism.” As a result, there is significant diversity within the Mormon community

47 D&C*

Hyper-rationalism is essentially the substitution of reason for information and analysis. It has two components: first, the belief that reason can reliably be used to infer facts where evidence is unavailable or incomplete, and second, the practice of interpreting facts through a set of artificial analytic categories. The first component of hyper-rationalism has three related aspects. In its first aspect, it is the assumption that systematic evidence is generally superfluous to understanding social problems, since the behavior of people and institutions can be logically inferred from a general understanding of how people and institutions work. In its second aspect, it is the assumption that, in the absence of a general understanding of how people and institutions work, anecdotal evidence is generally sufficient, since the behavior of people and institutions can be logically inferred from a few examples of their actual behavior under the relevant circumstances. In its third aspect, it is the assumption that a description of social reality articulated in one
on issues such as stem cell research, withdrawal of medical treatment, birth control, etc.\textsuperscript{49}

Thus, the current position of the Church on most dilemmas of biomedical ethics and other public policies reflects the Mormon Christian belief in some separation between church and state, at least to the extent reflected in Jesus’ response to the trick trap question of the Pharisees about whether his disciples should pay taxes to the Romans (and the Romans demanded) or not (as Jewish purists and zealots of the time insisted). Jesus drew a distinction between the case may be taken as demonstrated fact in subsequent cases; it is, in other words, the application of \textit{stare decisis} to evidence about social behavior.

jurisdiction and priority of concerns of the kingdom of God and jurisdiction and priority of concerns of the temporal political kingdoms when he responded:

24Shew me a penny. Whose image and superscription hath it? They answered and said, Caesar's.

25And he said unto them, Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's.  

This teaching of Christ has at least three meaningful possible applications regarding the issue of elective abortion. First, the general message that Christ’s kingdom is spiritual and not political is made clearly. Thus, the LDS Church generally does not seek to influence laws and politics. It generally leaves it to members individually to sort out the political wheat from the chaff. As noted above, as to most political issues implicating bioethical concerns, the Church as an entity does not take a formal position but emphasizes the underlying theological principles and encourages members to study and reason and seek inspiration to determine the best political or legal policy. As Mormon bioethicist Courtney Campbell put it: “By refusing to dictate normative positions on most issues for its members, the Church places the burden of ethical choices and social involvement on the individual, thereby accentuating the theological tenet of individual agency and responsibility.”  

While selectively definitive in content, this approach is

50 Luke 20:24-25 (KJV). Likewise, when brought before Pilate and asked if he was a king (an earthly political sovereign) he responded: “My kingdom is not of this world:” John 18:36.

generally pluralistic in process (reflecting one of the great paradoxes of Mormonism – that a community-oriented, somewhat hierarchical church led faith community is generally tolerant and inclusive of diverse viewpoints about public policy issues). In the absence of specific direction, Mormons, generally tend to take pragmatic principles approaches and tolerate a reasonable diversity of viewpoints on issues such as bioethics (in contrast to the approach of ethicists generally, who are sometimes prone to “hyper-rationalism.” 52 As a result, there is significant

Hyper-rationalism is essentially the substitution of reason for information and analysis. It has two components: first, the belief that reason can reliably be used to infer facts where evidence is unavailable or incomplete, and second, the practice of interpreting facts through a set of artificial analytic categories. The first component of hyper-rationalism has three related aspects. In its first aspect, it is the assumption that systematic evidence is generally superfluous to understanding social problems, since the behavior of people and institutions can be logically inferred from a general understanding of how people and institutions work. In its second aspect, it is the assumption that, in the absence of a general understanding of how people and institutions work, anecdotal evidence is generally sufficient, since the behavior of people and institutions can be logically inferred from a few examples of their actual behavior under the relevant circumstances. In its third aspect, it is the assumption that a description of social reality articulated in one
diversity within the Mormon community on issues such as stem cell research, withdrawal of medical treatment, birth control, etc.53

Second, Jesus coin-metaphor also suggests that human beings who are in the image of God (including unborn children, as noted above) belong to God, not to man.54 In other words, the destruction of human life is a matter for God to decide, not for man. For case may be taken as demonstrated fact in subsequent cases; it is, in other words, the application of *stare decisis* to evidence about social behavior.


54 *See supra* notes __ through __ and accompanying text (OT/NT image of God).
abortion, this suggests that destruction of prenatal human life by means of elective abortion is improperly rendering unto Caesar and to Caesar’s worldly society the living image of God that rightfully belongs to God. That is crossing the “render unto Caesar that which is Caesar’s and unto God that which is God” line the Savior drew.

Third, that may explain why the LDS Church has taken a position on the legality of elective abortion when regarding most political or social policy issues it does not and regarding many other biomedical ethical controversies it has not. While most bioethical dilemmas only tangentially or peripherally approach the line of demarcation between the jurisdiction of God’s kingdom and Caesar’s kingdom, the practice of elective abortion apparently is considered by Church leaders to fall clearly within the jurisdiction of God’s priority of concern, trumping Caesar’s. Put another way, it is a public policy issue as to which the moral dimensions are so important and dominant and pressing that the leaders of the Church have taken a position in order to clearly define and defend an essential moral position and their moral jurisdiction to express right and wrong on moral issues.

B. Nineteenth Century LDS Condemnation and Rejection of Elective Abortion

Historically, even in the early years of the church in the nineteenth century, before laws forbidding abortion had been widely enacted, and when the covert practice of elective abortion was common in America, Mormon leaders took and enforced strong doctrinal positions disciplining those who engaged in the practice. Evidence of Mormon rejection of elective abortion can be traced at least as early as 1841 when the issue arose in Nauvoo, Illinois, then the headquarters of the Church. John C. Bennett, a prominent physician, briefly became an influential Mormon church leader (including Assistant President of the Church, Counselor in the
First Presidency, and Mayor of Nauvoo). “Eventually, however, rumors of adultery, homosexuality, unauthorized polygamy, and the performance of abortions emerged.” That led to his discipline by Church leaders. He was caught engaging in seduction and adultery; he professed repentance and was forgiven; but when he was caught again in immoral behavior he was excommunicated from the Church, left Nauvoo, and became a bitter enemy of the Church and of Joseph Smith personally. Apparently Bennett used his alleged ability to safely perform abortion (to prevent discovery of the secret sexual liaisons) to persuade some women to engage in immoral sexual relations with him. For example, one witnesses testified that “Dr. Bennett told her [one victim], that he could cause abortion with perfect safety to the mother, at any stage of pregnancy, and that he had frequently destroyed and removed infants before their time to prevent

55 “Bennett became an Assistant President of the Church and Counselor in the First Presidency, the mayor of the city of Nauvoo, General of the Nauvoo Legion, and the chancellor of the University of Nauvoo.” John C. Bennett, in Wikipedia at http://en.wikipedia.org/wiki/John_Cook_Bennett (seen 31 May 2012). ** ++

56 Id. ** ++

57 It was probably John C. Bennett to whom Heber C. Kimball referred in one sermon delivered in 1857 in The Bowery in Salt Lake City, when he declared: “I have been taught it, and my wife was taught it in our young days, when she got into the family way, to send for a doctor and get rid of the child, so as to live with me to gratify lust. It is God’s truth, and I know the person that did it.” Heber C. Kimball, Remarks made in the Bowery of the Great Salt Lake City (July 26, 1857) 5 Journal of Discourses 86, 91-2 (*). √

58 Id. ** ++
exposure of the parties, and that he had instruments for that purpose &c.” 59

In the last half of the 19th century, when Mormons who had moved en masse to the remote and isolated American West, public sermons strongly condemning abortion were frequently made by Church leaders. For example, in response to criticisms and persecution for their open and transparent practice of Biblical “plural marriage” (which related in part to their desire for more children), leaders of the Church sometimes responded with emphatic condemnations of abortion, contrasting their love for their families and their children with the hypocrisy of their critics in the Eastern United States who kept mistresses and aborted the children of their illicit liaisons. 60 Nearly two dozen public sermons strongly condemning abortion were delivered by Church leaders between 1857 and 1885 that were published in the Journal of Discourses. 61 For example, in 1979 Apostle (and later third president of the Church) John Taylor declared:

> The standing law of God is, be fruitful and multiply; but these reformers are ‘swift to shed blood,’ even the blood of innocence; and with their pre-natal murders and other crimes, are slaying their thousands and tens of thousands with


60 See, e.g.,

61 I acknowledge with gratitude the outstanding research efforts of one of my student research assistants, Bryan Thursted, with whose assistance have compiled a collection of sermons of church leaders era containing statements about abortion during this era published in the Journal of Discourses, including two sermons delivered in 1857, one in 1867, and twenty between 1879 and 1885.
impunity, to say nothing of that other loathsome, disgusting, filthy institution of modern Christendom ‘the social evil,’ as well as other infamous practices. We must protest against feticide, infanticide, and other abominable practices of Christendom being forced upon us, either in the shape of legislative enactment, judicial decision or any other adjunct of so-called civilization. We are American citizens and are not yet deprived of the inalienable rights of life, liberty and the pursuit of happiness.62

Likewise, in 1882 Apostle Joseph F. Smith (also later a President of the Church) declared in a sermon in Salt Lake City:

[W]e are called an immoral people. Well, is the world so very moral? Are our accusers so very pure and holy and so extremely righteous that they should accuse us of being immoral?... [T]here is not a more moral people upon the face of the earth to-day than the Latter-day Saints . . . . I will venture to say that there are half as many children murdered among [the most virtuous Americans] annually, either before or after birth, by their own mothers or fathers, as are born to the Latter-day Saints in the same period. The Latter-day Saints are proverbial for not murdering their children. They have hosts of them, and they do not try to destroy them neither before nor after birth, but endeavor to rear them to manhood and womanhood, that they may teach them the principles of the Gospel of Christ – the highest code of morals known, that they may be able to bear off the

kingdom of God upon the earth, and to regenerate the world. This is the object for
which the Latter-day Saints are raising children, that God may have a pure and a
righteous people. . . .

