

LAW OF LIFE: ARTICLE: INSTILLING PRO-LIFE MORAL PRINCIPLES IN DIFFICULT TIMES: THE EXPERIENCE OF ONE FAITH COMMUNITY

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Text

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I. Introduction: The Challenge to Faith Communities of Maintaining High Pro-Life Principles in an Age (and Society) with Low Moral Standards

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 in practice relating to behaviors, like elective abortion,² that it considers to be fundamentally immoral when such behaviors are becoming, or have become, socially popular?

The challenge of cultivating a culture of respect for the sanctity of life in a particular cultural community is compounded by persistent, socially-tolerated efforts to suppress pro-life free speech. Censorial tactics range from the private to the public, from failures to extend ordinary respect and basic legal protections, privileges, and equal treatment to pro-life expressions, to positive attempts to intimidate, punish, suppress, and silence pro-life expressions.³ The reason why efforts to stifle and gag the communication of pro-life information, beliefs, and

² The term "elective abortions" is used herein to mean abortions that are done for reasons of personal preference and choice and not because of medical necessity or a comparably rare and severe moral dilemma entailing extreme dangers such as (1) otherwise irremediable and grave threat to the life of the mother; (2) extreme and severe risk to the health of the mother; (3) cases of irreversible, imminent, terminal condition of the unborn child; or (4) in such cases of rape or incest.

arguments are so constant is precisely because opponents of those positions know that pro-life expressions can be powerful and effective deterrents to abortion and to popular support of elective abortion.

This Article describes and discusses how one particular faith community - the Church of Jesus Christ of Latter-Day Saints (herein sometimes "the Church" or "the LDS Church") - has responded to the challenge of social acceptance and legitimation of elective abortion. Elective abortion, which is contrary to long-established moral precepts taught by the LDS Church (and by Christianity in general for millennia), is a prominent example of a human behavior and social practice that once was socially proscribed and condemned as immoral but which, in recent decades, has become socially accepted and widely practiced in the United States. This Article will show how important and effective "teaching correct principles" [*302] can be in cultivating a culture of life in a particular faith community in pro-choice and pro-abortion times.

This Article will describe and discuss both formal LDS Church policies and informal "Mormon" social values. The latter refers to "cultural phenomena" reflecting more informal or customary values and beliefs of members of the Mormon Christian community.⁴ Most observant members of the LDS Church (herein "Mormon Christians" or "LDS" or "Mormons"), like the author, are pro-life.⁵ But there is some diversity in the Mormon cultural community and some dissent regarding various abortion-related public policy issues.

Part II begins with a brief review of the history of the legalization and social acceptance of elective abortion in the United States. It shows that 1973 was the pivotal year when the decision of the United States Supreme Court in *Roe v. Wade*⁶ and its companion case, *Doe v. Bolton*,⁷ mandated by constitutional interpretation the legalization of abortion-on-demand throughout the United States. Since then, the Court has decided at least forty-nine significant abortion cases, including nearly forty major constitutional abortion decisions, that have entrenched the abortion privacy doctrine in American constitutional law and expanded it to cover a host of collateral matters.⁸ It also shows how abortion has become widely-accepted and widely-practiced in the United States and how views various religious [*303] communities have generally shifted toward being less rejecting of abortion. It shows also that there has been persistent intolerance of, attacks upon, and attempts to suppress and punish pro-life expressions in our society, which chill the expression of pro-life moral, practical, and policy views.

³ See *infra* Part II.

⁴ John W. Welch, *Toward a Mormon Jurisprudence*, [21 Regent U. L. Rev. 79, 81 \(2008\)](#) ("The term "Latter-Day Saint" is better reserved to describe official doctrines, policies, or programs of the Church of Jesus Christ of Latter-Day Saints.").

⁵ The author has written extensively about abortion and rights of conscience in healthcare. See, e.g., Lynn D. Wardle, *Rights of Conscience vs. Peer-Driven Medical Ethics: ACOG and Abortion*, in *Life & Learning XVIII* 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. Wardle, *The Quandary of Pro-life Free Speech: A Lesson from the Abolitionists*, [62 Alb. L. Rev. 853 \(1999\)](#) [hereinafter *Wardle, The Quandary*]; Lynn D. Wardle, *Roe v. Wade: Effects of Twenty-Five Years of Constitutionalized Abortion on Demand*, in *Life and Learning VIII* 149 (Joseph W. Koterski, ed. 1999); Lynn D. Wardle, "Crying Stones": A Comparison of Abortion in Japan and the United States, *14 N.Y.L. Sch. J. Int'l & Comp. L.* 183 (1994); Lynn D. Wardle, *Thomas Jefferson v. Casey*, *The Human Life Review*, vol. XX, no. 3, at 49 (Summer 1994); Lynn D. Wardle, *Protecting the Rights of Conscience of Health Care Providers*, *14 J. Legal Med.* 177 (1993); Lynn D. Wardle, *A Matter of Conscience: Legal Protection for the Rights of Conscience of Health Care Providers*, *2 Cambridge Q. Health Care Ethics* 529 (1993); Lynn D. Wardle, *Rethinking Roe v. Wade*, *1985 BYU L. Rev.* 231 (1985); Lynn D. Wardle, *Restricting Abortion Through Legislation*, in *To Rescue the Future: The Pro-Life Movement in the Eighties* 101 (Dave Andrusko ed., 1984); Lynn D. Wardle & Mary Anne Q. Wood, *A Lawyer Looks at Abortion* (1982); Lynn D. Wardle, *The Abortion Privacy Doctrine* (1981); Lynn D. Wardle, *The Gap Between Law and Moral Order: An Examination of the Legitimacy of the Supreme Court Abortion Decisions*, *BYU L. Rev.* 911 (1980).

⁶ [410 U.S. 113 \(1973\)](#).

⁷ [410 U.S. 179 \(1973\)](#).

⁸ See Appendix I *infra*.

Part III summarizes the history of how the LDS Church leaders have treated elective abortion in Church principle, policy, and doctrine. It notes that since the early days of the Church, Church leaders have consistently and emphatically condemned the practice of elective abortion as a very grave personal sin and very serious social evil. Soon after the formation of the Church, abortion was clearly and publicly rejected, and in the last half of the nineteenth century, when the Church moved to the West, abortion was the subject of repeated and strong condemnations in many sermons by general Church authorities. In the past half-century and since the dawn of the modern "pro-choice" movement to legalize abortion-on-demand, official Church policy statements and a multitude of 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 Church discipline - including possible excommunication. These doctrines and policies harmonize well with deeper principles of Mormon theology and with Judeo-Christian history. The strong position of the LDS Church condemning abortion has continued for 180 years, meaning that the rejection and condemnation of elective abortion in Church doctrine has been clear and consistent.

Then, in Part IV, this Article examines how ordinary members of the LDS Church view abortion and whether their actions match their words. It shows that there is little dissonance between the official Church doctrine and the views and practices of ordinary Mormons. Most Mormon Christians believe, support, and practice the moral principles and positions espoused by their Church leaders regarding the immorality and social evils of elective abortion.

Next, in Part V, the Church's public policy position regarding another highly controversial contemporary bioethical issue, Embryonic Stem Cell ("ESC") research is compared to its position on elective abortion. The contrast between the strong, emphatic, bright-line position against elective abortion and the LDS Church's general reluctance to take positions on political issues, especially its neutral, moderate position on some other bioethical issues, including ESC research, underscores the LDS position that elective abortion is considered to be a uniquely grave and repugnant sin and very dangerous social evil and threat to society.

[*304] Part VI of this Article identifies eight 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 Church members regarding elective abortion despite strong cultural dissonance. Of course, every religious community is unique and the approach that succeeds in one community may not be as effective in another community. However, the experience of the Mormon community indicates that some combination of constant, clearly-espoused, principle-based doctrines and expectation of sacrificial discipleship may be effective in creating and maintaining support within a religious community for values and behaviors that reflect the teachings of the church.

Part VII notes the magnificent leadership role that the Catholic Church, its leaders, and many Catholic laity have taken in the abortion policy controversy in America, and also suggests that clear, consistent teaching of pro-life values, principles, and behavioral standards has not only been effective within particular faith communities, but appears to have had some positive spill-over effect on people outside of those faith communities to impact for good the general culture of American society. The persistent expression of pro-life viewpoints within a sub-group of society seems to have influenced opinions of people outside of any particular faith community. That seems to be true at the local level (for example, in Utah), as well as in the nation overall. The recent revival of public support for pro-life viewpoints in public opinion polls, the recent proposal of long-unprecedented numbers of pro-life bills, and the enactment of many new laws designed to regulate abortion suggest that the persistent expression of pro-life values and views in faith communities over time may impact views and attitudes about abortion in society at large as well.

Finally, Part VIII reiterates the importance of teaching correct principles about important, controversial moral issues and practices. It underscores the importance of creating and maintaining within faith communities a general understanding of, support for, and adherence to moral principles, policies, and personal behavior standards by the members of the community when those moral views and behavioral standards have become unpopular in society. It underscores the importance of faith communities with common pro-life values standing together. This Article seeks to not only present the LDS experience with elective abortion as one example of how effective the clear and consistent expression of pro-life viewpoints can be, but to reveal some of the persistent, present threats to pro-life

free speech, the need to strengthen legal protections for pro-life expressions, and the importance of pro-life faith communities speaking up and standing together in opposing elective abortion and in defense of the sanctity of life.

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

A. The Transformation in American Public Opinion, Both Secular and Religious

Social acceptance of elective abortion has undergone a major transformation in the United States of America during the past fifty years.⁹ In a nutshell, elective abortion was generally condemned and clearly prohibited at common law in England from at least the twelfth century and in the United States from colonial times until about 1960.¹⁰ After World War II, with the development of penicillin and other drugs and procedures that reduced the risk of morbidity and mortality of abortion, 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,¹¹ and by 1972 thirteen states had adopted abortion reforms based on that ALI proposal.¹² While the ALI proposal and these thirteen state laws did not legalize elective abortion generally, but only created exceptions to the abortion prohibition in three hard cases of significant medical necessity or moral dilemma, they reflected a lessening of social disapproval of abortion. More significantly, in 1970, four other 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).¹³

[*306] Advocates of elective abortion were dissatisfied with their 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 United States Supreme Court announced its decisions in *Roe v. Wade*¹⁴ and *Doe v. Bolton*.¹⁵ 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 also 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.¹⁶ The rulings in

⁹ The transformation of the moral rating of abortion has been a world-wide phenomenon, and is not limited to the United States alone. See generally Stanley K. Henshaw, Susheela Singh & Taylor Haas, *The Incidence of Abortion Worldwide*, 25 *Int'l. Fam. Plan. Perspectives* S30 (Supp. 1999) (reporting on numbers and rates of abortion in most nations worldwide); Susan A. Cohen, *Guttman Responds to Critics of Global Abortion Study*, *RH Reality Check* (Oct. 20, 2009), <http://www.rhrealitycheck.org/blog/2009/10/20/a-response-critics-guttman-study-global-abortion-trends> ("Nineteen countries have significantly reduced restrictions in their abortion laws since 1997, while only three countries have substantially increased legal restrictions."); World Publics Reject Criminal Penalties for Abortion, *WorldPublicOpinion.org*, http://www.worldpublicopinion.org/pipa/articles/btjusticehuman_rightsra/492.php?nid=&id=&pnt=492 (last visited Aug. 13, 2012) (explaining that of the eighteen national populations surveyed, nine populations opposed efforts to discourage abortion, and that seventeen out of eighteen opposed criminal penalties for such). However, as this Article focuses on the LDS faith community in the United States, the discussion of the history of abortion is limited to the United States.

¹⁰ See generally Joseph W. Dellapenna, *Dispelling the Myths of Abortion History 185-406* (2006); Wardle & Wood, *supra* note 5, at 28-54.

¹¹ Model Penal Code § 230.3 (1962).

¹² See Wardle & Wood, *supra* note 5, at 42-43.

¹³ *Id.*

¹⁴ [410 U.S. 113 \(1973\)](#).

¹⁵ [410 U.S. 179 \(1973\)](#).

Roe and Doe effectively invalidated the abortion laws in all fifty states and required all states to repeal all laws restricting elective abortion - at least those applicable before the third trimester of pregnancy. Moreover, the expansive Roe opinion (1) rejected outright claims that protection of maternal health justified restricting elective abortions generally (unequivocally in the first trimester and largely in the second, though it suggested that some ordinary health regulations would be allowed at least during the second trimester); (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 penumbral 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 prohibit abortion before the fetus is viable (which it suggested was after twenty-four to twenty-eight weeks of gestation).¹⁷ 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. As Appendix I shows, in just four decades, the United States Supreme Court has decided at least forty-six significant abortion cases, including at least thirty-seven major constitutional decisions that have dealt with some aspect of constitutional protection for elective abortion. These cases not only embedded first the abortion [*307] "privacy" doctrine, and later the abortion "liberty" doctrine in United States constitutional law, but dramatically expanded the doctrines to regulate such issues as parental consent, spousal notification, disposition of fetal remains, abortion funding, sidewalk "counseling," anti-abortion demonstrations, routine health clinic regulations, restriction of partial-birth abortion (more accurately, infanticide), etc.¹⁸ Chief Justice Burger joined in the original Roe and Doe opinions with a separate concurring opinion optimistically suggesting that those decisions did not endorse "abortions on demand" and would not have the "sweeping consequences attributed to them by the dissenting Justices."¹⁹ Thirteen years later, he wrote a strong dissent in *Thornburgh v. American College of Obstetricians and Gynecologists* conceding that, "I regretfully conclude that some of the concerns of the dissenting Justices in Roe ... have now been realized."²⁰

¹⁶ See Model Penal Code § 230.6 (1962).

¹⁷ [Roe, 410 U.S. at 152-167.](#)

¹⁸ See Wardle & Wood, *supra* note 5, at 47-168.

¹⁹ [Doe, 410 U.S. at 208](#) (Burger, C.J., concurring).

²⁰ [476 U.S. 747, 783 \(1986\)](#) (Burger, C.J., dissenting), overruled by [Planned Parenthood v. Casey, 505 U.S. 833 \(1992\)](#). In *Thornburgh*, a Pennsylvania statute requiring 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, the medical assistance benefits available for childbirth and prenatal care, the fact that the father would be liable for assistance in supporting the child, and the agencies offering alternatives to abortion was invalidated. [Id. at 760-61](#). For the Court, Justice Blackmun sharply condemned the provisions as designed to deter the exercise of freedom of choice. [Id. at 799](#). The 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. See [id. at 762](#). Other provisions were impermissibly designed to protect the life and interests of the viable fetus subject to abortion. *Id.* 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. See [id. at 768-69](#). 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 curtailed the performance of post viability abortions - all in contravention of the fundamental right of abortion privacy. See [id. at 769-70](#). Four justices dissented.