But, it is said, the immorality of the Latter-day Saints consists in their
marrying more wives than one. We are not charged with the crime of frequenting
houses of ill-fame, of fostering illicit intercourse, of infidelity to our wives – of
child murder, of drunkenness, profanity, dishonesty, cruelty or indolence, or if we
are the charge is utterly false, but our great offense is in marrying our wives and
protecting them and our children as all honorable men should. God forbid that I
should undertake to compare the honorable marriages of the Latter-day Saints
with the debauchery and sexual crimes of our accusers! 63

Apostle and Counselor in the First Presidency, Heber C. Kimball declared propheticall in
a sermon in Salt Lake City Bowery:

The [religious leaders] of the day in the whole world keep women, just the same
as the gentlemen of the Legislatures do. The great men of the earth keep from two to
three, and perhaps half a dozen private women. They are not acknowledged openly, but
are kept merely to gratify their lusts: and if they get in the family way, they call for the
doctors, and also upon females who practice under the garb of midwives, to kill the

63 Joseph F. Smith, Discourse delivered in Salt Lake City, Oct. 29, 1882, 24 Journal of
Discourses 8,11 (1884.)
children, and thus they are depopulating their own species. [Voice: ‘And their names shall come to an end.’] Yes, because they shed innocent blood.

I knew that before I received ‘Mormonism.’ I have known of lots of women calling for a doctor to destroy their children; and there are many of the women in this enlightened age and in the most popular towns and cities in the Union that take a course to get rid of their children. The whole nation is guilty of it. I am telling the truth. I won’t call it infanticide. You know I am famous for calling things by their names. I have been taught it, and my wife was taught it in our young days, when she got into the family way, to send for a doctor and get rid of the child, so as to live with me to gratify lust. It is God’s truth, and I know the person that did it. This is depopulating the human species; and the curse of God will come upon that man, and upon that woman, and upon those cursed doctors. There is scarcely one of them that is free from the sin. It is just as common as it is for wheat to grow.

Do we take that course here? No. I have buried several children; I have buried them in York State, too, in Monroe county, where I lived all my young days, and where I became acquainted with brother Brigham, which is rising of thirty years that we have been together, about twelve miles from where Joseph Smith lived and found the Book of Mormon. I buried two children there, lawful children, born to me by my first wife; and then I have buried some ten children here, born to me by my lawful wives; and I have altogether about fifty children; and one hundred years won’t pass away before my posterity will out-number the present inhabitants of the State of New York, because I do not destroy my offspring. I am doing the works of Abraham, Isaac, and Jacob; and if I live and be a good man, and my wives are as good as they should be. I will raise up men
yet, that will come through my loins, that will be as great men as ever came to this earth, and so will you. 64

So LDS rejection of elective abortion in the nineteenth century by the Church leaders was a clear, strong and abundantly-expressed value.

C. LDS Response to the Movement to Legalize and Social Acceptance of Elective Abortion in Since 1960.

Every President of the Church for the past fifty years has explicitly condemned and specifically warned members of the church against evil of abortion in general conference and related sermons. All eight men whom Mormons consider to be the Prophet of God on the earth during their era of Church leadership -- David O. McKay, 65 Joseph Fielding Smith, Harold B. Lee, Spencer W. Kimball, Ezra Taft Benson, Howard W. Hunter, Gordon B. Hinckley, and Thomas S. Monson -- all have declared that abortion is a grave sin and have rejected the policy of elective abortion as immoral and socially dangerous.

For example, President Spencer W. Kimball declared: "Abortion, the taking of life, is one of the most grievous of sins. We have repeatedly affirmed the position of the Church in

64 H.C. Kimball, Remarks made in the Bowery of the Great Salt Lake City July 26, 1857, 5 Journal of Discourses 86, 91-2. His grandson, Spencer W. Kimball, served as the twelfth president of the Church and held that position when I discovered this prophetic statement of his grandfather.

unalterably opposing all abortions.” He described it as an “heinous crime,” and said:

“Abortion is a calamity . . . one of the most revolting and sinful practices of this day . . . This Church of Jesus Christ opposes abortion and counsels all members not to submit to nor participate in any abortion, in any way, for convenience or to hide sins . . . Those encouraging abortion share guilt.” President Ezra Taft Benson, called abortion a "damnable practice." President Gordon B. Hinckley reaffirmed that life is a gift, that it "is sacred under any circumstance." He said: "Abortion is an ugly thing, a debasing thing, a thing which inevitably brings remorse and sorrow and regret." Thomas S. Monson (now the President of the Church) in 1971 emphatically rejected claims for “free abortion,” and that God wanted women to “Be Fruitful [but] Don’t multiply,” declaring: “Such idiotic and blatantly false philosophy must not be entertained or believed,” and he went on to extoll the importance and glory of motherhood


67 *Id.*


70 *Beliefs of the LDS Church concerning abortion*, Religious Tolerance, at http://www.religioustolerance.org/lds_abor.htm (seen 111110), citing G.B. Hinckley, "What are people asking about us?," Ensign magazine, 1998-NOV, Page 70.

and childbearing and maternal childrearing.

In the 50 consecutive semi-annual general conferences between October 1970 and April 1995, LDS Church Leaders delivered more than 75 general conference sermons addressing the practice and legalization of abortion. In those critical twenty-five years, during which the novel legal rule of abortion-on-demand was being created, imposed, established, and expanded, and during which the practice of abortion was becoming widespread and cultural acceptance was growing, the leaders of the Church of Jesus Christ of Latter-day Saints expressed unequivocal opposition to permissive abortion in every general conference; not a single semi-annual conference passed without some direct criticism of or condemnation of permissive abortion by the General Authorities. Because of this intensive, frequent declaration of the Church position on abortion for a quarter-century, it is now well-established and widely understood by members of the Church, and the contrast between the Church’s position and the prevailing American legal/social standard about abortion is clear. We are different, we know it, and we celebrate that distinction.

Nearly two-and-one-half years before the Supreme Court decided Roe v. Wade and effectively mandated that every state legalize abortion-on-demand, Church leaders were warning against the sin and social degradation of liberal abortion. In the early October 1970 General Conference, four general authorities spoke explicitly against the growing evil of abortion and the growing corruption of social morality evidenced in the acceptance of the ethic of permissive abortion. All four of those men, Spencer W. Kimball, Ezra Taft Benson, Howard W. Hunter, and Gordon B. Hinckley later served as the President of the Church. At about the same time, the current president of the Church, Thomas S. Monson delivered a talk about that same time (later 111107).
By way of example, I give just a half-dozen statements about abortion from sermons by General Authorities sustained as “prophets, seers, and revelators.”

Abortion, which has increased enormously, causes one to ask, "Have we strayed so far from God's second great commandment--love thy neighbor--that a baby in a womb no longer qualifies to be loved--at least as a mother's neighbor?" Even so, violence to an unborn child does not justify other violence!


The ultimate act of destruction is to take a life. That is why abortion is such a serious sin. Our attitude toward abortion is not based on revealed knowledge of when mortal life begins for legal purposes. It is fixed by our knowledge that according to an eternal plan all of the spirit children of God must come to this earth for a glorious purpose, and that individual identity began long before conception and will continue for all the eternities to come. We rely on the prophets of God, who have told us that while there may be "rare" exceptions, "the practice of elective abortion is fundamentally contrary to the Lord's injunction, 'Thou shalt not . . . kill, nor do anything like unto it' (Doctrine and Covenants 59:6)" (1991 Supplement to the 1989 General Handbook of Instructions, p. 1).


Except where the wicked crime of incest or rape was involved, or where competent medical authorities certify that the life of the mother is in jeopardy, or that a severely defective fetus cannot survive birth, abortion is clearly a "thou shalt not." Even in these very exceptional cases, much sober prayer is required to make the right choice.

... I believe that most people are drawn into a life of drug addiction or perversion or submit to an abortion without really realizing how morally and spiritually dangerous they are.


Whatever the laws of man may come to tolerate, the misuse of the power of procreation, the destroying of innocent life through abortion, and the abuse of little children are transgressions of enormous proportion. For cradled therein rests the destiny of innocent, helpless children.

Now, as a servant of the Lord, I dutifully warn those who advocate and practice abortion that they incur the wrath of Almighty God, who declared, "If men . . . hurt a woman with child, so that her fruit depart from her, . . . he shall be surely punished." (Ex. 21:22.)

... The Church of Jesus Christ of Latter-day Saints has consistently opposed the practice of abortion. One hundred years ago the First Presidency wrote: "And we again take this opportunity of warning the Latter-day Saints against those . . . practices of foeticide and infanticide." Russell M. Nelson, Ensign, May 1985, p. 13.
Six themes have been constant in the statements made about abortion during this quarter-century by General Authorities of the Church of Jesus Christ of Latter-day Saints. (1) Abortion is a "revolting," "abhorrent" sin, and "serious" transgression of the laws of God. (2) Members of the Church who counsel, submit to, perform, or pay for abortion have sinned, must repent, may be subject to Church disciplinary action, and are disqualified from serving missions. However, the sin of abortion may be forgiven; while it is "like unto" murder, it is not the unforgivable sin of murder. (3) In rare cases, abortion may be justified but only after prayerful consideration and counsel with priesthood leaders; these cases involve life- or serious health-threatening pregnancy, cases of severe birth defect, and psychologically-traumatic rape. (4) The acceptance of permissive abortion and the growing practice of abortion in society are degenerate "evils," among the manifestations of pervasive "wickedness" and "selfishness" marking the last days, and will bring the judgments of God upon the societies that embrace them. (5) The Church "opposes" and decries the legalization of permissive abortion, but as a Church refrains from "tak[ing] a position on specific legislative proposals" relating to abortion. (6) However, as the official Statement on Abortion declares, the Church "encourage[s]" all members to "speak out," "fight against" and "oppose" the legalization of permissive abortion, and "let their voices be heard in appropriate and legal ways that will evidence their belief in the sacredness of life."

By way of example, I give just a smattering of half-dozen statements about abortion from

sermons by General Authorities sustained as “prophets, seers, and revelators.”

Abortion, which has increased enormously, causes one to ask, "Have we strayed so far from God's second great commandment--love thy neighbor--that a baby in a womb no longer qualifies to be loved--at least as a mother's neighbor?" Even so, violence to an unborn child does not justify other violence!  

The ultimate act of destruction is to take a life. That is why abortion is such a serious sin. Our attitude toward abortion is not based on revealed knowledge of when mortal life begins for legal purposes. It is fixed by our knowledge that according to an eternal plan all of the spirit children of God must come to this earth for a glorious purpose, and that individual identity began long before conception and will continue for all the eternities to come. We rely on the prophets of God, who have told us that while there may be "rare" exceptions, "the practice of elective abortion is fundamentally contrary to the Lord's injunction, 'Thou shalt not . . . kill, nor do anything like unto it' (Doctrine and Covenants 59:6)" (1991 Supplement to the 1989 General Handbook of Instructions, p. 1).

Except where the wicked crime of incest or rape was involved, or where competent medical authorities certify that the life of the mother is in jeopardy, or that a severely defective fetus cannot survive birth, abortion is clearly a "thou shalt not." Even in these very exceptional cases, much sober prayer is required to make the right choice.

73 Neal A. Maxwell, Ensign, May 1993, p. 76.
I believe that most people are drawn into a life of drug addiction or perversion or submit to an abortion without really realizing how morally and spiritually dangerous they are.\(^{75}\)

Whatever the laws of man may come to tolerate, the misuse of the power of procreation, the destroying of innocent life through abortion, and the abuse of little children are transgressions of enormous proportion. For cradled therein rests the destiny of innocent, helpless children.\(^{76}\)

Now, as a servant of the Lord, I dutifully warn those who advocate and practice abortion that they incur the wrath of Almighty God, who declared, "If men . . . hurt a woman with child, so that her fruit depart from her, . . . he shall be surely punished." (Ex. 21:22.)

The Church of Jesus Christ of Latter-day Saints has consistently opposed the practice of abortion. One hundred years ago the First Presidency wrote: "And we again take this opportunity of warning the Latter-day Saints against those . . . practices of foeticide and infanticide."\(^{77}\)

[A]bortion is a growing evil that we speak against. Certainly the terrible

---

\(^{75}\) Boyd K. Packer, Ensign, November 1990, p. 85.  
\(^{76}\) Boyd K. Packer, Ensign, November 1986, p. 18.  
sin of premeditated abortion would be hard to justify. It is almost inconceivable that an abortion would ever be committed to save face or embarrassment, to save trouble or inconvenience, or to escape responsibility. How could one submit to such an operation or be party in any way by financing or encouraging? If special rare cases could be justified, certainly they would be rare indeed. We place it high on the list of sins against which we strongly warn the people.

"Abortion must be considered one of the most revolting and sinful practices in this day, when we are witnessing the frightful evidence of permissiveness leading to sexual immorality." (Priesthood Bulletin, February 1973, p. 1.)

As to abortions, we deplore the reported million unborn children who will lose their lives in this country this year. Certainly the women who yield to this ugly sin and the sin which often generated it, and those who assist them, should remember that retribution is sure. It is sure.78

*** Add more quotes in Appendix

**D. Linking the Doctrine to Foundational Theological, World-view Principles**

Clarity and coherence in the foundational theology is important so that the doctrines and policies of the Church are understood to be based upon and flow from foundational values and world-view principles. There are some powerful religious theological underpinnings for the LDS position on elective abortion. Mormon religious doctrines and policies regarding bioethical issues are (as Professor Courtney Campbell puts it) “embedded within a comprehensive worldview of divine design, human destiny, and ultimate meaning.”79 Mormon Christians

---

79 Courtney S. Campbell, *Mormonism (Church of Jesus Christ of Latter-Day Saints), Bioethics in*, in *ENCYCLOPEDIA*
believe that there are eternal truths about right and wrong (which we have the duty and agency to discern and follow).\textsuperscript{80} While time, culture, context, and many other factors influence how those truths may be practically live and applied,\textsuperscript{81} Mormon Christians reject the premise of relativism - - that ethical principles of good and evil are merely (wholly or primarily) social constructs.\textsuperscript{82}

Six foundational beliefs, core theological principles of the Mormon Christian worldview, incorporating the LDS understanding of the eternal gospel and God’s Plan of Salvation for his children are the cornerstones of Mormon Christian ethical theory regarding prenatal life. They are:

(1) God is the eternally loving Heavenly Father of all humankind; we all are spiritual children of God – He created us spiritually and we are His sons and His daughters.\textsuperscript{83} As the spiritual offspring of God human beings have a divine nature and divine potential, including the divine capacity to do whatever He asks us to do.

(2) God’s “work and [his] glory,” his purpose and plan, are “to bring to pass the immortality and eternal life of man.”\textsuperscript{84} As our loving Heavenly Father, He both knows and wants what is best for us collectively and individually; He knows what we must do to develop

---

\textsuperscript{80} Technically, questions of moral epistemology are matters of “meta-ethics.” IEP, \textit{Ethics, supra} note __.

\textsuperscript{81} Mormon Christians believe the circumstances vary, see generally 2 Nephi 28:30 (the Lord gives to men “line upon line”) (compare Isaiah 28:10) and that mortal life is intended to be a time for personal moral growth and improvement, see generally 2 Nephi 2:14-29 (the Fall was necessary for mankind to be able to “progress”); Alma 12:21-26 (life is a preparatory time, and a probationary state of testing).


\textsuperscript{83} D&C 76:24 (all worlds were created by God, and all the inhabitants of all worlds “are begotten sons and daughters unto God”); John 3:16 (“God so loved the world, that he gave his only begotten Son, that whosoever believeth in him should not perish, but have everlasting life”); 1 John 4:8 (“God is love”).

\textsuperscript{84} Moses 1:39.
our divine nature and gain immortality and Eternal life;\textsuperscript{85} He gives us no commandment that is not crafted to help us gain Eternal life and eternal happiness, and none that we are unable to obeyp\textsuperscript{86}. All of our lives -- pre-mortal, mortal and post-mortalm-- are part of God’s Great Plan of Happiness (or Plan of Salvation) for his children and through the atonement of Christ intended to effect the immortality and eternal life of man.

(3) God sent us to earth, to mortality, for two main purposes essential to our salvation and development. The first purpose is to gain a physical body (which, after our resurrection, will be our body eternally) and since we believe that God has a physical body this is necessary for us to become like Him. Mormons believe fervently in the sanctity of human life; mortal life is extremely important, and to deprive someone of human life is a very grave offense against God, His Plan of Salvation, and the agency and mortal life of the victims.\textsuperscript{87} Mormons do all we can to avoid and prevent death, but we are not afraid of death. Death is not the victor and dying is not the end. A Mormon funeral is like a missionary farewell or a wedding; death is only a temporary parting, a sad separation but not permanent, we believe that because of Jesus atonement and resurrection, all of us will be resurrected and we can be joyfully reunited again. The Church official position on end-of-life medial care states:

\textsuperscript{85}God is the perfect embodiment of the Eternal, and “Eternal life” is God’s life. D&C 14:7 & Alma 7:16 (those who keep God’s commandments shall have eternal life); 3 Nephi 9:14 (those who come unto God shall have eternal life); 2 Nephi 31:20 (those who “press forward with a steadfastness in Christ, having a perfect brightness of hope, and a love of God and of all men,” and “feast . . . upon the word of Christ, and endure to the end” shall have eternal life); 2 Nephi 26:24 (All Christ does is for the benefit of the world; he so loveth the world that he laid down his own life to bring all men unto him).

\textsuperscript{86}Paul explained that God gives us no duty or trial or burden that we cannot bear. 1 Corinthians 10:13 (“There hath no temptation taken you but such as is common to man: but God is faithful, who will not suffer you to be tempted above that ye are able; but will with the temptation also make a way to escape, that ye may be able to bear it.”). See also, 1 Nephi 3:7 (“the Lord giveth no commandments unto the children of men, save he shall prepare a way for them that they may accomplish the thing which he commandeth them”); 1 Nephi 17:3 (those who keep the commandments of God will be provided with a “means whereby they can accomplish the thing which [God] has commanded them”).