While it is clear that Roe can be identified as the pivotal event in the social transformation of the moral acceptance of elective abortion in the United States in the last half of the twentieth century,²¹ the Supreme Court decisions in Roe and Doe alone did not trigger the transformation of the social acceptance of elective abortion.²² The trend toward acceptance of [*308] elective abortion as morally-approved had begun and increased in the decade before those 1973 decisions. For example, a study by Judith Blake, published in Science magazine, reporting on three specially-commissioned Gallup polls between 1962-1969 and a 1965 national fertility study to track public opinion regarding abortions for four specific reasons found that during the decade preceding Roe, 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%.²³ 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 of surveys, and from 91% to 76% in another set (covering a five-year period).²⁴ Gallup surveys showed that "opposition to elective abortion has clearly declined ... from the high of 85 percent in 1968 to 63 percent in 1974 and 1977."²⁵ Blake also noted that most of the rise in approval of elective abortion came before the Supreme Court decision in Roe.²⁶

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, 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 support for legalized abortion-on-demand grew to about 34% while [*309] opposition to legalizing any abortion fell to as low as 13%.²⁷ In the past fifteen years, however, the group of persons 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.²⁸ 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 should be allowed or prohibited.²⁹ The pro-abortion-on-demand polar extreme swelled for over a decade then deflated, and today the polar positions are roughly equal again.³⁰

²¹ See Wardle & Wood, *supra* note 5, at 43 ("In 1971, however, resistance to the abortion law reform movement appeared to coalesce. That year, 34 legislatures considered proposals to liberize their abortion laws, but none of those provisions were enacted.").

²² See *infra* note 24 and accompanying text.

²³ Judith Blake, *Abortion and Public Opinion: The 1960-1970 Decade*, 171 *Sci.* 540, 541 tbl. 1 (Feb. 12, 1971). She also presciently concluded 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.

²⁴ Judith Blake, *The Supreme Court's Abortion Decisions and Public Opinion in the United States*, 3 *Population & Dev. Rev.* 45, 47-49 (Mar.-June 1977).

²⁵ *Id.* at 50.

²⁶ *Id.* at 57-58. She concludes:

It is by no means clear whether the cause of 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 question worth asking.

Id. at 61.

²⁷ Lydia Saad, *Gallup World Poll, Public Opinion About Abortion - An In-Depth Review 1* (2002), available at <http://www.gallup.com/poll/9904/Public-Opinion-About-Abortion-InDepth-Review.aspx>.

²⁸ *Id.*

²⁹ *Id.*

Interestingly, however, the majority of Americans consistently have reflected the belief that abortion should be allowed only in certain (e.g., generally only in "hard case") situations. Thus, in 2002 the Gallup Poll organization reported: "A notable aspect of Gallup's long-term measure of public opinion on abortion is the 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."³¹ Another measure of the social acceptance of abortion (and the impact of, inter alia, Roe and Doe) is in the number, rate, and ratio of abortions performed. As the table in Appendix II shows, using the best available data,³² the number of reported abortions rose from 1972 [***310**] 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).³³

Religiosity has long been correlated with opinions about abortion. For example, in 2002 a special Gallup report 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."³⁴ Other demographic factors "largely overlap with the underlying religiosity [factor]."³⁵ The potential influence of religion on views about abortion in the twenty-first century is not surprising. Abortion has been a major concern of many influential religions for millennia, and rejection of abortion has distinguished Judeo-Christian believers from non-believers since Old Testament times.³⁶

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 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.

Id.

³⁰ Id. at 1-3.

³¹ Id. at 1 (emphasis added). However, perhaps a distinction exists between whether individuals personally believe that abortion is morally unacceptable and whether they believe that it is so morally unacceptable and harmful socially that it should be prohibited by law.

³² Ironically, the best data about abortion incidence and practice comes from the pro-choice private Alan Guttmacher Institute rather than the government Centers for Disease Control. See The History of the Guttmacher Institute, Guttmacher Institute, <http://www.guttmacher.org/about/history.html> (last visited Aug. 13, 2012) (noting that it was originally a subsidiary of Planned Parenthood); Guttmacher Institute, Abortion in the United States, YouTube (Apr. 28, 2011), <http://www.youtube.com/watch?v=rY-bQ6UzhNI&feature=plcp>.

³³ The rate of abortions per 1000 women ages fifteen to forty-four peaked in 1980 (at 2.93%) as did the ratio of abortions per known pregnancies (at 30%), while the raw number of abortions peaked in 1990 (at 1,609,000). See *infra* Appendix II, III.

³⁴ Saad, *supra* note 27, at 1-2.

³⁵ Id. at 2.

³⁶ See *infra* notes 128-54 and accompanying text. See also John W. Mahaffy, Abortion and the Bible 3 (1971), available at <http://mahaffynet.net/Mahaffynet/Writings/JWM/ABORTION%20AND%20THE%20BIBLE.pdf> (last visited May 30, 2012).

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.

Id.

Thus, while opinion surveys confirm that most Americans reject abortion-on-demand, it is clear that a significant change has occurred in the direction of greater social approval and practice of elective abortion when compared to early Judeo-Christian teachings. It also is clear that a faith community can influence, to some extent, the opinions of the members of that community regarding the morality, legality, and practice 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. For example, research [*311] has revealed that opposition to elective abortion by members of mainstream religions fell by ten to twenty percent in the dozen years following the Roe decision - the same period when popular support for abortion-on-demand was dramatically increasing in America.³⁷

B. Efforts to Suppress, Censor, and Punish Pro-Life Free Speech

One contributing cause of the change in social views about abortion has been the emergence of a culture of intolerance of the expression of pro-life viewpoints. Communication of pro-life perspectives and opinions has been not only unpopular for many years, but also dangerous. As elaborated in the following paragraphs, attempts to silence pro-life free speech include efforts to legally threaten and intimidate persons trying to express or disseminate pro-life views and materials at abortion clinics, attempts to legally ban such expressive activities, efforts to deny permission to use public facilities to express such views, attempts to punish persons for expressing or participating in the expression of such views, failures of public officials to defend and protect persons engaged in pro-life free-speech, efforts to physically assault and bully persons for expressing pro-life views, and judicial decisions declining to extend full legal protection to pro-life free speech comparable to that accorded expression of views about other similarly controversial issues.³⁸

For example, in 1994 Congress enacted the Freedom of Access to Clinic Entrances Act ("FACE"),³⁹ "which restricts [some types of] abortion clinic picketing on Commerce Clause grounds."⁴⁰ It has been applied very broadly to bar anti-abortion protestors from describing abortionists (in posters or on web sites) as a "deadly dozen" or accusing them of "crimes against humanity."⁴¹ FACE has been used as an effective tool "to quell Operation Rescue and other antiabortion activists."⁴² For years, the Racketeering [*312] Influenced and Corrupt Organizations Act (RICO)⁴³ had been "the preferred legal vehicle ... [and was used] as a tool for alleging extortion against pro-life protesters who block access to abortion clinics."⁴⁴ Finally, in 2006, the Supreme Court (8-1) in *Scheidler v. National Organization for Women, Inc.*,⁴⁵ rejected the application of RICO for such purposes, holding that acts of violence or trespass, standing alone, do not qualify as an offense under RICO, and "put an end

³⁷ Lyman A. Kellstedt, *Abortion and the Political Process*, in *Abortion: A Christian Understanding and Response* 212 (James A. Hoffmeir ed., 1987).

³⁸ See *infra* notes 45-56 and accompanying text.

³⁹ [18 U.S.C.A. § 248](#) (West).

⁴⁰ Judith Daar, *Federalizing Embryo Transfers: Taming the Wild West of Reproductive Medicine*, [23 Colum. J. Gender & L. 257, 284 n.113 \(2012\)](#). The original text of the article over/mis-states the scope of activities barred by FACE, but that is typical of the disrespect for the expressive rights of pro-life demonstrators.

⁴¹ [Planned Parenthood of Columbia/Willamette, Inc. v. Am. Coal. of Activists, 290 F.3d 1058, 1062 \(9th Cir. 2002\)](#).

⁴² Neal Devins, *How Planned Parenthood v. Casey (Pretty Much) Settled the Abortion Wars*, [118 Yale L.J. 1318, 1330 \(2009\)](#).

⁴³ [18 U.S.C.A. §§1961-68](#) (West 2006).

⁴⁴ Ameer Lakhani, *Case Brief: Scheidler v. National Organization for Women, Inc.*, 10 DePaul J. H. Care L. 493, 493 (2007).

⁴⁵ [546 U.S. 9 \(2006\)](#).

to over twenty years of litigation over the applicability of RICO to abortion protesters." ⁴⁶ In other words, for two decades, until the Supreme Court finally stopped the practice, abortion clinics and their pro-abortion supporters had used RICO to harass and intimidate pro-life abortion protesters. ⁴⁷ The right to expression of pro-life abortion protesters was consistently denied for decades. ⁴⁸ Before the Supreme Court decided *Scheidler*, it had heard three previous cases raising First Amendment claims for protection of pro-life protesters at abortion clinics, rejecting two of them entirely and one of them in part. ⁴⁹

It still is a standard tactic of intimidation used by abortion facilities against pro-life picketers or protesters to sue them and try to enjoin them from engaging in their expressive activities. Sadly, many courts ignore or facilitate such denials of pro-life free speech near abortion clinics. ⁵⁰

[*313] Public officials regularly deny permission to use public facilities to express pro-life views. For example, the University of Houston barred a pro-life student group from displaying their exhibit on the campus plaza, a public forum; the group went to federal court to get relief and succeeded. ⁵¹ Use of public sidewalks by pro-life protesters for their expressions is regularly denied. ⁵² And while the courts are split on the issue, in several cases arising in various states, pro-life citizens who asked to have "Choose-life" or similar pro-life messages on their vanity license plates have been denied, and such denials have been upheld by some courts. So far, the United States Supreme Court has denied certiorari to hear such cases. ⁵³ It is not uncommon for pro-choice groups to be given permission to use public facilities but for pro-life groups to be denied such permission. ⁵⁴

⁴⁶ Lakhani, *supra* note 44.

⁴⁷ See generally Sue Ann Mota, *Scheidler v. NOW: The Supreme Court Holds that Abortion Protesters Are not Racketeers*, [16 Regent U. L. Rev. 139 \(2003-2004\)](#) (reviewing the seventeen year history of litigation in *Scheidler* and noting related cases).

⁴⁸ See generally Katherine Hessler, *Early Efforts to Suppress Protest: Unwanted Abolitionist Speech*, [7 B.U. Pub. Int. L.J. 185 \(1998\)](#); Christopher P. Keleher, *Comment, Double Standards: The Suppression of Abortion Protesters' Free Speech Rights*, [51 DePaul L. Rev. 825 \(2002\)](#); Wardle, *The Quandary*, *supra* note 5 *passim*; Brian J. Murray, *Note, Protesters, Extortion, and Coercion: Preventing RICO from Chilling First Amendment Freedoms*, [75 Notre Dame L. Rev. 691 \(1999\)](#).

⁴⁹ See generally [Hill v. Colorado, 530 U.S. 703 \(2000\)](#) (upholding Colorado law banning approaching within eight feet anyone near any medical facility without their consent); [Schenck v. Pro-Choice Network of W. N.Y., 519 U.S. 357 \(1997\)](#) (affirming injunction that created fixed bubble zones and cease-and-desist rules, restricting anti-abortion protesting outside of abortion clinic, but invalidating floating buffer zones); [Madsen v. Women's Health Ctr., Inc., 512 U.S. 753 \(1994\)](#) (upholding injunction against pro-life protesting).

⁵⁰ See, e.g., [St. John Church in the Wilderness v. Scott, 194 P.3d 475, 478 \(Colo. App. 2008\)](#) (holding that pro-lifers picketing on sidewalks in the vicinity of a church with ties to an abortion clinic should be enjoined from such picketing because the signs upset churchgoers); [Planned Parenthood Golden Gate v. Superior Court, 83 Cal. App. 4th 347 \(2000\)](#) (describing injunction against pro-life protester for counseling and leafleting outside an abortion clinic). See also Life Legal Defense Foundation, *Recap, Lifeline*, Winter 2010, available at <http://www.lldf.org/resources/lifeline-newsletter/> (last visited Aug. 18, 2012) (describing three California cases - *Conrad v. San Bernardino*, *White v. San Bernardino*, and *People v. Pomeroy* - involving arrests of pro-life sidewalk counselors).

⁵¹ [Pro-Life Cougars v. Univ. of Hous., 259 F. Supp.2d 575 \(S.D. Tex. 2003\)](#). See generally Lyrisa Lidsky, *Public Forum 2.0*, [91 B.U. L. Rev. 1975, 1991 n.109 \(2011\)](#) (explaining what constitutes a public forum, which was an issue in *Pro-Life Cougars v. University of Houston*).

⁵² [Hill, 530 U.S. at 707](#). See also [Moreno v. Town of Los Gatos, 267 Fed. Appx. 665 \(9th Cir. 2008\)](#) (explaining that pro-lifers were arrested for picketing and distributing literature on public sidewalk outside a high school after police told them they had to stay 1,000 feet from the school, and that eventually the town agreed to a permanent injunction and the payment of attorney fees). The court of appeals held that protesters were entitled to statutory damages under state law. *Id.*

⁵³ [Choose Life Ill., Inc. v. White, 547 F.3d 853 \(7th Cir. 2008\)](#), cert. denied, [130 S. Ct. 59 \(2009\)](#). See also [Planned Parenthood of S.C., Inc. v. Rose, 361 F.3d 786 \(4th Cir. 2004\)](#) (striking "choose life" licenses plates without pro-choice alternative), cert.