\textsuperscript{87}Certain saving ordinance must be performed in mortality (such as baptism, and certain temple ordinances including endowments and sealings in families); while they can be done vicariously for one after death God intends that we choose and receive those blessings in mortality to get the maximum benefit from them.
“When severe illness strikes, members should exercise faith in the Lord and seek competent medical assistance. However, when dying becomes inevitable, it should be seen as a blessing and a purposeful part of eternal existence. Members should not feel obligated to extend mortal life by means that are unreasonable. These judgments are best made by family members after receiving wise and competent medical advice and seeking divine guidance through fasting and prayer.”88

(4) The second purpose or mortal life is for us to exercise the great gift of free agency in this mortal setting, to learn to distinguish between good and evil, to learn to choose the good over evil, and to gain knowledge and growth from those experiences. God has given us our free agency – the capacity to choose and act in ways that have real consequences for the development (or diminution) of our divine nature. We must willingly exercise our moral agency in accord with God’s will in order to experience the growth process that eventually, through the atonement of Christ, will enable us to obtain immortality and eternal life.89

(5) Two conditions are necessary for us to exercise free agency (and for the unfolding of God’s Great Plan of Happiness). They are (a) knowledge of what is right and wrong, and (b) opportunity to act upon that knowledge (aka “temptations and trials”). Knowledge of right and wrong, which may be called moral or ethical knowledge, comes in various ways, e.g., by study, by mental exertion, by reason, research and analysis; and it comes by experience – including the

---

88 HAC-II, at §21.3.8.
89 Mormon Christian teachings explain that in the pre-mortal existence, a great Spirit leader, Lucifer, a leading light, proposed to deny the sons and daughters of God their free agency, and he led one-third of the spirit children of God in a rebellion against God’s plan to give humankind the gift of free agency. The rebellion failed, and Lucifer was thrust down to become Satan – the devil, the enemy of God and the tormenter and tempter of all humankind. See Isaiah 14:12-20; Luke 10:18; Revelations 12:4-13; D&C 29:36-38; Moses 4:1-4; Abraham 3:24-28. See also D&C 101:78 (every man has moral agency whereby they may act and be accountable for their own sins); 2 Nephi 2:27 (men are free to choose liberty and eternal life or captivity and death); 2 Nephi 10:23 (men are free to act for themselves, to choose eternal life or everlasting death); Mosiah 2:21 (men “live and move and do according to [their] own will”); Alma 12:21 (men are in a state that allows them to act); Helaman 14:30 (men are free and permitted to act for themselves); D&C 58:28 (men are “agents unto themselves”).
“school of hard knocks” when we make mistakes and learn from them. Such knowledge also comes through persons who are called by God to teach and counsel and guide and occasionally command the followers of His Son Christ – e.g., prophets and apostles, other priesthood leaders, teachers, missionaries, parents; through the scriptures (the “Word”); and it can come by personal revelation from God to each of us, his sons and daughters, most often by inspiration from the Holy Ghost. However, revelation by the Spirit and through authorities is a supplement to, not substitute for, personal study, examination, reason, thought, logic, analysis, deliberation, discussion and full mental exertion. The opportunity to exercise free agency requires “opposition in all things” so that we may freely making righteous, obedient choices that help us to do and become what our Heavenly Father wants us to do and become, or we may make bad choices that hinder and retard the development of the divine spark within us. Adversity provides the opportunity for personal development and progress. Thus, the temptations and oppositions of mortality are essential for exercising our free agency and for the process of our learning to choose and obey and be blessed.

90 See John 14: 17 (the Spirit of Truth is not recognized in the world); 15:25 (the Comforter is the Spirit of Truth); Alma 30:53 (the devil appeared in the form of an angel to Korihor and told him what to teach and do); D&C 129:4-9 (test to discern false from true angelic messengers). Revelations can also come by divine voice, by angelic messengers, by visions and dreams.
91 D&C 9:7-8 (revelation denied when we take no thought but to ask God; revelation given when we study it out in our minds and then ask God); 88:118 (seek learning by study and by faith). ); D&C 8:2 (God reveals to heart and mind); 9:7-8 (revelation denied when we take no thought but to ask God; revelation given when we study it out in our minds and then ask God); Matthew 22:37 (first commandment is to love God with all our heart, soul, and mind).
92 2 Nephi 2:11, 15-16. As the great Book of Mormon prophet leader Lehi taught his sons:

[I]t must needs be, that there is an opposition in all things. If not so . . . righteous could not be brought to pass, neither wickedness, neither holiness, nor misery, neither good nor bad. Wherefore, all things must needs be a compound in one; wherefore, if it should be one body it must needs remain as dead, having no life neither death, nor corruption nor incorruption, happiness nor misery, neither sense nor insensibility.

. . .

[T]here is a God, and he hath created all things, both the heavens and the earth, and all things that in them are, both tings to act and things to be acted upon. And to bring about his eternal purposes in the end of man, after he had created our first parents, and . . . all things which are created, it must needs be that there was an opposition; even the forbidden fruit in opposition to the tree of life; the one being sweet and the other bitter. Wherefore, the Lord God gave unto man that he should act for himself. Wherefore, man could not act for himself save it should be that he was enticed by the one or the other.
(6) Finally, the infinite atonement of Jesus Christ, the Only Begotten Son of God the Father in the flesh, is the core, essential, indispensable, element of God’s loving Plan for our immortality and eternal life. Through the atoning sacrifice of the Savior, all who live in mortality will be delivered from the terminal bands of physical death; and we will have the opportunity to repent and be forgiven of our sins, cleansed by the sacrificial blood of Christ. We Mormons believe that the atonement of Christ gives us the opportunity to be liberated from sin and spiritual death, to become cleansed through the blood of Christ because the Son of Mary paid for our sins 2000 years ago, and His incredible loving sacrifice empowers us to repent from our mistakes, and to obtain exaltation in the Kingdom of God if we repenting and keeping his commandments. Jesus Christ, the Son of God, came into the world to live and die in order to save humanity. Not only did Christ reconcile us to God by his death, but he taught us by his life that indispensible importance of being reconciled to each other. God’s forgiveness is real as is his command for us to forgive one another. While in mortality, we must learn to love each other, care for, and sacrifice for each other as Christ taught us.

E. LDS Church Positions on the Legalization of Elective Abortion

On March 7, 1974, just a year after Roe v. Wade, a designated representative of the
Church testified before a U.S. Senate Judiciary Committee's Subcommittee on Constitutional Amendments hearing that was considering several proposed Amendments to the Constitution that would reverse Roe. David L. McKay, a son of the former President of the Church, David O. McKay, and then-President of the LDS mission in New York and New England, presented "a statement on behalf of the Church of Jesus Christ of latter Day Saints,"\(^ {96}\) which included the recent LDS First Presidency statement opposing abortion as "one of the most revolting and sinful practices in this day," and he concluded: "The church is therefore against the legalization of abortion."\(^ {97}\)

The current official statement of the Church about abortion, available online, states:

The Church of Jesus Christ of Latter-day Saints believes in the sanctity of human life. Therefore, the Church opposes elective abortion for personal or social convenience, and counsels its members not to submit to, perform, encourage, pay for, or arrange for such abortions.

The Church allows for possible exceptions for its members when:

- Pregnancy results from rape or incest, or
- A competent physician determines that the life or health of the mother is in serious jeopardy, or
- A competent physician determines that the fetus has severe defects that will not allow the baby to survive beyond birth.

\(^{96}\)Statement of David L. McKay in Hearings Before the Subcomm. on Constitutional Amendments of the Committee on the Judiciary, United States Senate, 93rd Cong., 2d Sess., on S.J. Res. 119 and S.J. Res. 130 at 286, 318 (March 7, 1974).

\(^{97}\)Id.
The Church teaches its members that even these rare exceptions do not justify abortion automatically. Abortion is a most serious matter and should be considered only after the persons involved have consulted with their local church leaders and feel through personal prayer that their decision is correct.

The Church has not favored or opposed legislative proposals or public demonstrations concerning abortion.98

Official Church administrative policy (also accessible online) clearly states:

“The Lord commanded, ‘Thou shalt not … kill, nor do anything like unto it’ (D&C 59:6). The Church opposes elective abortion for personal or social convenience. Members must not submit to, perform, arrange for, pay for, consent to, or encourage an abortion. . . . Church members who submit to, perform, arrange for, pay for, consent to, or encourage an abortion may be subject to Church discipline.”99 A member who has, practices, or finances abortion is ineligible to serve as a missionary for the Church.100

The Proclamation on the Family has become the anchor for LDS policy positions regarding the family since it was issued by the First Presidency and the Council of the Twelve Apostles on September 23, 1995. It includes the declarations: “We affirm the sanctity of life . . . .” and “We call upon responsible citizens and officers of government everywhere to promote

99 HAC-II, at §21.4.1.
100 HAC-I, at __. This official Church position has evolved very little over the past 50 years, not in substance but in the detail of presentation, going for general to specific, especially in describing the narrow exceptions. [ * Insert 2001 Statement from L Rev article cited in JR Memo *]
those measures designed to maintain and strengthen the family as the fundamental unit of society.” 101

F. Mormons’ Support for and Adherence to the LDS Pro-Life Position Rejecting Elective Abortion

Mormon culture strongly supports the official Church position on abortion, not only as the will of the Lord regarding the moral question, but also as the right legal policy. Utah is one of the states that has tried most persistently to protect prenatal life from elective abortion. Many of its laws have been enjoined by courts during the past 39 years, but some have been upheld. It was a Utah law requiring parental notification “if possible” before an abortion is performed on a minor that was upheld by the Supreme Court in 1981 in H.L. v. Matheson, one of the first abortion restriction after Roe to be upheld by the Supreme Court. 102 (“Matheson” was the name of the Utah Democratic governor who, working with a Republican Utah Attorney General, successfully defended the parental consent law.)

LDS political leaders including members of Congress have been overwhelmingly (but not unanimously) pro-life in major legislative battles, and Senator Orrin Hatch (a Mormon) has been one of the most active leaders of the pro-life legislative efforts in the Senate. The entire Utah delegation (both Senators and Representatives, both Republicans and Democrats) consistently vote pro-life on major federal issues regarding abortion, as do most other Mormon political leaders.


102 H_L_ v. Matheson, 450 U.S. 398 (1981). [* Currently Utah has laws protecting ______. Utah is ranked ____ by AUL in its protection of life. *]
A small minority of Mormons including a few Mormon politicians generally support *Roe v. Wade* and abortion-on-demand as the proper legal policy, taking a Jimmy Carter-esque “personally I oppose it, but …” position. For example, Democratic US Senate Majority leader Harry Reid is a Nevada Mormon; he received a “a 29% rating in 2003 from NARAL, the abortion pro-choice group, and a 57% rating from Planned Parenthood in 2006.”

NRLC gave him a 50% rating in 2006.

Likewise, on several occasions, especially when he was running for Senator against Ted Kennedy, Massachusetts Mormon Mitt Romney took an ambiguous, weakly pro-choice position (to uphold existing laws).

While he was Governor of Massachusetts, however, Romney changed his position to pro-life (reportedly based on some long discussions with various pro-life scholars and professionals), and he has consistently

---


104 *On The Issues, Harry Reid on Abortion*, at http://www.issues2000.org/social/Harry_Reid_Abortion.htm (seen 111111). Reid reported voted yes on expanding federally-funded embryonic stem-cell research, signed a letter to that effect to President Bush, expressed opposition to prohibiting human embryonic stem-cell research. *Id.*

105 *

106 Mitt Romney’s highly visible campaign for the GOP nomination for the Presidency this year and the effort to make his religious beliefs an issue in the election have put a spotlight on some LDS positions on controversial issues. Romney’s apparent changing of positions on some issues compounds the interest and obscures the subject. (I say ‘apparent’ because while it is clear and
taken pro-life political positions in both his 2008 and current 2012 campaign for the presidency.

Both the formal position of the Church and the Mormon cultural position clearly indicates some important points. First, Mormons do not believe that the heinous moral crime and sin of abortion is the same as murder. Second, the moral status of the unborn child is not identical to the moral status of a born child or adolescent or adult. Third, however, the moral status of the unborn child is very close and similar to, “like unto,” that of the born person. Fourth, abortion is very close and similar, “like unto,” killing a born person. Fifth, moral justifications for abortion do exist. Sixth, however, the exceptional justifications are very narrow, very rare, and of such profound importance that counsel from church leaders should precede every decision to have an abortion because of an exceptional circumstance.

***

G. Enforcement of the LDS Policy Rejecting Elective Abortion

The office Handbook of Instructions available online clearly defines the limits of permissible behavior. “The Lord commanded, ‘Thou shalt not … kill, nor do anything like unto it’ (D&C 59:6). The Church opposes elective abortion for personal or social convenience. Members must not submit to, perform, arrange for, pay for, consent to, or encourage an abortion. . . . Church members who submit to, perform, arrange for, pay for, consent to, or encourage an

he candidly admits that his position on legalized abortion has changed, in other cases it seems to me that his positions reflect not so much changes as drawing fine, lawyer-like, nuanced distinctions between subtly different situations or issues; but those fine distinctions are far too nuanced to be appreciated in the blunt-instrument warfare-environment of a political campaign for the presidency. *___.

53
abortion may be subject to Church discipline.” A member who has, practices, encourages, or finances elective abortion is officially ineligible to serve as a missionary for the Church. Given the enormous emphasis that the Church places upon young men are expected (and young women allowed and welcomed) to serve as missionaries, this exclusion from eligibility for missionary service sends a profound message about how seriously the Church leaders view the sin of abortion.

It is important to qualify the point by emphasizing that abortion is not an unforgiveable sin, and great emphasis is placed upon the reality of repentance and forgiveness through the atonement of Jesus Christ in LDS doctrine generally, and regarding elective abortion in particular. For example, Elder Boyd K. Packer, now President of the Council of Twelve Apostles, declared in a General Conference talk: “The love we offer may be a tough love, but it is of the purest kind; and we have more to offer than our love. We can teach you of the cleansing power of repentance. If covenants have been broken, however hard it may be, they may be reinstated, and you can be forgiven. Even for abortion? Yes, even that!”

---

107 HAC-II, at §21.4.1. The modifying term “elective” abortion is used only once but it impliedly modifies all references to abortion in this paragraph from the Handbook of Instructions.

108 HAC-I, at __. This official Church position has evolved very little over the past 50 years, not in substance but in the detail of presentation, going for general to specific, especially in describing the narrow exceptions. [* Insert 2001 Statement from L Rev article cited in JR Memo *]

sinned without full understanding, who now suffer heartbreak? Yes. So far as is known, the Lord does [p. 14] not regard this transgression as murder. And ‘as far as has been revealed, a person may repent and be forgiven for the sin of abortion.’ Gratefully, we know the Lord will help all who are truly repentant.  

Thus, persons who submit to, finance, encourage or perform elective abortion may be cleansed from their sins, and become purified through the blood of the Redeemer; they may serve in many significant church positions, and enjoy the love and respect of their brothers and sisters in the gospel. But there are some positions in which they would be representing the Church officially in such a high profile and public way that serious damage could be done to the Church and to the saving ministerial work of the church by the stain of their past behavior that they must be passed over for such service and assigned to other service in the kingdom.

Just as a Mormon who advocates, has, performs or pays for elective abortion will be disqualified from eligibility to represent the Church as a missionary, for similar reasons a Mormon who advocates, has, performs or pays for elective abortion may be ineligible to teach at a Church college or university. Not only do faculty at Church-sponsored schools represent the church to some inescapable extent, but they are engaged in teaching as authority figures very impressionable and potentially vulnerable young men and women.

In the 1990s a few faculty at Brigham Young University reportedly began to publicly advocate elective abortion as a proper legal policy (while not advocating the practice of abortions). They were warned and at least one BYU faculty member lost her teaching position

---

111 See generally Cecilia Konchar Farr, Breaking the Silence, A faithful Mormon explains why she is pro-choice, Network, September 1992 at 12 (copy in author’s possession). Compare Lynn
reportedly in significant part apparently for advocating abortion-on-demand (she said she personally opposed abortion as a matter of morality but she supported the pro-choice legal policy). That stirred up a firestorm of criticism denouncing BYU and the sponsoring Church for lack of academic freedom, misogyny, oppressive patriarchalism, etc., and the American Association of University Professors (AAUP).\textsuperscript{112} Nevertheless, because the potential harm of a faculty member misleading young adults in formative college years about a moral position so important to Church doctrine in a time of such growing social pressure to accept abortion and moral disintegration was so significant that the Church and university stood their ground and took the heat. That incident illustrates not only how important the principle is to the Church, and how firmly the policy is against Church representatives advocating elective abortion, but it also shows that even in the community of observing LDS scholars, there is some diversity on the abortion across a wide range. On the polar extremes a very few LDS take very strict positions regarding abortion (to permit abortion only to save maternal life), and very few Mormons favor abortion-on-demand legal policy, while most believe that abortion should be generally prohibited but legal in a few, narrow, exceptional cases. Thus, the overwhelming majority of LDS members

\footnotesize{D. Wardle, \textit{Hiding Behind a False Morality}, Network, December 1992, at 4 (copy in author’s possession).}

are very supportive of the Church position both as a moral position, and also as the right public policy position, and, as shown in Part IV, also as a matter of personal behavior.

IV. Mormons’ Support for and Adherence to Church Opposition to Elective Abortion

While precise information is not easy to come by, it appears that there is relatively little difference between the official Church doctrine and the views and practices of lay Mormons. With rare exceptions, such as the incident involving two or three BYU professors discussed above, most practicing Mormons embrace, support and practice the moral principles espoused by their Church leaders regarding the immorality and social evil of elective abortion.

For example, a Pew Forum on Religion & Public Life survey of Americans in fourteen religious categories (denominations or religious groupings) showed that only the Jehovah’s Witnesses had fewer percentage of members who said they believe that abortion should be legal in all cases (5%) or most cases (11%) than Mormons (8% and 19% respectively).\footnote{Pew Forum on Religion and Public Life, U.S. Religious Landscape Survey: Views About Abortion by Religious Tradition (2008), http://religions.pewforum.org/pdf/table-views-about-abortion-by-religious-tradition.pdf (seen 30 May 2012). Interestingly, there were two categories of “Mormons” and “Church of Jesus Christ of Latter-day Saints” and those who identified under the former label was about one percent more liberal than those identified under the latter more formal/proper institutional church label. Id. at App. 2. See also Pew Forum on Religion and Public Life, Religious Groups’ Official Positions on Abortion (Sept. 30, 2008) http://www.pewforum.org/Abortion/Religious-Groups-Official-Positions-on-Abortion.aspx (seen 30 May 2012) (overview of the official church positions on abortion of various religious denominations).} By contrast,
Evangelical Protestants (18% and 29%), Historically Black Protestant Churches (16% and 29%), Catholics (16% and 32%) and Muslims (13% and 35%) showed more support for both legal-in-all-cases (abortion-on-demand) and legal-in-most-cases; Jews (40% and 44%), Buddhists (35% and 46%) were the most supportive of abortion-on-demand or very permissive abortion. Likewise, only the Jehovah’s Witnesses responded with a larger percentage (77%) of persons saying that abortion should be either illegal in all cases (52% or illegal in most cases (25%) than the Mormons who responded 9% and 61% respectively, contrasted with Evangelical Protestants (25% and 36%), Historically Black Protestants (23% and 23%), Catholics (18% and 27%), Muslims (13% and 25%), Mainline Protestants (7% and 25%), Jews (5% and 9%), and Buddhists (3% and 10%). No church group had a larger percentage of persons responding that abortion should be illegal in most, but not all, cases than the Mormons (61%), suggesting that they believe that it is a very strong moral issue, but that there are a small number of equally important competing moral considerations that in some relatively rare cases will justify abortion. On the other hand, with regard to whether abortion should be illegal in all cases Mormons were closer to position of the Orthodox (10%), Unaffiliated (8%), and Mainline Protestants (7%), than to Jehovah’s Witnesses (52%), Evangelical Protestants (25%) or Historically Black Protestants (23%). Mormons are uncomfortable with the absolutism or total legal prohibition regarding an issue as to which they see some (albeit very rare) morally justifiable exceptions.