There is a disparate enforcement of laws against pro-life expressions but not against pro-choice expressions. For example, in *Logsdon v. Hains*, police arrested pro-life sidewalk counselors outside an abortion clinic after listening only to the clinic staff and refusing to listen to the sidewalk counselor.⁵⁵ [*314] Several jurisdictions have enacted laws to force pro-life pregnancy counseling clinics to post signs and communicate to their client-patients that they do not provide abortion services; fortunately, the courts to date have invalidated such laws.⁵⁶ Further, tolerance of assault and other forms of abuse of persons engaged in pro-life expression is tragically common.⁵⁷

Such hostile, censorial, and punitive behavior chills the expression of pro-life viewpoints and makes it more difficult to create and sustain within any sub-group of society (including faith communities) pro-life values, principles, and behavioral standards that are socially unpopular, marginalized, and punished. While many factors contribute to attitude changes, overt efforts to suppress pro-life expressions and the history of tolerance of such censorship undeniably have a repressive effect on pro-life expressions.⁵⁸ The rarity and marginalization of expressions critical

denied, **543 U.S. 1119 (2005)**; but see [Roach v. Stouffer, 560 F.3d 860 \(8th Cir. 2009\)](#) (holding that state denial of Choose Life special plate was unconstitutional); [Ariz. Life Coal., Inc. v. Stanton, 515 F.3d 956 \(9th Cir. 2008\)](#) (holding that state denial of Choose Life special plate was unconstitutional), cert. denied, **555 U.S. 815 (2008)**; [ACLU of Tenn. v. Bredesen, 441 F.3d 370 \(6th Cir. 2006\)](#) (upholding "choose life" license plates without pro-choice alternative), cert. denied, **548 U.S. 906 (2006)**. See generally Steven H. Goldberg, The Government-Speech Doctrine: "Recently Minted;" but Counterfeit, [49 LA. L. Rev. 21, 46-49 \(2010\)](#) (reviewing and critiquing "choose life" license plate cases); Mark Strasser, Ignore the Man Behind the Curtain: On the Government Speech Doctrine and What It Licenses, [21 B.U. Pub. Int. L.J. 85, 114-26 \(2011\)](#); Brielle C. Goldfaden, Comment, "Choose Life" Plates: The States' License to Discriminate Based on Viewpoint, [5 Seton Hall Circuit Rev. 279, 299 \(2008\)](#).

⁵⁴ See e.g., *Wiechec v. Colo. State Patrol*, 1:09-CV-02358 (D. Colo. Mar. 15, 2010) (explaining that pro-lifer was arrested for disrupting a lawful assembly by protesting at a rally opposing the Colorado Personhood Amendment held on steps of state capitol, and that charges were dismissed after the pro-choice governor was subpoenaed to testify about application of the law against pro-lifers but not against pro-abortionists).

⁵⁵ [Logsdon v. Hains, 492 F.3d 334 \(6th Cir. 2007\)](#) (explaining that sidewalk counselor's civil rights lawsuit for damages filed against the Cincinnati police officers for arresting a sidewalk counselor at abortion clinic without probable cause was dismissed by a trial court, but the Sixth Circuit reversed, holding that a prudent officer would listen to witnesses on both sides, rather than only listening to clinic employee and telling pro-lifers to tell it to the jury). After the defendants' petition for certiorari to the United States Supreme Court was denied and the case remanded for further proceedings, the city settled for damages and attorney fees. *Id.*

⁵⁶ At least three federal courts have invalidated such laws. See [O'Brien v. Mayor and City Council of Balt., 768 F.Supp. 2d 804 \(D. Md. 2011\)](#), aff'd by [Greater Balt. Ctr. for Pregnancy Concerns, Inc. v. Mayor and City Council of Balt., 683 F.3d 539, 556 \(4th Cir. 2012\)](#), rehearing en banc granted, [2012 WL 7855859 \(4th Cir. 2012\)](#); [Evergreen Ass'n, Inc. v. New York City, 801 F.Supp.2d 197 \(S.D.N.Y. 2011\)](#).

⁵⁷ For a description of several examples, see General Recap & Update, Lifeline (Summer 2012), available at <http://www.ildf.org/wp-content/uploads/Lifeline-2012-Summer.pdf> (last visited Aug. 18, 2012) (discussing, inter alia, *People v. White*, and describing how clinic personnel allegedly turned a high pressure sprinkler nozzle into the faces of pro-life demonstrators, injuring the eye of one protestor); General Recap & Update, Lifeline (Spring 2009), available at <http://www.ildf.org/wp-content/uploads/Lifeline-2009-Spring.pdf> (discussing *Condit v. John Doe* in which a pro-abortion driver attempted to run over pro-life picketer). In July 2012, a young man was hit by a car and killed while walking on a highway in Indiana with Crossroads, a pro-life group engaged in a walk-for-life. Joseph Moore's Moving Tribute to His Son Andrew Who Died During the Pro-Life Crossroads Walk, LifeSiteNews.com (July 21, 2012), <http://www.physiciansforlife.org/content/view/22432/> (last visited Aug. 18, 2012).

⁵⁸ See, e.g., Mary Anne Franks, When Bad Speech Does Good, [43 Loy. U. Chi. L.J. 395, 395 \(2012\)](#) ("[Any] censorship is likely to stifle or chill good speech as well as bad speech."); Kristen Walker, Why the Mainstream Media Ignores or Distorts the March for Life, Liveaction.org Blog (Jan. 25, 2012), <http://liveaction.org/blog/why-the-mainstream-media-ignores-or-distorts-the-march-for-life/> (last visited Aug. 21, 2012).

[Rallies of 8,000 in Dallas, 50,000 in Los Angeles, and up to 400,000 in Washington, D.C. were ignored by local and national media. Why?]

of and [*315] dissenting from the dominant social attitude of support for elective abortion-on-demand reinforces the dominant pro-abortion ethic - and also the "ethic" tolerating suppression of contrary, unpopular pro-life viewpoints.⁵⁹

That leads back to the introductory question that is the focus of this article: How do leaders of a faith community create and maintain within the community support for high moral standards in precept and action relating to values and practices that it considers fundamentally immoral, yet have become accepted and popular in society generally?

III. The Organization, History, Doctrine, Theology, 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

Some background explanation of the organization of the LDS Church is important to understanding the Church's response to elective abortion and the effect of that response upon members of the Church. Members of the Church are organized into local geographic wards, or smaller "branches," usually consisting of about 150 families (like local parishes or congregations); stakes, clusters of about a dozen wards and branches, like dioceses; and areas, comprised of many stakes, all led by lay priesthood holders - unpaid member-leaders who have day jobs including teachers, lawyers, doctors, businessmen, government officials, farmers, etc. The priesthood leaders of these units generally give an average of ten to twenty-five hours of volunteer service per week, mostly on night and weekends, in their lay ministry assignments. But those leaders are not the only ones expected to serve; nearly all adult members of the church are offered and encouraged to accept a "calling" in the local church unit, such as playing the piano or organ in the weekly Sunday Sacrament Meeting, or caring for [*316] toddlers in the nursery or teaching children in the Primary, or being a Scoutmaster, or serving as a teacher, officer or in a support position in the Sunday School, Relief Society, priesthood quorums, or in the Young Men or Young Women auxiliaries. Time spent in such callings can average from two to twenty hours per week, depending on the calling. Moreover, all men and boys aged fourteen and older are paired and asked to visit and give a short, spiritual message to all of the families in their ward once a month (each pair usually is assigned to visit three or four families) as home teachers, and all women over eighteen also are paired as visiting teachers and asked to visit the adult women and share a short message. Additionally, members periodically will be asked to participate in service projects, such as helping someone move, or laboring for a few hours on a welfare project (farm, ranch, cannery, orchard, etc.), or joining in a community or school service day, or responding to the need for clean-up services after a hurricane, tornado, fire, or

Apologists would have us believe that half a million to maybe more than a million people taking to the streets every year for the anniversary of the Roe v. Wade decision is not newsworthy. Why? Well, because it happens every year!

Where's the story in that?

Here's the story: It happens every year.

Every single year, at least half a million people around the country protest for the same cause. Does that happen for any other cause besides abortion? Tell me if it does, I'd like to know.

Id. See also Komen Foundation VP Resigns, Blasts Planned Parenthood, Cnn.com, (Feb. 7, 2012), http://articles.cnn.com/2012-02-07/us/us_komen-executive-resigns_1_leola-reis-nancy-brinker-planned-parenthood?_s=PM:US ("The Komen foundation later reversed its decision [to stop giving funding to Planned Parenthood] after being faced with a deluge of opposition that included pressure from lawmakers and internal dissent.").

⁵⁹ See generally Russell Hittinger, *Resisting the Sovereign*, 3 Tex. Rev. L. & Pol. 149, 153 ("As pro-life activists have been reminded, the sovereign will not necessarily think that suppressing protests against abortion constitutes a "chilling effect" upon speech"); Wardle, *The Quandary*, supra note 5, at 883-94 (reviewing examples of efforts to chill and suppress pro-life free speech).

other natural disaster, etc. Working together to give service to each other and to others is an integral part of the identity and mission of Mormon communities.⁶⁰

The top priesthood leadership of the Church, called "General Authorities" (about ninety in number), are full-time, paid church employees who supervise the work of the ward, stake, and area lay leaders, direct the worldwide support work of the large staff of tens of thousands of paid and volunteer employees and volunteer missionaries, and who speak for and serve in the Church. Fifteen of the General Authorities (the President of the Church and his two counselors who constitute the First Presidency, together with the Council of Twelve Apostles) are sustained by the members as "prophets, seers and revelators."⁶¹ 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.⁶²

[*317] Twice each year, in the first weekend of April and October, about thirty of the General Authorities speak to all members in General Conferences held in Salt Lake City. Their talks represent the official teachings of the leaders of the Church, and they are widely broadcast around the world and then redistributed in full in broadcast and DVD forms and in the next month's issue of the Church's monthly Ensign magazine, which all Church members are encouraged to read. Summaries of the conference sermons are published immediately in the weekly Church News newspaper,⁶³ and the full text of the sermons are quickly posted online on the Church's official website.⁶⁴ Great effort and resources are devoted to disseminating the sermons given in the General Conferences to all members of the Church. They also often become the subject of sermons and lessons in the local wards and stakes of the Church in the months following the General Conference.

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 the Council of the Twelve Apostles. They are also widely distributed and easily accessible in print form and online.⁶⁵

⁶⁰ Michael Otterson, What Makes Mormons Tick?, Wash. Post Guest Voices Blog (Aug. 6, 2012, 7:35 PM), http://www.washingtonpost.com/blogs/guest-voices/post/what-makes-mormons-tick/2012/08/06/828d4780-e019-11e1-8fc5-a7dcf1fc161d_blog.html.

The overarching goal [in a Mormon ward] which everybody works for is to lift others in a way that reflects a community of latter-day, Christian disciples. Everyone needs help from time to time, and everyone also needs to give help. Wards and stakes ... also try to reach out and serve with others of goodwill in the community.

Id. The Mormon's "collective commitment to each other is a direct consequence of their commitment to be followers of Jesus Christ." Id.

⁶¹ Dieter F. Uchtdorf, The Sustaining of Church Officers, Ensign, Apr. 2012. See generally Doctrines and Covenants 124:94, 125 [hereinafter D&C] (explaining that the president of the Church is called "a revelator, a seer, and prophet").

⁶² Thus, Mormons are admonished in word of a modern revelation: "Wherefore, meaning the church, thou shalt give heed unto all his words and commandments which he shall give unto you as he receiveth them, walking in all holiness before me; For his word ye shall receive, as if from mine own mouth, in all patience and faith." D&C 21:4-5.

⁶³ Church News, The Church of Jesus Christ of Latter-day Saints, <http://www.ldschurchnews.com/home/>. It presents itself as the "Authorized News Web site of the Church of Jesus Christ of Latter-Day Saints." Id.

⁶⁴ For example, the sermons delivered in the April 2012 semi-annual general conference are available at <http://www.lds.org/general-conference/sessions/2012/04?lang=eng> (last visited Aug. 7, 2012).

⁶⁵ For example, the General Handbook of Instructions, The Church of Jesus Christ Latter-Day Saints, Handbook 2: Administering the Church (2012) [hereinafter HAC-II], is available at <http://www.lds.org/handbook/handbook-2-administering-the-church?lang=eng> (last visited Aug. 7, 2012).

All members are expected to attend a three-hour block of worship and instructional meetings every Sunday. Also, all high school and college-aged youth are encouraged to study standardized gospel lessons in seminary classes each school-day during high school years, and in weekly institute classes for college students.

B. Teaching Correct Principles

The great emphasis upon and significant apparatus created and used to disseminate to members of the Church the sermons and teachings of the General Authorities, especially General Conference sermons, underscores the importance given to "teaching correct principles." As to most internal, doctrinal, administrative, and general policy issues, the Church follows the practice of Joseph Smith who replied to a question about how he governed **[*318]** such a large group of people: "I teach them correct principles and they govern themselves."⁶⁶ Likewise, the Prophet Joseph Smith revealed that the Lord had declared that it is not appropriate that men should be commanded by Him 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" ⁶⁷ This creates an environment that fosters individual responsibility to search and study and use one's own abilities and resources and inspiration to understand the gospel and to apply it individually in making important decisions. ⁶⁸

Accordingly, in most cases, the Church says very little officially about what it thinks the law or legal policy should be. Rather, Church policies generally address the moral and spiritual dimensions of the issues, internal institutional concerns (such as the standing within the Church of persons who engage in certain behavior that violates the commandments of God or core moral teachings of the Church), and the core theological and moral principles that might be implicated by a social policy. Thus, Church policy regarding the legality of elective abortion is one of a very few public policy issues on which the Church has taken a definite and specific official public position. But even that operates in a framework in which members of the Church are urged and expected to study the issues for themselves and, referencing and respecting a few landmarks provided by Church leaders, are expected to decide for themselves on the particular details and applications to specific social policy issues. ⁶⁹ While selectively

⁶⁶ Joseph Smith, *supra* note 1; James R. Clark, *supra* note 1. When the Mormons were forcibly driven out of Missouri under the infamous "extermination order" of Governor Lilburn Boggs, 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. See William G. Hartley, *Missouri's 1838 Extermination Order and the Mormon's Forced Removal to Illinois*, 5 *Mormon Historical Studies* 2 available at http://www.mormonhistoricsitesfoundation.org/publications/studies_spring_01/MHS2.1Hartley.pdf (last visited May 30, 2012). Within five years, the new settlement, called "Nauvoo" became the largest city in Illinois. *Id.* 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."

The Church of Jesus Christ of Latter-day Saints, *Teachings of the Presidents of the Church: Joseph Smith* 281, 284 (2007) available at http://www.lds.org/ldsorg/v/index.jsp?hideNav=1&locale=0&sourceId=45f720596a845110VgnVCM100000176f620a____&vgnnextoid=da135f74db46c010VgnVCM1000004d82620aRCRD#footnote3 (last visited May 30, 2012).