Judith Blake found that during the decade preceding Roe v. Wade the disapproval of non-medical abortions for both Catholics and non-Catholics in the United States fell.\textsuperscript{114} The decrease in disapproval rates was greater for Catholics than it was for the non-Catholics because

\textsuperscript{114} Blake, \textit{supra}, note __, at 543-47.
the former started with higher disapproval levels.\textsuperscript{115} She also observed: “In general, [U.S. Catholics] disapprove of legalizing abortion more than non-Catholics, but the difference is less than might be expected when one considers that the Catholic Church unconditionally bans the induced termination of pregnancy. . . . [T]he amount of disapproval by Catholics has decreased rapidly since the beginning of the [1960s] decade.”\textsuperscript{116} Similarly, another public opinion survey conducted in the mid-1980s reported that opposition to abortion from members of mainstream religious communities had dropped by 10-20\% between 1972 and 1984.\textsuperscript{117}

Another measure of comparative rejection of abortion is the number, rate and ratio of abortions. Unfortunately reliable data breaking down persons getting abortion according to religion is not available. However, one loose surrogate measure is to compare the number, rate, and ratio of abortions in Utah with that in the United States in general and with other states. Because over 60\% of residents of Utah belong to the Church of Jesus Christ of Latter-day Saints, the abortion data for Utah will reflect the behaviors of Mormons. (However, the correlation is imperfect because of the 40\% of Utahans who are not Mormons, and because the abortion clinics in Salt Lake City serve residents of southwestern Wyoming (e.g., Evanston), southeastern Idaho, and parts of western Colorado. For these reasons, the abortion data from Utah probably shows

\textsuperscript{115} Even a majority of the more permissive non-Catholics, however, rejected abortion-on-demand, and the more educated Protestant women did “not share an equally positive attitude toward elective abortion” as the men. \textit{Id.} at 544.


\textsuperscript{117} Lyman A. Kellstedt, \textit{Abortion and the Political Process}, in \textit{Abortion: A Christian Understanding and Response} 212 (James A. Hoffmeir 1987). √-x

59
higher numbers, rates and ratios of abortion than such data for Mormons as a group.)

As Appendix 2 shows, the rate of abortions per 1,000 females ages 15-44 is Utah is less than one-third the rate for the United States as a whole, and that is actually lower in both comparison and in raw rate than it was in 1975. Likewise, the ratio of abortions per 1,000 live births is about one-fifth the ratio of abortions for the United States overall (though it is a bit higher in raw ratio and comparison than the data was in 1975). That suggests that people in Utah (60% of whom are Mormons) practice abortion significantly less than Americans in general. So it appears that the clear, repetitive, strong, emphatic policies and teachings about the grave personal immorality and profound social evil of abortion within the Church of Jesus Christ of Latter-day Saints has had some positive impact upon the views and behaviors of Mormons regarding abortion.

V. Contrasting Church Opposition to Elective Abortion with Other Biomedical Ethical Issues

In contrast to the clear, enforced restrictive policies, positions and teachings about the immorality and social evil of elective abortion taken by LDS Church leaders for half-a-century, the General Authorities statements and General Handbook of Instructions regarding other contemporary biomedical ethical issues are more ambiguous, flexible and/or moderate. Two categories of biomedical ethical dilemmas will illustrate the point: ART and embryonic stem cell research.

A. ART: Artificial Insemination, In Vitro Fertilization, Sperm Donation and Surrogacy

“The Church strongly discourses the donation of sperm.”118

118 HAC-II, at §21.4.13.
“The Church strongly discourages surrogate motherhood.”119

“The Church strongly discourages artificial insemination using semen from anyone but the husband. However, this is a personal matter that ultimately must be left to the judgment of the husband and wife. Responsibility for the decision rests solely upon them.”120

“The Church strongly discourages in vitro fertilization using semen from anyone but the husband or an egg from anyone but the wife. However, this is a personal matter that ultimately must be left to the judgment of the husband and wife. Responsibility for the decision rests solely upon them.”121

“Artificial insemination of single sisters is not approved. Single sisters who deliberately refuse to follow the counsel of Church leaders in this matter are subject to Church discipline.”122

The Proclamation on the Family declares: “Children are entitled to birth within the bonds of matrimony, and to be reared by a father and a mother who honor marital vows with complete fidelity.” Notice the language of rights entitlement used to describe the claim that children have not just after birth but to the condition into which they will be born – to a mother and father married and faithful to each other.

Similarly, the church policy on adoption is very strong.

“When a man and woman conceive a child outside of marriage, every effort should be made to encourage them to marry. When the probability of a successful marriage is unlikely due to age or other circumstances, the unmarried

---

119 HAC-II, at §21.4.16.
120 HAC-II, at §21.4.3.
121 HAC-II, at §21.4.7.
122 HAC-II, at §21.4.3.
parents should be counseled to work with LDS Family Services to place the child for adoption, providing an opportunity for the baby to be sealed to temple-worthy parents. Adoption is an unselfish, loving decision that blesses both the birth parents and the child in this life and in eternity.”

That position is a matter of counsel, not command, there are no ecclesiastical sanctions, and it is ignored in some cases, but it underscores how important birth and childrearing within marriage is in Mormon doctrine and its very strong child-centered focus. The needs of children take priority, even over the ties of biology in this context.

B. Embryonic Stem-cell Research

Perhaps the most prominent issues regarding pre-natal human life in terms of public interest in recent years concerns Embryonic Stem-cell (ESC) research. The official Church position is “no position.”

“The First Presidency of The Church of Jesus Christ of Latter-day Saints has not taken a position regarding the use of embryonic stem cells for research purposes. The absence of a position should not be interpreted as support for or opposition to any other statement made by Church members, whether they are for or against embryonic stem cell research.”

123 HAC-II, at § 21.4.12.

124 Church of Jesus Christ of Latter-day Saints, Newsroom, Embryonic Stem-cell Research at http://newsroom.lds.org/official-statement/embryonic-stem-cell-research (seen 9 November 2011). The substance of this has remained constant for at least a decade, since the subject was first addressed, though the expression and details have mildly modified.

While the First Presidency and the Quorum of the Twelve Apostles have not taken a position at this time on the newly emerging field of stem cell
The official position may suggest either that the Lord has not revealed His will on this matter yet, or that He has revealed His will and it is that in the current context the issue doesn’t matter to Him. In either case – why would it not matter to the Lord? Why has He not spoken?

(1) From the perspective of the Mormon position on abortion, it could suggest that the destruction a living human embryo in the rational, scientifically approved process of searching for cures that might save human lives is morally distinguishable from the heinous act of aborting a living human embryo for the personal or social convenience of a person who engaged in voluntary sexual intercourse. (2) And/or it might suggest that the status of the pre-embryo and embryo in the early stages in which embryonic stem-cell research or therapy is currently done has a lesser moral status or claim to absolute protection than a more developed embryo or fetus. (3) It may suggest that there are critical ambiguities – perhaps including scientific, factual, clinical, ethical, and theological uncertainties at the present time concerning embryonic stem cell research, it merits cautious scrutiny. The proclaimed potential to provide cures or treatments for many serious diseases needs careful and continuing study by conscientious, qualified investigators. As with any emerging new technology, there are concerns that must be addressed. Scientific and religious viewpoints both demand that strict moral and ethical guidelines be followed.

Statement Regarding Stem Cell Research, (10 August 2001), available at http://www.ldstoday.com/archive/news/stemcellstmt.htm (seen 111114). Note the emphasis in the original statement on the novelty of the subject, and the concerns associated with new technology, the positive potentials, the need for “cautious” evaluation, and for “strict moral and ethical guidelines.”
research, so that make the issuing a definitive statement on the moral or legal issue would be premature.

The Mormon concept of revelation is not just the passive reception of message sent from God (by voice, vision, whisperings of the Spirit – we do believe in all these methods of revelation), but we believe that revelation involves hard work on our part to figure it out using the best, full efforts of reason, research, examination, study, discussion, experience and logic – and then taking the best answer we can come up with to the Lord for his revealed response, of confirmation, repudiation, or neither. The current position may suggest that we have yet done enough on our part (perhaps we are not capable yet of doing enough) to receive the revealed answer; perhaps it simply is not yet time, the groundwork has not adequately been laid, the searching has not yet been sufficient or complete. (4) It also could indicate that the variety of circumstances, contexts and situations covered in the broad generic category of embryonic stem cell research are so disparate and diverse that a statement would not be helpful, or perhaps even problematic (incapable of not being misunderstood) in the long view.

Culturally, there is significant diversity in the LDS community. The media has given

---

the greatest attention to the Mormons who favor ESC research. For example, in 2001, all five US Senators who were Mormons (Republicans Hatch, Bennett, Smith, Crapo, and Democrat Reid) favored federal funding for ESC research and tried to persuade President Bush to approve such funding.\textsuperscript{126} Senator Gordon Smith tried to explain why such research would be permitted (in terms of the Genesis description of a “two-step creation process,” but why that would justify ESC research and not abortion [which the LDS official position strictly prohibits] was not apparent.\textsuperscript{127}

A caveat is in order. That many prominent Mormon politicians have supported embryonic stem-cell research may be evidence less of Mormon cultural values that the values of their environsments. Mormon scientists, scholars, students, doctors, lawyers and politicians are not immune from the influences of peer pressures, social taboos, and professional fads and fashions. Historian Richard Bushman, who is a Mormon, wrote:

\begin{quote}


\textsuperscript{127}Actually Mormon scriptures described what could better be labeled a three-step creation process: first spiritual creation, then physical creation of all living things except man, then creation of man, and the Old Testament distinction of creation of man’s body first then the breath of life (spirit) is not repeated in either of Joseph’s Smith’s revelations of the story of the creation. Pearl of Great Price, Moses 2:1-31; Abraham 4:1-31. Richard Doerflinger called Smith’s explanation “amateur theology,” which, depending on how one describes “amateur” is not far from the mark, nor would Mormon’s necessarily consider that a negative, put-down or insult, despite the sarcasm.

\end{quote}
It is perfectly clear that all Mormons live by varying values and outlooks, not all of them religious. When we sell cars, we act like most used car salesmen, for they are our teachers in selling automobiles. . . . Similarly, historians who are Mormons write history as they were taught in graduate school rather than as Mormons. The secular, liberal, establishmentarian, status-seeking, decent, tolerant values of the university govern us at the typewriter, however devoted we may be as home teachers. Indeed this viewpoint probably controls our thinking far more than our faith. The secular, liberal outlook is the one we instinctively think of as objective, obvious, and natural, even though when we stop to think about it we know it is as much a set of biases as any other outlook.128

Perhaps “uncertain” is the most accurate description of the attitude of most Mormons about the morality of ESC. That has been my observation based on anecdotal interactions with other Mormons. In June 2008 a study investigating individual viewpoints of members of the LDS church regarding stem cell research was conducted at the Center for Public Health and Community Genomics (apparently part of the University of Michigan School of Public Health).129 The study entitled Biotech Sciences and the Saints: Individual Viewpoints of


129 The Center for Public Health and Community Genomics, directed by Toby Citrin, JD and co-directed by Sharon Kardia, PhD, was formed in September 2001 through a cooperative agreement between the Centers for Disease Control and Prevention and the Association of Schools of Public Health. The Center for Public Health and Community Genomics also receives funding from the National Institutes of Health. The Center for Public Health and Community
Members of The Church of Jesus Christ of Latter-day Saints about Stem Cell Research and Pre-implantation Genetic Diagnosis (PGD) included 9 interviews with LDS experts in various fields including genetics, law, and philosophy; as well as an interview with an LDS congressman. The study also included three focus groups, and targeted the general population, experts, and a college student population.¹³⁰ Half of those surveyed (50%) opposed expansion of ESC research, 30% were unsure, and only 20% favored increased ESC research. Most “felt a need for regulations related to stem cell research and PGD; however, many are concerned about the government’s ability to properly regulate human genetic biotechnologies.”¹³¹ The LDS participants “greatly value personal revelation to guide many of their life decisions, but ultimately felt that the final decisions about the use of embryos should be left to the parents/prospective parents.”¹³² The LDS surveyed held “very strongly to the principles and doctrine taught in the LDS church.”¹³³ The most important LDS principles for the LDS participants included “personal revelation, gaining knowledge, abortion, sanctity of life, and the pre-mortal life/plan of salvation.”¹³⁴ Ninety percent (90%) identified “sanctity of life” as the

Genomics is housed within the University of Michigan School of Public Health. See Center for Public Health and Community Genomics, available at http://www.sph.umich.edu/genomics/about/ (last seen 111114).

¹³⁰ Biotech sciences and the Saints, supra note ___ at 102.

¹³¹ Biotech sciences and the Saints, supra note ___ at 94.

¹³² Biotech sciences and the Saints, supra note ___ at 94.

¹³³ Biotech sciences and the Saints, supra note ___ at 94.

¹³⁴ Biotech sciences and the Saints, supra note ___ at 95.
most prominent influence in shaping their opinions.\textsuperscript{135} Personal revelation and the plan of salvation were significant for 80\% and 80\% of those interviewed, respectively. Thirty percent (30\%) favored limitation of PGD on non-fatal diseases and traits, 30\% thought that if PGD were allowed, it could not be regulated, 30\% considered consent for embryo donation to be a major factor to consider in ESC research morality.

\textit{Personally}, I value highly the Catholic position for the Catholic reasons. I think sanctity of life is profoundly importance, and in these days of so many assaults on that principle, from abortion to Dr. Kevorkian, to euthanasia, to genetic testing to eliminate unborn children who are not as perfect as or designed as the parents prefer, I think bright lines protecting the sanctity of life are very important. Second, I think vulnerable life, life on the fringes, especially very new and very old life, deserves special protection. Third, as a matter of simple economic or utilitarian analysis, the claim for ASC as the most promising avenue to applicable, useful clinical medical improvements far surpasses the claim for ESC as a likely avenue to useful medical advances. Indeed, I have heard of only three approved clinical applications involving ESC, and none of them successful, compared to many approved clinical applications involving ASC, and many of them successful.\textsuperscript{136} Fourth, I have lawyerly skepticism of doctors and medical researchers exploiting the desperation of sick and suffering to demand huge amounts of money on the hint or promise of great cures. They remind me of 19\textsuperscript{th} century snake-oil salesman who promised miraculous cures of all kinds of diseases if people bought their bottles and of medieval alchemists who promised to change lead into gold for those who paid them enough. Fifth, I think also there needs to be some flexibility and recognize some exception, to recognize a

\textsuperscript{135} Biotech sciences and the Saints, supra note \_\_ at 98.

\textsuperscript{136} ** Genome Corp ?? stopped all ESC in November 2011. **
distinction between killing a human embryo for personal or social convenience and using ESCs in experimentation that may hold some realistic promise of medical advancement.

However, there is significant merit to the LDS “no comment” position as well. Part of the difference between the official Catholic position and the official LDS position regarding ESC Research (and there are several) is where we are on the spectrum that runs from Rule Justice on one end to Individual Justice on the other side; the Catholic position is closer toward the “Rule Justice” principle and the Mormon position is more toward the “Individual Justice” principle along the spectrum. But we are closer together in commitment to the underlying principles and in specific applications than the formal positions might lead some to believe.

Because there is no office LDS Statement against ESC Research does not mean that we should be casual about the issue. Mormons are encouraged to not wait passively on the sidelines until they are commanded to act, but are admonished to “be anxiously engaged in a good cause, and do many things of their own free will, and bring to pass much righteousness . . . .”

The “no position” policy of the Church and of the General Authorities generally allows if not encourages full exploration and discussion by members of the moral, ethical, social, and other public policy dimensions of many controversial practices and proposed policies, and it tolerates within the faith community different viewpoints. It seems to invite an almost rabbinic interpretive approach to bioethical policy issues, and should tend to respect multiple perspectives. Thus, the LDS position of speaking with clarity about the moral issues, but with rarity about political policy positions has worked within the Mormon community.

VI. The Power of the Word of God: How to Create and Maintain A Strong Culture of Life in

137 D&C 58:26-27.
A Religious Community

The experience of the LDS faith community regarding elective abortion during the past half-century shows that a combination of factors can generate and maintain a high level of support by members of a faith community for the values, policies and practices espoused by the church leaders. Eight such factors and actions seem to be important in the experience of this particular faith community.

First, the official leaders of a religious community need to define a very clear, strong position regarding the controversial social practice or trend. Second, the church leadership must be united in supporting that position so there is no ambiguity regarding the values and policy of the church. Third, Church leaders should express with clarity and at all levels the reasons for that position – explaining the underlying foundational theological “why’s” that undergird and require the specific doctrine and policy. Fourth, Church leaders and representatives need to consistently teach, effectively disseminate, and frequently reiterate that position and those reasons to all the members of their faith community -- constantly, regularly, repetitively, and consistently. Fifth, the Church leaders also need to monitor and check the boundaries they have set by adopting and enforcing internal church policies regarding that moral position regarding its relevance for good standing or membership in or representation of the religious community. Sixth, it also helps if the Church leaders adopt, as appropriate, a clear, specific, official faith community position regarding relevant public policy that directly impact upon the moral issue (especially those affecting how members may be able to live the Church standards). Seventh, the Church as an entity and its leadership must keep their focus clearly (at least overwhelming) on the specific social practice (or particular set of practices) that is of major concern regarding the moral issue (stay focused on the dispositive practical and symbolic issue) and avoid getting
distracted or diverted by peripheral issues which may present less immediate and less significant threats to individual and social morality. Eighth, the lay members of the faith community should be involved, asked and expected to participate in sacrificial ways in standing up for the core value and in supporting the Church’s policies and doctrines – to make a significant personal investment in their faith community and in the position, values and policies of the faith community regarding the controversy. When all of these things concur, the result may be to successfully create an environment in which the community is able to achieve and maintain a high degree of integrity in members supporting that value and public policy position, and in their personal adherence to the recommended behavioral standard reflecting that moral position.