⁶⁷ D&C 58:26-27.

⁶⁸ See generally Welch, *supra* note 4, at 95-103.

⁶⁹ But cf. D&C 88:78-80:

Teach ye diligently and my grace shall attend you, that you may be instructed more perfectly in theory, in principle, in doctrine, in the law of the gospel, in all things that pertain unto the kingdom of God, that are expedient for you to understand; Of things both in heaven and in the earth, and under the earth; things which have been, things which are, things which must shortly come to pass; things which are at home, things which are abroad; the wars and the perplexities of the nations, and the judgments which are on the land; and a knowledge also of countries and of kingdoms - That ye may be prepared in all things when I shall send you again to magnify the calling whereunto I have called you, and the mission with which I have commissioned you.

definitive, this approach is generally [*319] pluralistic in process (reflecting one of the great paradoxes of Mormonism) and generally tolerates and facilitates some significant viewpoint diversity on most controversial issues.

C. The LDS Church's Official Position on Elective Abortion

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.⁷⁰

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. 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 [*320] 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.⁷¹

Such discipline could range from informal probation to being formally disfellowshipped or excommunicated. Regarding political issues: "The Church has not favored or opposed legislative proposals or public demonstrations concerning abortion."⁷²

Moreover, it is widely known that a member who has had, performed, financed, encouraged, or participated in an elective abortion is ineligible to serve as a missionary for the Church.⁷³ That Church policy may best exemplify

⁷⁰ The Church of Jesus Christ of Latter-Day Saints, Topic: Abortion, Newsroom: The Official Resource for News Media, Opinion Leaders, and the Public, <http://www.mormonnewsroom.org/official-statement/abortion> (last visited Apr. 17, 2013) [herein Abortion]. This is the Church's official statement on abortion.

⁷¹ HAC-II, supra note 65, § 21.4.1. See also Harold B. Lee et al., Policies and Procedures: Statement on Abortion, New Era (Apr. 1973) ("Members of the Church guilty of being parties to the sin of abortion must be subjected to the disciplinary action of the councils of the Church as circumstances warrant."); Spencer W. Kimball, "Why Call Me Lord, Lord, and Do Not the Things Which I Say?", Ensign, May 1975, at 7 ("Much is being said in the press and in the pulpit concerning abortion. 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.").

⁷² Abortion, supra note 70.

⁷³ See Johnnie Glad, Proclaiming the Message: A Comparison of the Mormon Missionary Strategy with Other Mainstream Christian Missions, 2 Int'l J. Mormon Stud. 142, 147 (Spring 2009), available at <http://religiousreporter.com/mit/pdfs/Mormon-Mainstream-Christian-Missions-Compared.pdf> (last visited Apr. 20, 2013) ("The following categories of members are not normally recommended to serve full-time missions: ... Women who have submitted to abortion, or men or women who have

how seriously, gravely sinful the LDS Church considers elective abortion to be. Missionary work is one of the most important, key activities of the Church; Mormons believe that it is the primary role and responsibility of this generation of saints to see that the gospel is carried to and preached in all the world so "scattered Israel" may be gathered into the Church established by the Lord in this, "the dispensation of the fulness of times."⁷⁴ Despite prior serious transgressions, all repentant, worthy, and healthy young men are strongly encouraged to serve as missionaries, and all such young women not engaged or in a serious relationship moving toward marriage also are invited to serve as missionaries.⁷⁵ Given the great emphasis placed upon [*321] missionary service, despite other kinds of prior transgressions, the disqualifying effect of participating in or supporting elective abortion on eligibility to serve a mission shows that sin to be a very severe moral transgression.

D. Nineteenth Century LDS Condemnation and Rejection of Elective Abortion

Statements and actions rejecting elective abortion have been made by LDS General Authorities for about 180 years, beginning shortly after the Church was organized in 1830. The number and tempo of such statements has dramatically increased in recent years.

Historically, even in the early years of the Church in the nineteenth century, before laws forbidding abortion were widely enacted and when the covert practice of elective abortion was not uncommon in America, Mormon leaders took and enforced strong doctrinal positions disciplining those who engaged in the practice. An 1831 revelation to Joseph Smith, canonized as Section 59 of the Doctrine and Covenants, declares: "Thou shalt not kill ... nor do anything like unto it."⁷⁶ That has consistently been understood and interpreted to include abortion, specifically.⁷⁷

A decade later, in 1841, the issue arose in Nauvoo, Illinois, then the headquarters of the Church, when John C. Bennett, a prominent physician, briefly became an influential Mormon Church leader (including Assistant President in the First Presidency, Major-General of the Nauvoo Legion, and Mayor of Nauvoo).⁷⁸ Soon after his rise to

performed, encouraged, paid for or arranged for an abortion."). Note that the author is a non-LDS minister discussing Mormon missions.

⁷⁴ The Church of Jesus Christ of Latter-Day Saints, *Preach My Gospel: A Guide to Missionary Service* 37 (2004). See D&C 1:4-13; 4:1-7; 12:1-9; 14:1-7; 16:1-6; 50:14; 71:1-4; Robert D. Hales, *Couple Missionaries: Blessings from Sacrifice and Service*, Ensign, May 2005, at 39.

⁷⁵ Thomas S. Monson, *As We Meet Together Again*, Ensign, Oct. 2010.

First, to young men of the Aaronic Priesthood and to you young men who are becoming elders: I repeat what prophets have long taught - that every worthy, able young man should prepare to serve a mission. Missionary service is a priesthood duty - an obligation the Lord expects of us who have been given so very much. Young men, I admonish you to prepare for service as a missionary. Keep yourselves clean and pure and worthy to represent the Lord. Maintain your health and strength. Study the scriptures. Where such is available, participate in seminary or institute. Familiarize yourself with the missionary handbook *Preach My Gospel*.

A word to you young sisters: while you do not have the same priesthood responsibility as do the young men to serve as full-time missionaries, you also make a valuable contribution as missionaries, and we welcome your service.

Id.

⁷⁶ D&C 59:6.

⁷⁷ See, e.g., Russell M. Nelson, *Abortion, an Assault on the Defenseless*, Ensign, Oct. 2008, at 32 ("This matters greatly to us because the Lord has repeatedly declared this divine imperative: 'Thou shalt not kill.' Then He added, 'Nor do anything like unto it.'") (quoting D&C 59:6). See also notes 66 and 67 quoting D&C 59:6) on the Defenseless's own authority about that section's sense of being pro-life. That fits in better below and accompanying text.

⁷⁸ Susan Easton Black, *Who's Who in the Doctrine And Covenants 13-15* (1997) ("John was elected mayor of Nauvoo, Major-General of the Nauvoo Legion, Chancellor of Nauvoo University ... and was appointed Assistant to Joseph Smith"); 2012 *Deseret News Church Almanac*, 106 (explaining that Bennett was sustained as "Assistant President with the First Presidency")

prominence, it became known **[*322]** that he was committing adultery, engaging in unauthorized polygamy, and performing abortions. ⁷⁹ Bennett reportedly used his alleged ability to perform abortion in case of pregnancy to persuade some women to engage in immoral sexual relations with him. For example, one witness 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 exposure of the parties, and that he had instruments for that purpose, etc." ⁸⁰ Bennett was caught in adultery, 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. ⁸¹

In the last half of the nineteenth century, when the main body of Mormons 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 strong criticisms of and severe persecution for their open practice of Old Testament-style "plural marriage," 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. ⁸² 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*. ⁸³ **[*323]** For example, in 1879 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 prenatal murders and other crimes, are slaying their thousands and tens of thousands with 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. ⁸⁴

B. H. Roberts, 4 *Comprehensive History of the Church* 341 (1930) (explaining that Bennett was sustained "with the First Presidency as Assistant President until President Rigdon's health should be restored."). 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, *Oneness of the Priesthood - Impossibility of Obliterating Mormonism - Gospel Ordinances - Depopulation of the Human Species - The Coming Famine, Etc.*, 5 *J. Discourses* 86, 91 (July 26, 1857).

⁷⁹ See Roberts, *supra* note 78, at 5. According to the affidavit of Hyrum Smith:

Several females ... testified that John C. Bennett endeavored to seduce them, [saying] it was perfectly right to have illicit intercourse with females, providing no one knew it but themselves, vehemently trying them from day to day, to yield to his passions, ... and that he would give them medicine to produce abortions, provided they should become pregnant.

Id. at 71-75.

⁸⁰ Richard Price & Pamela Price, *Joseph Smith Fought Polygamy*, Restoration Bookstore, <http://restorationbookstore.org/articles/nopoligamy/jsfp-visionarticles/sarahprattcase.htm> (last visited May 31, 2012).

⁸¹ *Id.* See also Black, *supra* note 78.

⁸² See, e.g., Kimball, *supra* note 78, at 91 (quoted at length *infra* note 86 and accompanying text).

⁸³ I acknowledge with gratitude the outstanding research efforts of one of my student research assistants, Bryan Thursted, with whose assistance I 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.

⁸⁴ John Taylor, Discourse at Provo, Utah, Nov. 30, 1879, 20 *J. Discourses* 348, 354-55 (1880).

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

We 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?... There 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... .⁸⁵

Apostle and Counselor in the First Presidency, Heber C. Kimball declared prophetically 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 [*324] 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 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.

... .

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.⁸⁶

Brigham Young, the great prophet-leader of the Church in this period, also condemned the "various devices used by married persons to prevent the expenses and responsibilities of a family of children" and decried that abortion (which he compared to "infanticide") which had previously been "practiced ... in fear and against a reproving conscience is now boldly trumpeted abroad as one of the best means of ameliorating the miseries and sorrows of

⁸⁵ Joseph F. Smith, Discourse Delivered in Salt Lake City, Oct. 29, 1882, 24 J. Discourses 8, 11 (1884).

⁸⁶ Kimball, supra note 78, at 91-92. His grandson, Spencer W. Kimball, was the twelfth president of the Church when I discovered this prophetic statement of his grandfather.

humanity." ⁸⁷ So LDS condemnation of elective abortion by the [*325] Church leaders in the nineteenth century was a clear, strong, and oft-expressed position.

E. LDS Church's Response to the Movement to Legalize and Socially Accept Elective Abortion 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 this era of Church leadership - David O. McKay, Joseph Fielding Smith, Harold B. Lee, Spencer W. Kimball, Ezra Taft Benson, Howard W. Hunter, Gordon B. Hinckley, and Thomas S. Monson - have declared that abortion is a grave sin and rejected the public policy of elective (or "permissive") abortion as immoral and socially dangerous. ⁸⁸

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 unalterably opposing all abortions." ⁸⁹ 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." ⁹⁰ President Ezra Taft Benson called abortion a "damnable practice." ⁹¹ President Gordon B. Hinckley reaffirmed that life is a gift, that it "is sacred under any circumstance," ⁹² and that "abortion is an ugly thing, a debasing thing, a thing which inevitably brings remorse and sorrow and regret." ⁹³ Thomas S. Monson, current President of the Church, in 1971, emphatically rejected claims for "free abortion," and the notion that God wanted women to "Be Fruitful [but] Don't multiply," declaring: "Such idiotic and blatantly false [*326] philosophy must not be entertained or believed." ⁹⁴ He went on to extoll the importance and glory of motherhood, childbearing, and maternal childrearing. ⁹⁵

In the fifty consecutive semi-annual general conferences between October 1970 and April 1995, LDS Church Leaders delivered more than seventy-five General Conference sermons addressing the practice and legalization of abortion. ⁹⁶ In those critical twenty-five years, during which the legal rule of abortion-on-demand was being created, established, developed, and expanded and during which the practice of abortion was becoming widespread and social acceptance was growing in the country and world, the leaders of the LDS Church expressed unequivocal opposition to elective abortion in every General Conference; not a single semi-annual conference passed without some direct criticism of or condemnation of elective 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-

⁸⁷ Brigham Young, The Word of Wisdom - Degeneracy - Wickedness in the United States - How to Prolong Life, 12 J. Discourses 120 (Aug. 17, 1867).

⁸⁸ Abortion, supra note 70.

⁸⁹ Isaiah Bennett, Abortion: Who Teaches the Truth, Catholic Answers, <http://archive.catholic.com/thisrock/1996/9609fea2.asp> (last visited Nov. 11, 2010).

⁹⁰ Id.

⁹¹ Id.

⁹² Id.

⁹³ Gordon B. Hinckley, "What Are People Asking About Us?", Ensign, Nov. 1998, at 70.

⁹⁴ Thomas S. Monson, The Women's Movement: Liberation or Deception, Ensign, Jan. 1971. By "free" the author meant not merely (or especially) no-cost abortion procedures but "free or liberal access to abortion," or "abortion on demand."

⁹⁵ Id.

⁹⁶ References to "Abortion" in LDS General Conference Talks: Apr. 1950-Apr. 2011, Compiled by Lynn D. Wardle, supplemented by Stefanie Franc (Sept. 2012) (copies in author's and Ave Maria Law Review's possession).

established and widely understood by members of the Church, and the contrast between the Church's position and the prevailing American legal/social standard regarding abortion is clear.

Nearly two-and-one-half years before the United Supreme Court decided *Roe v. Wade*, Church leaders were warning against the immorality 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 President of the Church. At about the same time, the current President of the Church, Thomas S. Monson delivered a sermon (also published in the official Church magazine) powerfully condemning elective abortion.⁹⁷

In April 1973, just weeks after the *Roe* decision, and specifically "in view of [that] recent decision of the United States Supreme Court," the First Presidency (the Prophet and his two counselors), reiterated the "position of **[*327]** the Church on abortion in order that there be no misunderstanding" ⁹⁸ They declared:

The Church opposes abortion and counsels its members not to submit to or perform an abortion except in the rare cases where, in the opinion of competent medical counsel, the life or good health of the mother is seriously endangered or where the pregnancy was caused by rape and produces serious emotional trauma in the mother. Even then it should be done only after counseling with the local presiding priesthood authority and after receiving divine confirmation through prayer.

Abortion must be considered one of the most revolting and sinful practices in this day, when we are witnessing the frightening evidence of permissiveness leading to sexual immorality.⁹⁹

They also confirmed that members who are parties to abortion are subject to formal church discipline, but that abortion is a sin that can be forgiven those who repent.¹⁰⁰

F. Six Doctrinal Themes Emphasized by LDS Church Leaders

Six themes have been constant in statements made by General Authorities of the Church of Jesus Christ of Latter-day Saints about abortion during this quarter-century. First, abortion is a "revolting," "abhorrent" sin, and "serious" transgression of the laws of God.

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." ¹⁰¹

[*328] Second, members of the Church who counsel, submit to, perform, or pay for abortion have gravely sinned, must repent, may be subject to Church disciplinary action, and are disqualified from serving missions:

⁹⁷ See supra note 88 and accompanying text.

⁹⁸ Lee et al., supra note 71.

⁹⁹ Id. (emphasis added).

¹⁰⁰ Id.

¹⁰¹ Dallin H. Oaks, *The Great Plan of Happiness*, Ensign, Nov. 1993, at. 74 (quoting D&C 59:6).

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.¹⁰²

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."¹⁰³

Third, however, the sin of abortion may be forgiven; while it is "like unto" murder, it has never been revealed to be the unforgivable sin of murder. Elder Russell M. Nelson (a famous heart surgeon before being called to Church leadership), and who has eloquently explained why abortion is a profound sin, declared:

Now, is there hope for those who have so sinned without full understanding, who now suffer heartbreak? Yes. So far as is known, the Lord does 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.¹⁰⁴

Fourth, therapeutic abortion may be justified in rare cases, but only after prayerful consideration of alternatives including adoption and counsel with priesthood leaders; these cases involve life or serious health-threatening pregnancy, cases of severe birth defect, and the evil abuse and trauma of rape. As President Hinckley declared:

While we denounce it, we make allowance in such circumstances as when pregnancy is the result of incest or rape, when the life or health of the mother is judged by competent medical authority to be in serious jeopardy, or when the fetus is known by competent medical authority to have serious defects that will not allow the baby to survive beyond birth.

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But such instances are rare, and there is only a negligible probability of their occurring. In these circumstances those who face the question are asked to consult with their local ecclesiastical leaders and to pray in great earnestness, receiving a confirmation through prayer before proceeding. There is a far better way.

If there is no prospect of marriage to the man involved, leaving the mother alone, there remains the very welcome option of placing the child for adoption by parents who will love it and care for it. There are many such couples in good homes who long for a child and cannot have one.¹⁰⁵

Fifth, the acceptance of elective abortion and the growing practice of abortion in society are degenerate, Satanic 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.¹⁰⁶ Elder Neal A. Maxwell declared in a General Conference sermon: "I thank the Father that His Only Begotten Son did not say in defiant protest at Calvary, "My body is my own! I stand in admiration of women today who resist the fashion of abortion, by refusing to make the sacred womb a tomb!"¹⁰⁷

¹⁰² Boyd K. Packer, Covenants, Ensign, Nov. 1990, at 85.

¹⁰³ Russell M. Nelson, Reverence for Life, Ensign, May 1985 (quoting Exodus 21:22).

¹⁰⁴ Id.

¹⁰⁵ Gordon B. Hinckley, Conference Report, Ensign, Nov. 1998, at 70.

¹⁰⁶ Nelson, supra note 103 ("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 feticide and infanticide.").

¹⁰⁷ Neal A. Maxwell, The Women of God, Ensign, May 1978, at 10.

Sixth, the Church opposes and decries the legalization of elective abortion but refrains from officially taking a position on specific legislative proposals relating to abortion.¹⁰⁸ However, as one of the official Statements on abortion put it, the Church "encourages" all members to "let their voices be heard in appropriate and legal ways that will evidence their belief in the sacredness of life."¹⁰⁹ These are but a few examples of the many powerful statements condemning the immorality and social evil of elective abortion made by LDS General Authorities, mostly in General Conference sermons, since 1970.

G. Enforcement of the LDS Policy Rejecting Elective Abortion

The official Handbook of Instructions available online clearly defines the limits of permissible behavior and the consequences of violation:

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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.¹¹⁰

A member who has, practices, encourages, or finances elective abortion is officially ineligible to serve as a missionary for the Church.¹¹¹ Given the enormous emphasis that the Church places upon missionary service, 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 reiterating that abortion is not an unforgiveable sin, and great emphasis is placed in LDS doctrine on the reality of repentance and forgiveness through the atonement of Jesus Christ - both generally and regarding elective abortion. 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!¹¹²

Thus, persons who submit to, finance, encourage or perform elective abortion may be cleansed from their sins and 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. Still, there are some positions in which persons would represent the Church officially in such a high profile and public way that serious damage could be done to the Church, its members, its reputation, and its saving ministerial work by the stain of their past behavior that they must be passed over for such service and assigned other service in the kingdom.

Just as a Mormon who has, encourages, performs, or pays for elective abortion will be disqualified from eligibility to represent the Church as a **[*331]** missionary, he or she may be ineligible to represent the Church as a teacher at a Church college or university for similar reasons. Not only do faculty at Church-sponsored schools represent the

¹⁰⁸ Abortion, *supra* note 70.

¹⁰⁹ Statement issued on Abortion, LDS Church News, (Jan. 19, 1991), <http://www.ldschurchnews.com/articles/21427/Statement-issued-on-abortion.html>. See also *infra* Part III. G.

¹¹⁰ HAC-II, *supra* note 65, § 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. *Id.*

¹¹¹ This official Church position has evolved very little over the past fifty years, not in substance but in the detail of presentation, going for general to specific, especially in describing the narrow exceptions. See *supra* note 78 and accompanying text.

¹¹² Packer, *supra* note 102.

Church to some inescapable extent, but they are engaged in teaching, as authority figures, impressionable young men and women who are the future of the Church.

In the early 1990s, a few faculty members at Brigham Young University (BYU) reportedly began to publicly advocate elective abortion as a proper legal policy (while not advocating the practice of abortions).¹¹³ They were warned, and at least one BYU faculty member lost her teaching position - reportedly, in significant part for advocating legalized elective abortion-on-demand, though she said she personally opposed abortion but supported pro-choice legal policy.¹¹⁴ That stirred up a firestorm of academic and activist criticism, denouncing BYU and the sponsoring Church for violation of academic freedom, misogyny, oppressive patriarchalism, etc., and the American Association of University Professors (AAUP) issued a very critical review.¹¹⁵

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 was so significant, the Church and university stood their ground and took the heat without compromising. That incident illustrates how important the principle is to the Church, how firmly the policy is against Church representatives advocating elective abortion, and how much hostility Church leadership is willing to endure to enforce those standards. It also shows that even in the generally supportive community of observing LDS scholars, there has been some dissent on the abortion issue.

H. LDS Church Positions on the Legalization of Elective Abortion

On March 7, 1974, just a year after Roe, an official, designated representative of the Church testified before a United States Senate Judiciary Committee's Subcommittee on Constitutional Amendments hearing **[*332]** considering several proposed Amendments to the United States 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," that included the recent LDS First Presidency statement opposing abortion as "one of the most revolting and sinful practices in this day."¹¹⁶ He concluded: "The church is therefore against the legalization of abortion."¹¹⁷

That baseline position against the legalization of elective abortion has never been repudiated or disavowed. However, the Church, qua Church, has deliberately avoided getting involved in the political battles over whether and how to preserve, change, and shape the law regarding the myriad potential incidental legal issues (such as abortion funding, parental consent, spousal participation, waiting periods, informed consent, disposition of fetal remains, regulation of methods used to perform abortion, etc.). Rather, the Church has taken a clear position on the big issue (elective abortion should not be legal) and avoided the bramble bush of political battles on the many lesser issues that seem to even divide the most sincere pro-life groups and persons. Thus, the current published

¹¹³ See generally Cecilia Konchar Farr, *Breaking the Silence, A faithful Mormon Explains Why She is Pro-Choice*, Network, Sept. 1992 at 12 (copy on file with author). Compare Lynn D. Wardle, *Hiding Behind a False Morality*, Network, Dec. 1992 at 4 (copy on file with author).

¹¹⁴ See Cecilia Konchar Farr, *We Belong to One Another in Faith*, Sunstone, Sept. 1996, at 21, 23 (1996).

¹¹⁵ BYU Chapter of the American Association of University Professors, *Limitations on the Academic Freedom of Women at Brigham Young University* (1996), available at <http://www.lds-mormon.com/aaupwomn.shtml>; BYU Chapter of the American Association of University Professors, *Report on Issues of Academic Freedom at BYU* (1996) at P 9, available at <http://www.lds-mormon.com/aaupfree.shtml>.

¹¹⁶ Hearing Before the Subcomm. on Constitutional Amendments of the Committee on the Judiciary on S.J. Res. 119 and S.J. Res. 130, 93rd Cong. 286, 318 (1974) (statement of Rep. David L. McKay).

¹¹⁷ *Id.* (emphasis added).

position of the Church regarding legalized abortion states: "The Church has not favored or opposed legislative proposals or public demonstrations concerning abortion."¹¹⁸

However, the Church has encouraged members to be actively involved individually in supporting laws that protect the sanctity of life. 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, in relevant part, the declarations: "We affirm the sanctity of life ..." and "We call upon responsible citizens and officers of government everywhere to promote those measures designed to maintain and strengthen the family as the fundamental unit of society."¹¹⁹

In his first sermon after he was sustained as President of the Church of Jesus Christ of Latter-day Saints, a little more than a year after the United States Supreme Court decided *Roe v. Wade*, President Spencer W. Kimball **[*333]** delivered the first of many sermons explicitly condemning abortion, including a direct repudiation of abortion for reasons of personal convenience, and in the same speech admonished members of the Church to be politically active in "their respective political parties and there exercise their influence."¹²⁰ He later declared:

There is today a strong clamor to make such practices legal by passing legislation. Some would also legislate to legalize prostitution. They have legalized abortion, seeking to remove from this heinous crime the stigma of sin.

We do not hesitate to tell the world that the cure for these evils is not in surrender.¹²¹

Elder Dallin H. Oaks taught students at Brigham Young University:

The Church opposes elective abortion for personal or social convenience. Our members are taught that, subject only to some very rare exceptions, they must not submit to, perform, encourage, pay for, or arrange for an abortion. That direction tells us what we need to do on the weightier matters of the law, the choices that will move us toward eternal life.¹²²

Many General Authorities have encouraged Mormons to "stand up" and have mentioned the legalization of elective abortion as one example of the moral deterioration that must be resisted and opposed.¹²³

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I. Foundational Theological and Moral Principles Underlying LDS Doctrines and Policies Regarding Elective Abortion

¹¹⁸ Abortion, Newsroom, <http://newsroom.lds.org/official-statement/abortion> (last visited Nov. 7, 2011).

¹¹⁹ The First Presidency and the Council of the Twelve Apostles, *The Family: A Proclamation to the World*, Sept. 23, 1995.

¹²⁰ Spencer W. Kimball, *Guidelines to Carry Forth the Work of God in Cleanliness*, *Ensign*, May 1974, at 4, 7, 9.

¹²¹ Spencer W. Kimball, *The Foundations of Righteousness*, *Ensign*, Nov. 1977, at 4-6.

¹²² Dallin H. Oaks, Member of the Quorum of the Twelve Apostles of the Church of Jesus Christ of Latter-Day Saints, *Address at Brigham Young Univ.: Weightier Matters* (Feb. 9, 1999), in *Brigham Young Univ. Speeches, 1998-1999*, available at <http://speeches.byu.edu>.

¹²³ See, e.g., Gordon B. Hinckley, *Standing for Something*, xvii-xxv, 167-68, 170-71, 172 (2000) (emphasizing the loss of sanctity of life due to millions of legal elective abortions and calling for Mormon Christians to stand up and speak up on such social issues); Dallin H. Oaks, *Weightier Matters*, B.Y.U., *Speeches of the Year, 1998-1999* at 147, 148-151 (B.Y.U. Devotional Address, Feb. 9, 1999); see also Gordon B. Hinckley, *A Prophet's Counsel and Prayer for Youth*, *Ensign*, Jan. 2001, at 12-17 (refuting "pro-choice" arguments for elective abortion and encouraging students at BYU to speak out against such evils); Elder James E. Faust, *The Sanctity of Life*, *Ensign*, May 1975, at 27 (lamenting that "we have come to a time when the taking of an unborn human life for nonmedical reasons has become tolerated, made legal, and accepted in many countries of the world. But making it legal to destroy newly conceived life will never make it right. It is consummately wrong.").

Clarity and coherence in the foundational theology is important so that the particular doctrines and policies of the Church are understood to be based on foundational moral, theological, and spiritual principles. There are some powerful religious theological and moral 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."¹²⁴ Mormon Christians believe that there are eternal truths about right and wrong - which all have the duty and agency to discern and follow.¹²⁵ While time, culture, context, and many other factors influence how those truths may be practically understood, expressed, lived and applied,¹²⁶ Mormon Christians reject the premise of relativism - that ethical principles of good and evil are merely (wholly or primarily) social constructs.¹²⁷

Six foundational beliefs, core theological principles of the Mormon Christian worldview, incorporating the LDS understanding of the 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; He created the spirits of all humankind, all of whom are His sons and His daughters.¹²⁸ As the spiritual offspring of God, human beings have a divine **[*335]** 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."¹²⁹ As their loving Heavenly Father, He both knows and wants what is best for his mortal sons and daughters collectively and individually; He knows what they must do to develop divine nature and gain immortality and eternal life;¹³⁰ He gives no commandment that is not crafted to help them gain eternal life and eternal happiness, and none that they are unable to obey.¹³¹ All of humankind's lives - pre-mortal, mortal and post-mortal, individually and

¹²⁴ Courtney S. Campbell, Mormonism (Church of Jesus Christ of Latter-Day Saints), Bioethics in, Encyc. of Bioethics 1864, 1867 (2004).

¹²⁵ Technically, questions of moral epistemology are matters of "metaethics." James Fieser, Ethics, Internet Encyc. of Philosophy, <http://www.iep.utm.edu/ethics/> (last updated May 10, 2009).

¹²⁶ Mormon Christians believe the circumstances vary in which eternal truths are lived out. Compare 2 Nephi 28:30 (explaining that the Lord gives to men "line upon line") with Isaiah 28:10 (explaining that mortal life is intended to be a time for personal moral growth and improvement), 2 Nephi 2:14-29 (explaining that the Fall was necessary for mankind to be able to "progress"), and Alma 12:21-26 (setting forth that life is a preparatory time, and a probationary state of testing).