While several practical, organizational, and other collateral factors are important, it is the clear communication of the moral-theological-doctrinal position or policy that is the key. The “Word of God” truly has “more powerful effect upon the minds of the people than the sword or anything else . . . .”138

While unanimous support within any given religious community is probably impossible to achieve, given the strong social and ideological pressures that accompany such social pathology movements as acceptance and practice of elective abortion, a degree of faith community unity and integrity regarding and support for the socially unpopular moral principles, practices and policies can be achieved. While each religious community is unique and the same particular approach that succeeds in one may not succeed in all others, the principles underlying the successful establishment and maintenance of high moral values and behaviors probably are 

138 Book of Mormon, Alma 31:5 (“And now, as the preaching of the word had a great tendency to lead the people to do that which was just—yea, it had had more powerful effect upon the minds of the people than the sword, or anything else, which had happened unto them—therefore Alma thought it was expedient that they should try the virtue of the word of God.”).
transferable to some degree among religious communities.

***

VII. Conclusion: Messages and Communications

Most importantly, it appears that the communication of moral teachings, policies and practical standards clearly established and consistently espoused by leaders of faith communities do have a positive impact upon the beliefs and behaviors of many individual members of those faith communities. Message matters. Communication of message matters. Teaching matters, especially in regard to moral and ethical dilemmas and controversies.

To paraphrase Joseph Smith, when the leaders of a faith community clearly teach the community the basic principles (including theology, and values) regarding a moral issue, and when the doctrines and policies they adopt also clearly and consistently convey those principles, the members of that community are empowered and motivated to govern themselves by acting upon those principles in ways that promote and protect the core moral interests and the doctrines and policies that embody them.

While my paper has focused on the experience of the Mormon faith community, it is important to acknowledge the powerfully positive influence that leaders of the Roman Catholic faith community have had not just on Catholics but on all Americans by virtue of their persistent, public espousal of pro-life principles, doctrines and policies. For example, who does not recognize the powerful influence that Pope John Paul II and Mother Teresa had not only upon Roman Catholics but upon the entire world by their standing up and speaking up, eloquently and persistently espousing the principles, values, doctrines policies that create a pro-life culture. Who can forget Mother Teresa’s words at the National Prayer Breakfast in Washington, D.C. on February 3, 1994 when, in the presence of the unabashedly pro-abortion President and Mrs.
Clinton and Vice-President and Mrs. Gore she very simply and powerfully declared that:

[T]he greatest destroyer of peace today is abortion, because it is a war against the child, a direct killing of the innocent child, murder by the mother herself.

And if we accept that a mother can kill even her own child, how can we tell other people not to kill one another? How do we persuade a woman not to have an abortion? As always, we must persuade her with love and we remind ourselves that love means to be willing to give until it hurts. Jesus gave even His life to love us. So, the mother who is thinking of abortion, should be helped to love, that is, to give until it hurts her plans, or her free time, to respect the life of her child. The father of that child, whoever he is, must also give until it hurts.

By abortion, the mother does not learn to love, but kills even her own child to solve her problems.

And, by abortion, the father is told that he does not have to take any responsibility at all for the child he has brought into the world. That father is likely to put other women into the same trouble. So abortion just leads to more abortion.

Any country that accepts abortion is not teaching its people to love, but to use any violence to get what they want. This is why the greatest destroyer of love and peace is abortion.

Many people are very, very concerned with the children of India, with the children of Africa where quite a few die of hunger, and so on. Many people are also concerned about all the violence in this great country of the United States.
These concerns are very good. But often these same people are not concerned with the millions who are being killed by the deliberate decision of their own mothers. And this is what is the greatest destroyer of peace today - abortion which brings people to such blindness.

... “Let us bring the child back.” The child is God's gift to the family.

Each child is created in the special image and likeness of God for greater things - to love and to be loved. In this year of the family we must bring the child back to the center of our care and concern. This is the only way that our world can survive because our children are the only hope for the future. As older people are called to God, only their children can take their places.139

Many other Catholic church leaders, Bishops, Priests, and committed Catholic lay persons also were indefatigable over the past half-century in articulating and espousing reasons to reject elective abortion and reasons to protect unborn children. Due in great part to their voice, their teaching, the pro-abortion moment has begun to wane. A new generation of young persons today are asking hard questions about why abortion is justified that thirty years ago no-one would dare to ask.

Our nation and the world are indebted to these courageous, outstanding leaders of the Catholic faith community for not giving up, for keeping the issue alive, for asking the hard questions and for persistently teaching correct principles about the value of prenatal life and the

evil of elective abortion.

We need to multiply their efforts. Church leaders of many faiths can do this. As Pope Benedict XVI said in September 2011, the Christian churches “are walking side by side” and "they speak up jointly for the protection of human life from conception to natural death.”

Earlier, during a trip to England, he called upon Christians worldwide “to do more to protect human life from abortion . . . . ‘Each of us has a mission, each of us is called to change the world, to work for a culture of life . . .’ he added.” Pope John Paul II likewise declared: “You are called to stand up for life! To respect and defend the mystery of life always and everywhere, including the lives of unborn babies, giving real help and encouragement to mothers in difficult situations.”

The courageous German Protestant martyr, Dietrich Bonhoffer, expressed the core point in a different but relevant context when he wrote: "Silence in the face of evil is itself evil: God will not hold us guiltless. Not to speak is to speak. Not to act is to act.”


143 Eric Metaxas, Bonhoffer, Pastor, Martyr, Prophet, Spy __ (Thomas Nelson 2010).
In Elie Wiezel’s “Night,” his autobiographical account of the holocaust, he begins by paying homage not to his beloved father, or to his beloved mother, or any other relative who was victim of the Holocaust, but to “Moishe the Beadle,” who had persistently but unsuccessfully tried to warn his Jewish neighbors in the tiny Hungarian village of the dangers that were coming. As a teenager, when he arrived as Auschwitz, Wiezel had witnessed babies being thrown into fire pits, and he could never understand how the world was silent while such evils were being practiced. In his Nobel acceptance speech, Elie Wiezel, wrote: “I swore never to be silent . . . . We must take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor . . .

All of our faith communities and probably most of us individually can do more and better – we need to teach more clearly, communicate more effectively, explain more convincingly the principles upon which rejection of elective abortion is based and upon which a true, effective culture of life must be built. “There is so much to be done, there is so much that can be done. One person – a Raoul Wallenberg, an Albert Schweitzer, a Martin Luther King, Jr. – one person of integrity can make a difference, a different of life and death.” By clear, effective, persistent teaching, doctrine and policies, churches can help to motivate individuals to make such a difference, to stand up and to speak up, to protect the most innocent and vulnerable human beings against the modern holocaust of elective abortion.

---

144 The Nobel Peace Prize Acceptance Speech Delivered by Elie Wiesel in Oslo on December 10, 1986 in Night, supra at 117, 118.

145 Id.
Appendix 1

Major Supreme Court Abortion Cases
(Excluding Most Summary Dispositions and Procedural or Incidental Cases)

* = pro-life free speech or expression case

2. Roe v. Wade, 410 U.S. 113 (1973)
30.* Schenck v. Pro-Choice Network of Western New York, 519 U.S. 357 (1997)

Other Significant Supreme Court Cases Involving Abortion
Appendix 2 Abortion number, rate and ratio in the United States\textsuperscript{146} and Utah\textsuperscript{147}:


2. Per 1,000 women 15-44

3. Per 1,000 pregnancies (Live Births plus Abortions)

\textsuperscript{4} Women Having Second or More Abortion


6. \textsuperscript{Id.}

7. \textsuperscript{Id.}

8. \textsuperscript{Id.}

9. \textsuperscript{Id.}

10. Available at http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5309a1.htm (Jan. 11, 2006).

11. Available at http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5407a1.htm (Jan. 11, 2006).


\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|c|c|c|}
\hline
\textbf{YEAR} & \textbf{U.S. Total Abortions} & \textbf{Utah Total Abortions} & \textbf{US Rate Per 1,000 Females 15-44 years old} & \textbf{Utah Rate Per 1,000 Females 15-44 years old} & \textbf{US Ratio per 1,000 Live Births} & \textbf{Utah Ratio per 1,000 Live Births} \\
\hline
1973 & 742,500 & 100 & 16.5 & 6.4 & 239 & 4 \\
1975 & 1,034,200 & 2,000 & 22.1 & 7.8 & 331 & 60 \\
1980 & 1,553,900 & 4,200 & 29.3 & 12.3 & 428 & 97 \\
1985 & 1,582,600 & 4,400 & 28.0 & 11.7 & 425 & 116 \\
1990 & 1,608,600 & 4,796 & 27.4 & 10.5 & 389 & 114.7 \\
1995 & 1,313,000 & 3,509 & 21.3 & 6.2 & 324 & 69.3 \\
2000 & 1,266,200 & 3,797 & 19.6 & 5.7 & Not Available & 66.1 \\
2008 & 1,212,400 & 3,779 & 19.6 & 5.7 & Not Available & 66.1 \\
\hline
\end{tabular}
\caption{Abortion number, rate and ratio in the United States and Utah.}
\end{table}

\textsuperscript{146} All information about the United States was gathered at \textit{UNITED STATES CENSUS BUREAU, THE 2012 STATISTICAL ABSTRACT: EARLIER EDITIONS}, http://www.census.gov/compendia/statab/past_years.html (last modified Sept. 27, 2011).


\textsuperscript{148} The United States Statistical Abstract ceased reporting the ratio of abortions per 1,000 live births after 2003.