¹²⁷ See Truman G. Madsen, Joseph Smith and the Problems of Ethics, in Perspectives in Mormon Ethics: Personal, Social, Legal and Medical 29, 31 (Donald G. Hill, Jr., ed., 1983) ("Joseph Smith belongs on the side of the discoverers [who assert that good is discovered, not invented]."). Compare Louis P. Pojman & James Fieser, Ethics: Discovering Right and Wrong xi (7th ed. 2012) ("Morality is not purely an invention ... but it also involves a discovery.") (emphasis added), with John L. Mackie, Ethics: Inventing Right and Wrong 106 (1977) ("We have to decide what moral views to adopt ...").

¹²⁸ D&C 76:24 (explaining that all worlds were created by God, and all the inhabitants of all worlds "are begotten sons and daughters unto God"); John 3:16 (Revised Standard, Catholic Edition) ("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").

¹²⁹ Moses 1:39.

¹³⁰ God is the perfect embodiment of the Eternal, and "Eternal life" is God's life. D&C 14:7. See also Alma 7:16 (explaining that those who keep God's commandments shall have eternal life); 3 Nephi 9:14 (explaining that those who come unto God shall have eternal life); 2 Nephi 31:20 (explaining that 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 ("[Christ] doeth not anything save it for the benefit of the world; for he loveth the world, even that he layeth down his own life that he may draw all men unto him.").

¹³¹ Paul explained that God gives no duty or trial or burden that cannot be endured. 1 Corinthians 10:13 ("No temptation have overtaken you that is not common to man. God is faithful, and he will not let you be tempted beyond your strength, but with the

collectively - are part of God's Great Plan of Happiness (or Plan of Salvation) for His children and through the atonement of Christ are intended to effect the immortality and eternal life of man. God created man that man "might have joy."¹³²

(3) God sent his spirit children to earth, to mortality, for two main purposes essential to their salvation and eternal development. The first purpose is to gain a physical body (which, after our resurrection, will be our own bodies eternally); Mormons believe that God has a physical body; thus, keeping (a resurrected) body is necessary for His children to become like Him. Mormon Christians believe fervently in the sanctity of human life; mortal life is extremely important, and to deprive someone of it is a very grave offense against God, His Plan of Salvation, and the agency and mortal life of the victims.¹³³ Mormons do all they can to avoid and prevent death, but they are not afraid of death. Death is not the victor; and dying, while sad, is not the end. A Mormon funeral is like a missionary farewell or a wedding; [*336] death is only a temporary parting, a sad separation but not permanent. Mormons believe that because of Jesus's atonement and resurrection, all who ever lived on the earth will be resurrected and can be joyfully reunited again with God and Christ, and with beloved family and friends.¹³⁴ The official Church position on end-of-life medical care states:

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.¹³⁵

(4) The second purpose of mortal life is for men and women to exercise the great gift of free agency in this mortal setting, to learn to distinguish between good and evil, to learn to choose good over evil, and to gain knowledge and growth from those choices and experiences. God has given humanity free agency - the capacity to choose and act in ways that have real consequences for the development (or diminution) of their divine nature. All humans must freely choose to exercise their moral agency in accord with God's will in order to experience the growth process that eventually, through the atonement of Christ, will enable them to obtain immortality and eternal life.¹³⁶

temptation will also provide the way of escape, that you may be able to endure 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 (explaining that those who keep the commandments of God will be provided with a "means whereby they can accomplish the thing which [God] has commanded them").

¹³² 2 Nephi 2:25 ("Adam fell that men might be, and men are that they might have joy.")

¹³³ 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 His children choose and receive those blessings in mortality to get the maximum benefit from them.

¹³⁴ The final state of the Sons of Perdition is not revealed with clarity but some LDS theological scholars assert that they will be resurrected in the resurrection of the unjust. See e.g., H. Donl Peterson, I Have a Question, Ensign, Apr. 1986.

¹³⁵ HAC-II, supra note 65, § 21.3.8.

¹³⁶ 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 a third part 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; Revelation 12:4-13; D&C 29:36-38; Moses 4:1-4; Abraham 3:24-28. See also D&C 101:78 ("That every man may act in doctrine and principle pertaining to futurity, according to the moral agency which I have given unto him, that every man may be accountable for his own sins in the day of judgment."); 2 Nephi 2:27 ("[Men] are free to choose liberty and eternal life ... or to choose captivity and death"); 2 Nephi 10:23 ("Therefore, cheer up your hearts, and remember that ye are free to act for yourselves--to choose the way of everlasting death or the way of eternal life."); Msiah 2:21 ("[Men may] live and move and do according to [their] own will"); Alma 12:31 ("[Men are] placed in a state to act according to their wills and pleasures"); Helaman 14:30 ("Ye are free; ye are permitted to act for yourselves."); D&C 58:28 ("Wherein [men] are agents unto themselves.")

(5) Two conditions are necessary for the exercise of free agency and for the unfolding of God's Great Plan of Happiness. They are (a) knowledge of **[*337]** what is right and wrong, and (b) opportunity to act upon that knowledge (e.g. "temptations and choices"). Knowledge of right and wrong, (including moral or ethical knowledge), comes in various ways - by study, by mental exertion, by reason, research, and analysis - and it comes by experience, including the "school of hard knocks" when people make mistakes and learn from them. Such knowledge also comes through the scriptures (the "Word") and through prophets and apostles, other priesthood leaders, teachers, missionaries, and parents. It also can come by personal revelation from God to each individual, most often by inspiration from the Holy Ghost.¹³⁷ However, revelation by the Spirit and through authorities are not substitutes for personal study, examination, reason, thought, logic, analysis, deliberation, discussion, and full mental exertion.¹³⁸ The opportunity to exercise free agency requires "opposition in all things" so that individuals may freely make righteous, obedient choices that help them to do and become what Heavenly Father wants them to do and become, or make bad choices that hinder and retard the development of the divine spark within them. Adversity provides the opportunity for personal development and progress.¹³⁹ Thus, the temptations and oppositions of mortality are to be expected, as they **[*338]** are essential for exercising free agency and for the process of learning to choose, obey, develop righteously, and be blessed.

(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 the immortality and eternal life of all humanity who will accept His invitation. Through the atoning sacrifice of the Savior, all who live in mortality will be delivered from the terminal bands of physical death,¹⁴⁰ and will have the opportunity to repent and be forgiven of their sins, cleansed by the sacrificial blood of Christ. Mormon Christians believe that the atonement of Christ gives all men and women the opportunity to be liberated from sin (including abortion) and spiritual death, and to become cleansed through the blood of Christ because the Son of Mary paid for our sins 2,000 years ago. His incredible loving sacrifice empowers

¹³⁷ See John 14:17 (explaining that the Spirit of Truth is not recognized in the world); John 15:25 (explaining that the Comforter is the Spirit of Truth); Alma 30:53 (explaining that the devil appeared in the form of an angel to Korihor and told him what to teach and do); D&C 129:4-9 (setting forth the test to discern false from true angelic messengers). Revelations can also come by divine voice, by angelic messengers, by visions, and by dreams.

¹³⁸ D&C 9:7-8 (explaining that revelation is denied when one takes no thought but to ask God, and that revelation is given when one studies it and then asks God); D&C 88:118 (instructing to seek learning by study and by faith); D&C 8:2 (explaining that God reveals to heart and mind); Matthew 22:37 (setting forth the first commandment which is to love God with all our heart, soul, and mind).

¹³⁹ 2 Nephi 2:11, 14-16. As the great Book of Mormon prophet leader Lehi taught his sons:

For it must needs be, that there is an opposition in all things. If not so ... righteousness 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.

...

... There is a God, and he hath created all things, both the heavens and the earth, and all things that in them are, both things 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.

Id.

¹⁴⁰ 2 Nephi 9:26 (promising that atonement delivers from death); 2 Nephi 10:25 (promising that people are redeemed from death by resurrection). See generally supra, notes 100-12 and accompanying text.

all to repent from their mistakes and obtain exaltation in the Kingdom of God if they repent and keep His commandments. ¹⁴¹ Jesus Christ, the Son of God, came into the world to live and die in order to save humanity, ¹⁴² and that all might learn to love each other, care for, and sacrifice for each other as Christ taught and exemplified.

J. LDS Teachings About Abortion Are Consistent With Biblical Judeo-Christianity

The position taken by the LDS Church since its organization (or "restoration" as Mormons believe) in 1830 about the sinfulness and social **[*339]** evil of abortion is consistent with the views about abortion expressed clearly by Christian leaders of the first centuries of the Christian era. It is also (like the early Christian position) consistent with the values about the sanctity of prenatal life held by righteous members of the House of Israel as expressed throughout the Old Testament.

For example, the Old Testament is filled with verses that confirm the divinely-formed humanity of the pre-natal child in utero, ¹⁴³ describe children as a blessing from God, ¹⁴⁴ condemn child sacrifice in any form or for any purpose, ¹⁴⁵ and portray God as the defender of the defenseless (the prime example of which is the unborn child). ¹⁴⁶ The

¹⁴¹ D&C 14:7 (explaining that eternal life is the greatest gift of God); D&C 121:8 (explaining that the Lord descended below all; if His followers endure they shall be exalted); D&C 45:8 (promising that believers obtain eternal life); D&C 51:19 (promising that faithful inherit eternal life); D&C 133:62 (promising eternal life to repentant).

¹⁴² John 3:16 ("For God so loved the world that he gave his only Son, that whoever believes in him should not perish but have eternal life."). See also Romans 5:10 ("For if while we were enemies we were reconciled to God by the death of his Son, much more, now that we are reconciled, shall we be saved by his life"); 1 Corinthians 6:20 ("You were bought with a price."); Revelation 5:9 ("By [his] blood [Christ] didst ransom men for God."); [1 John 1:7](#) ("The blood of Jesus his Son cleanses us from all sin."); 2 Nephi 2:6-7 ("Redemption cometh in and through the Holy Messiah ... [who] offereth himself a sacrifice for sin, to answer the ends of the law, unto all those who have a broken heart and a contrite spirit ..."); Mosiah 18:2 ("The resurrection of the dead, and the redemption of the people ... [comes] through the power, and sufferings, and death of Christ; and his resurrection and ascension into heaven."); Helaman 5:9 ("There is no other way nor means whereby man can be saved, only through the atoning blood of Jesus Christ ... he cometh to redeem the world."); D&C 19:1, 16 (explaining that Jesus Christ is the Redeemer of the World, who suffered so that we might not suffer if we will but repent); D&C 49:5 ("I am God, and have sent mine Only Begotten Son into the world for the redemption of the world ...").

¹⁴³ See, e.g., Job 31:15 ("Did not he who made in the womb make him? And did not one fashion us in the womb?"); Jeremiah 1:5 ("Before I formed you in the womb I knew you, and before you were born I consecrated you; I appointed you a prophet to the nations."); Psalms 22:9-10 ("Yet thou art he who took me from the womb; thou didst keep me safe upon my mother's breasts. Upon thee was I cast from my birth, and since my mother bore me thou hast been my God."); Isaiah 44:2 ("Thus says the Lord who made you, who formed you from the womb and will help you: Fear not, O Jacob my servant, Jesh'urun whom I have chosen."); Isaiah 44:24 ("Thus says the Lord, your Redeemer, who formed you from the womb: 'I am the Lord, who made all things, who stretched out the heavens alone, who spread out the earth - Who was with me ...?'); Genesis 25:22 ("The children [Jacob and Esau] struggled together within her ...").

¹⁴⁴ See, e.g., Psalms 127:3 ("Lo, children are a heritage of the Lord, the fruit of the womb a reward."); Psalms 127:5 ("Happy is the man who has his quiver full of them! He shall not be put to shame when he speaks with his enemies in the gate."); Genesis 4:1 (explaining that Eve recognized that her newborn son was "from the Lord"); Deuteronomy 33:24 ("And of Asher he said, 'Blessed above sons be Asher; let him be the favorite of his brothers, and let him dip his foot in oil.'").

¹⁴⁵ See, e.g., Leviticus 18:21; 20:1-5; Deuteronomy 12:31; 18:10 ("There shall not be found among any one who burns his son or his daughter as an offering, any one who practices divination, a soothsayer, or an augur, or a sorcerer..."); Deuteronomy 19:10; 2 Kings 17:17 ("And they burned their sons and their daughters as offerings..."); Proverbs 6:17; Isaiah 1:15; Jeremiah 22:17; Jeremiah 7:31-34 ("And they have built the high place of To'pheth, which is in the valley of the son of Hinnon, to burn their sons and daughters in the fire; which I did not command, nor did it come into my mind."); Ezekiel 16:20-21, 36-38; 20:31 ("Were your harlotries so small a matter that you slaughtered my children and delivered them up as an offering by fire to them?").

¹⁴⁶ Deuteronomy 14:29; 24:17-21; 26:12-13.

New Testament, also, **[*340]** references the sacred and unique nature of prenatal life, ¹⁴⁷ the protection of children ¹⁴⁸ and the special role model of children in Christ's kingdom (and admonitions to adults to become like them). ¹⁴⁹

Likewise, 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." ¹⁵⁰ One of the corruptions of that day that the apostle Paul specifically condemned in his epistles was "pharmakeia," ¹⁵¹ "a Greek word meaning "the employment of drugs with occult properties for a variety of purposes including, in particular, contraception or abortion" ¹⁵² **[*341]** Likewise, "the "Christian Fathers,' including Clement,

And thou shalt rejoice before the LORD thy God, thou, and thy son, and thy daughter, and thy manservant, and thy maidservant, and the Levite that is within thy gates, and the stranger, and the fatherless, and the widow, that are among you, in the place which the LORD thy God hath chosen to place his name there.

Deuteronomy 14:11 (emphasis added). See also Job 29:17-18 ("If I withheld anything that the poor desired, or have caused the eyes of the widow to fail, or have eaten my morsel alone, and the fatherless has not eaten of it (for from his youth I reared him as a father, and from his mother's womb I guided him."),

If I have seen any one perish for lack of clothing, or a poor man without covering; if his loins have not blessed me, and if he was not warmed with the fleece of my sheep; if I have raised my hand against the fatherless, because I saw help in the gate; then let my shoulder blade fall from my shoulder, and let my arm be broken from its socket.

Job 31:16-23.

¹⁴⁷ Galatians 1:15 ("But when he who had set me apart before I was born, and had called me through His grace ...").

And when Elizabeth heard the greeting of Mary, the babe leaped in her womb; and Elizabeth was filled with the Holy Spirit and she exclaimed with a loud cry, "Blessed are you 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.

Luke 1:42.

¹⁴⁸ Matthew 2:13 ("An angel of the Lord appeareth to Joseph in a dream, saying, "Rise, take the young child and his mother, and flee to Egypt, and remain there till I tell you; for Herod is about to search for the child, to destroy him."); John 4:49-54 ("The official said to him, "Sir, come down before my child dies.' Jesus said to him, "Go; your son will live.' The man believed the word that Jesus spoke to him and went his way.").

¹⁴⁹ See Matthew 18:1-6:

At that time the disciples came to Jesus, saying, "'Who is the greatest in the kingdom of heaven?" And calling to him a child, he put him in the midst of them, and said, "Truly, I say to you, unless you turn and become like children, you will never enter the kingdom of heaven. Whoever humbles himself like this child, he is greatest in the kingdom of heaven. Whoever receives one such child in my name receives me; but whoever causes one of these little ones who believe in me to sin, it would be better for him to have a great millstone fastened around his neck and to be drowned in the depth of the sea."

Id.

Then children were brought to him that he might lay his hands on them and pray. The disciples rebuked the people; but Jesus said, "Let the children come to me, and do not hinder them; for to such belongs the kingdom of heaven." And he laid his hands on them and went away.

Matthew 19:13-15; James 1:27 ("Religion that is pure and undefiled before God and the Father is this: to visit orphans and widows in their affliction, and to keep oneself unstained from the world.").

¹⁵⁰ Ephesians 5:11.

¹⁵¹ Galatians 5:19-20 (condemning fornication, impurity, indecency, idol-worship, sorcery [pharmakeia]); see also Romans 1:31 ("foolish, faithless, heartless, ruthless").

Athenagoras, Tertullian, Augustine, Jerome, and Basil, recorded clearly how deeply they abhorred the practice of abortion." ¹⁵³ 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" ¹⁵⁴ Thus, the "Mormon" position strongly rejecting and repudiating elective abortion as a grave sin and serious social evil is well-grounded in the writings of the early Christian fathers, as well as consistent with the views about the divine sanctity of human life, including prenatal life, expressed by Old Testament prophets.

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 Mormon Christians. On the polar extremes, a very few LDS may take a very strict position which totally or nearly totally forbids all abortions (e.g., permitting abortion, if ever, only to save maternal life), and on the other end, a very few Mormon Christians favor an abortion-on-demand legal policy. However, the overwhelming majority of Mormon Christians believe that abortion should be generally prohibited but legal in very rare, narrow, exceptional cases. Thus, most Church members are very supportive of the Church position as a matter of correct religious doctrine, as the right moral position, as the best public policy position, and as the right standard of personal behavior. 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 responded with a larger percentage (77%) of members 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 35%), Mainline Protestants (7% and 25%), Jews (5% and 9%), and [*342] Buddhists (3% and 10%). ¹⁵⁵ Likewise, only the Jehovah's Witnesses had a lower 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). ¹⁵⁶ By contrast, Evangelical Protestants (9% and 24%), Historically Black Protestant Churches (18% and 29%), Catholics (16% and 32%), and Muslims (13% and 35%) showed more support for both legal-in-all-cases abortion (abortion-on-demand) and legal-in-most-cases abortion; Jews (40% and 44%) and Buddhists (35% and 46%) were the most supportive of abortion-on-demand or very permissive abortion. ¹⁵⁷

¹⁵² Wardle & Wood, *supra* note 5, at 28 (citing John Noonan, *An Almost Absolute Value in History*, in *The Morality of Abortion: Legal and Historical Perspectives* 6, 8-9 (1970)). 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 subtle 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." The Sixth Ecumenical Council, in *The Seven Ecumenical Councils* 627, 785 (Philip Schaff ed., 1900).

¹⁵³ Wardle & Wood, *supra* note 5, at 28.

¹⁵⁴ Didache 2:2.

¹⁵⁵ U.S. Religious Landscape Survey, Pew Forum on Religion and Public Life app. 2 at 144 (2008), available at <http://religions.pewforum.org/pdf/table-views-about-abortion-by-religious-tradition>.pdf. 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.* See also Religious Groups' Official Positions on Abortion, Pew Forum on Religion and Public Life (Jan. 16, 2013), <http://www.pewforum.org/Abortion/Religious-Groups-Official-Positions-on-Abortion.aspx> (setting forth an overview of the official church positions on abortion of various religious denominations).

¹⁵⁶ U.S. Religious Landscape Survey, *supra* note 155, at 144.

¹⁵⁷ *Id.*

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%),¹⁵⁸ suggesting that they believe it is a very strong moral issue, but there are a small number of equally important competing moral considerations that in some rare cases will justify abortion. On the other hand, with regard to whether abortion should be illegal in all cases, Mormons (at 9%) were closer to the 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%).¹⁵⁹ Mormons are uncomfortable with the absolutism of total legal prohibition regarding an issue as to which they see some clear (albeit very rare) morally justifiable exceptions.

It is likely that, overall, Mormon Christians are more tolerant of elective abortion and of its legality today than they were forty years ago. But the erosion of pro-life attitudes among Mormon Christians seems to have been relatively small, and such change has occurred in all faith communities. For example, 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.¹⁶⁰ She also observed: "In general, [United [*343] States 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."¹⁶¹ Similarly, another public opinion survey conducted in the mid-1980s reported that opposition to abortion from members of mainstream religious communities had dropped by roughly ten to twenty percent between 1972 and 1984.¹⁶²

Another measure of comparative rejection of abortion by Mormons is the number, rate, and ratio of abortions. Reliable data breaking down persons getting abortion according to religion is not readily 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,¹⁶³ the abortion data for Utah reflects the behaviors of Mormon Christians to some extent (more than data for any other state, where Mormons are minorities). However, the Utah-Mormon correlation is far from perfect because of the 40% of Utahans who are not Mormons, and because the abortion clinics in Salt Lake City serve residents of southwestern Wyoming, southeastern Idaho, and parts of western Colorado. For these reasons, abortion data from Utah probably shows higher numbers, rates, and ratios of abortion than such data for Mormons as a group.

As Appendix III shows, the rate of abortions per 1,000 females, ages fifteen to forty-four, in Utah is less than one-third the rate for the United States as a whole, and that rate is actually lower today in both comparative position and 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 now in raw ratio and comparison than the data was in 1975). This suggests that people in Utah practice significantly less abortion than Americans in general, and less than Americans in most other states. Therefore, it appears that the clear, repetitive, strong, emphatic policies and

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ Blake, *supra* note 23, at 542-47. The decrease in disapproval rates was greater for Catholics than it was for the non-Catholics because the former started with higher disapproval levels. *Id.* 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. [Id. at 544.](#)

¹⁶¹ [Id. at 546-47](#) (noting further that in one faith community "the amount of disapproval ... decreased rapidly since the beginning of the [1960s]").

¹⁶² Lyman A. Kellstedt, *Abortion and the Political Process*, in *Abortion: A Christian Understanding and Response* 195, 212 (James K. Hoffmeier ed., 1987).

¹⁶³ Utah Population Now 60% Mormon, *Chicago Tribune* (Nov. 23, 2007), http://articles.chicagotribune.com/2007-11-23/news/0711220223_1_mormon-utah-latter-day-saints.

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 [*344] members of the Mormon faith community, and apparently on some of their neighbors, as well.

A corroborating piece of evidence about Mormon rejection of elective abortion is the absence of abortion clinics in Utah County, where two large universities - Brigham Young University (with over 30,000 students) and Utah Valley University (with over 20,000 students) - are located within five miles of each other.¹⁶⁴ They are situated about forty-five miles south of Salt Lake City. Most of the students (at least 40,000-45,000 of them) are Mormons.¹⁶⁵ Despite the presence of so many young adults with raging hormones concentrated in one area, there is not a single abortion clinic in Utah County.¹⁶⁶

Mormon Christians also generally support 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. Courts have enjoined many of its laws during the past thirty-nine years, but some have been upheld. One of the first abortion restrictions after Roe to be upheld by the United States Supreme Court was a Utah law requiring parental notification "if possible" before an abortion is performed on a minor in *H.L. v. Matheson*.¹⁶⁷

Another measure of Mormon community support for the Church's position is the platforms and voting records of their elected representatives in government. LDS political leaders, including members of Congress, have [*345] 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 votes pro-life on major federal issues regarding abortion, as do most other Mormon political leaders.

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 United States Senate Majority leader Harry Reid is a Nevada Mormon; he received favorable ratings in 2003 from NARAL, the abortion pro-choice group, and Planned Parenthood in 2006.¹⁶⁸ The National

¹⁶⁴ For driving directions from Brigham Young University to Utah Valley University, see Google Maps, <http://maps.google.com> (follow the "Get Directions" hyperlink; then search "A" for "BYU" and search "B" for "UVU"; then follow "Get Directions" hyperlink). The shortest distance is 4.59 miles by road.

¹⁶⁵ There are twenty-two Young Single Adult Stakes with nearly 300 wards throughout Provo and Orem. On average, each ward has about 130-160 members during the school year, meaning there are in between 39,000 and 48,000 single Mormons between eighteen and thirty in the area. See Provo Utah Temple, LDSChurchTemples.com, <http://www.ldschurchtemples.com/provo/district/> (last visited Feb. 16, 2013) (listing stakes in the Provo Area); see also LDS Maps, The Church of Jesus Christ of Latter-Day Saints, <http://www.lds.org/rcmaps/#lat=40.287492&lng=-111.680556&z=16&m=google.road&layers=selected&id=ward.ysa:1897209> (last visited Mar. 16, 2013) (setting forth the meeting location for the 263rd Young Single Adult ward in Provo; some ward numbers were reserved for future expansion); see also LDS Maps, The Church of Jesus Christ of Latter-Day Saints, <http://www.lds.org/rcmaps/#lat=40.288866&lng=-111.728354&z=14&m=google.road&id=ward.ysa:277568> (last visited Mar. 16, 2013) (setting forth the meeting location for the 41st Young Single Adult Ward in Orem).

¹⁶⁶ Interview with Carrie Galloway, Director, Planned Parenthood Ass'n of Utah, in Provo, Utah (Jan. 23, 2012).

¹⁶⁷ [450 U.S. 398 \(1981\)](#). "Matheson" was the name of the Utah Democratic governor who, working with a Republican Utah Attorney General, David Wilkinson, successfully defended the parental consent law. *Id.* Utah is ranked twenty-one by AUL in its protection of life. AUL's Life List: 2012 Rankings, Americans United for Life, <http://www.aul.org/auls-life-list-2012-rankings/> (last visited Mar. 16, 2013).

Right to Life Committee ("NRLC") gave him a 50% rating in 2006.¹⁶⁹ Likewise, on several occasions, especially when he was running for Senator against Ted Kennedy, Massachusetts Mormon Mitt Romney took an ambiguous, weak position to uphold existing laws.¹⁷⁰ 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,¹⁷¹ and he has consistently taken pro-life political positions since then in both his 2008 and 2012 campaigns for the presidency.

[*346] Thus, there is remarkable consistency between the formal position of the Church regarding the morality, law, and practice of elective abortion, and opinions, values, and behaviors of members of the Mormon religious community. It appears that most Mormon Christians personally believe that the heinous moral crime and sin of abortion is a grave evil, but that it is not the same as murder; and that the moral status of the unborn child is not identical to the moral status of a born human child or adolescent or adult, but the moral status of the unborn child is very close and similar to, "like unto," that of the born person, so that killing an unborn child by means of abortion is very close and similar, "like unto," killing a born person. While some narrow moral justifications for abortion do exist, those exceptional circumstances are very rare, and of such profound importance that personal counseling from local church leaders should precede every decision to have an abortion due to an exceptional circumstance.

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

In contrast to the clear, strong, repeatedly emphasized, and practically enforced restrictive policies, positions, and teachings about the immorality and social evil of elective abortion taken by the LDS Church and its leaders for half-a-century, the official Church position and statements of the General Authorities regarding other controversial contemporary bioethical issues are more neutral, nuanced, and flexible. Perhaps the most prominent issue regarding pre-natal human life in terms of public interest in recent years concerns embryonic stem cell (ESC) research.

¹⁶⁸ See Harry Reid on Abortion, On the Issues, at http://www.issues2000.org/social/Harry_Reid_Abortion.htm (last updated Dec. 22, 2012). Reid reportedly supported the NARAL-preferred position on only three of eleven specific federal legislative abortion proposals.

¹⁶⁹ Id. Reid reportedly voted yes on expanding federally-funded embryonic stem-cell research, signed a letter to that effect to President Bush, and expressed opposition to prohibiting human embryonic stem-cell research. Id.

¹⁷⁰ See, e.g., Manlio A. Goetzl, Romney, Kennedy Debate, The Harvard Crimson, Oct. 26, 1994, <http://www.thecrimson.com/article/1994/10/26/romney-kennedy-debate-pboston-sen-edward-m/> ("I believe abortion should be made safe and legal in the U.S.," Romney said. "My personal beliefs should not be brought into this campaign." Kennedy dismissed his opponent's comment and retorted, "I am prochoice, my opponent is multiple choice.").

¹⁷¹ Mitt Romney's highly visible campaign for the GOP nomination for the Presidency last 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 he candidly admits that his position on legalized abortion has changed, in other cases it seems to me that his positions reflects 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). See, e.g., Mitt Romney, Op-Ed., Why I Vetoes the Contraception Bill, Boston Globe, July 26, 2005, http://boston.com/news/globe/editorial_opinion/oped/articles/2005/07/26/why_i_vetoes_contraception_bill/, stating the following:

Signing such a measure into law would violate the promise I made to the citizens of Massachusetts when I ran for governor. I pledged that I would not change our abortion laws either to restrict abortion or to facilitate it... I understand that my views on laws governing abortion set me in the minority in our Commonwealth. I am prolife. I believe that abortion is the wrong choice except in cases of incest, rape, and to save the life of the mother. I wish the people of America agreed, and that the laws of our nation could reflect that view. But while the nation remains so divided over abortion, I believe that the states, through the democratic process, should determine their own abortion laws and not have them dictated by judicial mandate.

The LDS Church position about the morality, permissibility, and public policy concerning ESC research is neutral - a "no position" position. The official Church published statement on ESC research is:

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 [*347] or opposition to any other statement made by Church members, whether they are for or against embryonic stem cell research.¹⁷²

The "neutral" LDS Church position about the morality, practice, and public policy regarding the highly controversial and very public issue of ESC research is fascinating and well-worth investigating (albeit beyond the scope of this article) because of the possible doctrinal, moral, and policy implications of such nonalignment.¹⁷³ Not surprisingly, there is significant diversity in the LDS community about ESC research.¹⁷⁴ The media, [*348] predictably, has given the greatest attention to the Mormons who favor ESC research. For example, in 2001, all five United States Senators who were Mormons (Republicans Hatch, Bennett, Smith, Crapo, and Democrat Reid) reportedly favored federal funding for ESC research and tried to persuade President Bush to approve such funding.¹⁷⁵ However, that

¹⁷² Embryonic Stem-cell Research, Church of Jesus Christ of Latter-Day Saints, <http://newsroom.lds.org/official-statement/embryonic-stem-cell-research> (last visited Mar. 16, 2013). 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 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, LDS Today (Aug. 10, 2001), <http://www.ldstoday.com/archive/news/stemcellstmt.htm>. 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." Id.

¹⁷³ For example, the official position may suggest either that the Lord has a position but that He has not yet revealed His will on this matter (perhaps because humankind are not ready to receive it), or that He has revealed His will but in the current context the issue does not matter to Him. It could suggest that the destruction of a living pre-natal, early-stage 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. 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. Or 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 - which make issuing a definitive statement on the moral or legal issue premature. The Mormon concept of revelation is one that requires a great deal of work and effort on the part of the recipient to use the best, full efforts of reason, research, examination, study, discussion, experience, and logic. It also requires each individual then taking the best answer he or she can come up with to the Lord for His revealed response, of confirmation, repudiation, or neither, and the current "neutral" position might suggest that this generation has not yet done enough to receive the revealed answer. Or perhaps it simply is not yet time, the groundwork has not adequately been laid, or the searching has not yet been sufficient or complete. Or it 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.

¹⁷⁴ Compare Joseph Stanford, Letters: Mormon Bioethics, First Things, Oct. 2005, with Courtney S. Campbell, Source or Resource? Human Embryo Research as an Ethical Issue, in Cloning and the Future of Human Embryo Research 34 (Paul Lauritzen ed., 2001). See also Courtney S. Campbell, Religious Ethics and Active Euthanasia in a Pluralistic Society, 2 Kennedy Inst. of Ethics J. 253, 253 (Sept.1992); Campbell, supra note 124, at 1864; Bill Broadway, Faith is a Force on Both Sides of Stem Cell Debate, Wash. Post, Aug. 4, 2001, at B09, available at <http://sci.rutgers.edu/forum/showthread.php?t=13808>.

may be evidence less of Mormon cultural values than the values of their environments; Mormon politicians, just like scientists, teachers, students, doctors, or lawyers, are not immune from the influences of peer pressures, social taboos, and professional fads and fashions.¹⁷⁶ And survey research suggests that "conservative-but-uncertain" is the most accurate description of the attitude of most Mormons about the morality of ESC. 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, part of the University of Michigan School of Public Health.¹⁷⁷ The study, entitled *Biotech Sciences and the Saints: Individual Viewpoints of Members of The Church of Jesus Christ of Latter-Day Saints about Stem Cell Research and Pre-implantation Genetic Diagnosis (PGD)* included nine interviews with LDS experts in various fields including [*349] 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.¹⁷⁸ Half of the Mormons surveyed opposed expansion of ESC research, 30% were unsure, and only 20% favored increased ESC research.¹⁷⁹ Most "felt a need for regulations related to stem cell research and PGD; however, many were concerned about [i.e., question] the government's ability to properly regulate human genetic biotechnologies."¹⁸⁰ The LDS participants "rely on 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."¹⁸¹ The LDS surveyed held "very strongly to the principles and doctrine taught in the LDS church."¹⁸² 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."¹⁸³ Ninety percent (90%) identified

¹⁷⁵ Drew Clark, *The Mormon Stem-Cell Choir*, Slate.com (Aug. 3, 2001), http://www.slate.com/articles/news_and_politics/politics/2001/08/the_mormon_stemcell_choir.html.

¹⁷⁶ Columbia University Historian Richard Bushman, who is a Mormon, wrote:

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.

Richard L. Bushman, *Faithful History*, 4 *Dialogue: J. of Mormon Thought* 11, 16 (1969).

¹⁷⁷ See *About Us*, Center for Public Health and Community Genomics, <http://www.sph.umich.edu/genomics/about/> (last visited Mar. 16, 2013).

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 Genomics is housed within the University of Michigan School of Public Health

Id.

¹⁷⁸ Presentation of *Biotech Sciences and The Saints: Individual Viewpoints of Members of The Church of Jesus Christ of Latter-Day Saints about Stem Cell Research and Pre-implantation Genetic Diagnostics (PGD)* (on file with author).

¹⁷⁹ [Id. at 102.](#)

¹⁸⁰ [Id. at 94.](#)

¹⁸¹ Id.

¹⁸² [Id. at 95.](#)

¹⁸³ Id.

"sanctity of life" as the most prominent influence in shaping their opinions.¹⁸⁴ Both personal revelation and the plan of salvation were significant for 60% of those interviewed.¹⁸⁵ 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.¹⁸⁶

A significant number of Mormons (including the author of this Article) support what could be called the "conservative" (or "Catholic") position against ESC research, for many of the "Catholic" sanctity-of-life reasons. They agree that respect for the sanctity of human life is profoundly important, 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 perfectly-designed as the parents prefer - and they believe that bright lines protecting the sanctity of life are very important. They believe vulnerable life, life on the fringes, especially very new and very old life, deserves special protection.

[*350] Moreover, as a matter of simple economic or utilitarian analysis, the claim for adult stem cell ("ASC") research (not ESC) 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, there have been very few approved clinical applications involving ESC, and none of them very successful, compared to many approved clinical applications involving ASC (many of which have been successful).¹⁸⁷ For this reason, despite its political popularity, some of the major early ESC research organizations have quit doing ESC.¹⁸⁸ There is some skepticism of self-serving doctors and medical researchers exploiting the desperation of the sick and suffering to demand huge amounts of money on the hint or promise of great cures, reminiscent of Nineteenth 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.¹⁸⁹

Nonetheless, even these conservative Mormons may think that there needs to be some flexibility and they recognize some moral distinctions between ESC research and elective abortion. Moreover, just because there is not an official LDS Statement against ESC Research does not mean that one may be casual about the issue. Mormon Christians 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" ¹⁹⁰ Certainly, the "no position" policy of the LDS Church, qua 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 biomedical practices and proposed policies, and it tolerates within the faith community different viewpoints.

¹⁸⁴ [Id. at 98.](#)

¹⁸⁵ [Id. at 99.](#)

¹⁸⁶ [Id. at 103.](#)

¹⁸⁷ See, e.g., Arthur Caplan, The Stem Cell Hype Machine, *Science Progress* (Apr. 18, 2011), <http://scienceprogress.org/2011/04/the-stem-cell-hype-machine/> ("Adult stem cells have been used to cure many people while embryonic stem cells have not.").

¹⁸⁸ Geron To End Embryonic Stem Cell Research (Nat'l Public Radio broadcast Nov. 18, 2011), available at <http://www.npr.org/2011/11/18/142512098/geron-to-end-embryonic-stem-cell-research> (describing how major ESC research corporation quit ESC research for economic reasons).

¹⁸⁹ Stem Cell Fraud: A 60 Minutes Investigation (CBS News broadcast Jan. 8, 2012), available at <http://www.cbsnews.com/video/watch/?id=7394380n> (describing con men who offer false hope offering stem-cell cures in overseas clinics).

¹⁹⁰ D&C 58:26-27.

The contrast between the Church's clear, bright-line, no-elective abortion positions (theological, moral, doctrinal, behavioral, and legal) and the neutral, "no-position" position about ESC research underscores the uniqueness of the LDS position on abortion. The current position of the [*351] Church on most dilemmas of biomedical ethics may compare to Jesus's response to the trick question of the Pharisees as to whether his disciples should pay taxes to the Romans (as the Romans demanded) or not (as Jewish purists and zealots of the time insisted). Jesus drew a distinction between the jurisdiction and priority of concerns of the kingdom of God and jurisdiction and priority of concerns of the temporal political kingdoms when he responded: "Shew me a penny. Whose image and superscription hath it? They answered and said, Caesar's. And he said unto them, Render therefore unto Caesar the things which be Caesar's, and unto God the things which be God's." ¹⁹¹

This teaching of Christ has several meaningful possible applications regarding the issue of elective abortion. The general message, that Christ's kingdom is spiritual rather than 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." ¹⁹² While selectively definitive in content, this approach is generally pluralistic in process and reflects one of the great paradoxes of Mormonism - that a community-oriented, 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, principled 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." ¹⁹³ [*352] As a result, there is significant diversity within the generally conservative Mormon community on issues such as stem cell research, withdrawal of medical treatment, birth control, etc. ¹⁹⁴

¹⁹¹ Luke 20:24-25 (King James). 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.

¹⁹² Courtney Campbell, *Social Responsibility and LDS Ethics: How Have Mormons Responded to the Moral Dilemmas of Modernity?*, *Sunstone Mag.*, Autumn 1984, at 11, 14-15, available at <https://www.sunstonemagazine.com/pdf/044-11-15.pdf>.

¹⁹³ Carl E. Schneider, *The Practice of Autonomy: Patients, Doctors, and Medical Decisions* xv (1998) (describing bioethicists); Carl E. Schneider, *Lawyers and Children: Wisdom and Legitimacy in Family Policy*, *84 Mich. L. Rev.* 919, 932-33 (1986) (describing lawyers and judges).

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 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.

Id.

¹⁹⁴ Compare Stanford, *supra* note 174, at 8, with Campbell, *Source or Resource?*, *supra* note 174 at 34, Broadway, *supra* note 174, Campbell, *Religious Ethics and Active Euthanasia in a Pluralistic Society*, *supra* note 174, at 253, Campbell, *Mormonism*, *supra* note 124, at 1864, James F. Childress, *An Ethical Defense of Federal Funding for Human Embryonic Stem Cell Research*, *2 Yale J. Health Pol'y L. & Ethics* 157, 161 (2001) (Mormon senators support stem cell research), and Clark, *supra* note 175

Jesus's 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.¹⁹⁵ In other words, the destruction of human life is a matter for God to decide, not for man. For abortion, this suggests that destruction of prenatal human life by means of elective abortion is improperly rendering (sacrificing) unto Caesar the living in-utero 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's" line the Savior drew.

This may explain why the LDS Church has taken a position on the legality of elective abortion when, regarding most political or social policy issues including most other biomedical 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 falls clearly within the jurisdiction of God's priority of concern.

Elective abortion is a public policy issue in which the moral dimensions are so important, 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 define right and wrong on moral and spiritual issues. ESC research does not so directly and undeniably implicate [*353] all of those same moral, theological, and social concerns. But regardless of the reason for the difference in treatment of elective abortion and ESC research (and most other bioethical issues), it is clear that elective abortion is viewed and treated very differently by LDS General Authorities and by most Mormons. Abortion lures millions of young women and couples to engage in a ghastly, deadly, abusive practice that destroys living human beings created in the image of God and causes great sorrow and degradation and long-lasting regrets. The difference between the Church's strong positions on elective abortion and its non-position on ESC research underscores how uniquely evil elective abortion is.

VI. The Power of the Word of God: How to Create and Maintain A Strong Culture of Life in 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 church leaders. In the experience of this particular faith community, eight such factors and actions seem to be important in the process of generating grass roots member support for church policies on highly controversial topics such, as elective abortion, where the Church position differs from socially popular views.

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 and consistent 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 - including explaining the underlying foundational theological "why's" that undergird and support the specific doctrine and policy.

Fourth, Church leaders and representatives need to constantly and persistently teach, effectively disseminate, and frequently reiterate that position and those reasons to all the members of their faith community - over and over again.

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, specifically relating to standing or membership in or representation of the religious community.

(explaining that some Mormons support stem-cell research). See also Richard K. Sherlock, Abortion, Public Morality, and Legal Regulation, in *Perspectives in Mormon Ethics*, supra note 127, at 227; Lynn D. Wardle, Passive Euthanasia: A Three Dimensional View, in *Perspectives in Mormon Ethics*, supra note 127, at 285.

¹⁹⁵ See supra note 37 and accompanying text on the Old Testament and New Testament image of God.

Sixth, it also helps if the Church leaders adopt, as appropriate, a clear, specific, official faith community position regarding relevant specific public policy that directly impacts upon the moral issue, especially policies **[*354]** affecting how members may be able to live the Church standards, while avoiding getting distracted by and involved in negotiating political and legislative battles over the regulatory details, if possible.

Seventh, the Church as an entity and its leadership must keep their focus clearly - at least overwhelmingly - on the specific social practice, or set of practices, that is of major concern regarding the core moral issue, staying focused on the dispositive moral concern and practice or threat, and avoid getting distracted or diverted by peripheral issues which may present less immediate and less significant threats to individual and social morality.

Eighth, lay members of the faith community should be involved, asked and expected to serve in sacrificial ways in the faith community, to participate sacrificially in standing up for the core value and in supporting the Church's policies and doctrines, and to make a significant personal investment in their faith community and in the position, values and policies of the faith community regarding the controversy.¹⁹⁶

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, the clear communication of the moral-theological-doctrinal position or policy seems to be the key. The crucial, main element, at least in the experience of the Mormon faith community and LDS Church, has been to teach clearly, constantly, consistently, and ardently what the behavioral expectations are regarding the matter, and the basic moral principles upon which those expectations and standards are based.

The "Word of God" truly has "more powerful effect upon the minds of the people than the sword or anything else" ¹⁹⁷ It really does begin with "teaching correct principles" and communicating that each member will be and must be accountable for how they live the principles to govern themselves.

[*355] While each religious community is unique and the 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 transferable to some degree among religious communities. Unanimous support of all members of any given religious community is probably impossible to achieve, given the strong social and ideological pressures that accompany such pathological social movements as support the practice of elective abortion. However, a significant degree of faith community unity and integrity regarding and support for the socially unpopular moral principles, practices, and policies can be achieved.

VII. The Larger Social Impact of Pro-Life Expression Within and by a Faith Community

While this Article has focused on the experience of the Mormon faith community, the same patterns and principles may apply and may be seen in the experiences of other faith communities. For example, leaders of the Roman Catholic Church have taken the lead nationally in speaking out publicly against elective abortion and by so doing have had a powerfully positive influence 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

¹⁹⁶ See Joseph Smith, Lectures on Faith: Delivered to the School of the Prophets in Kirtland, Ohio from 1834-1835, 69 (1985) ("[A] religion that does not require the sacrifice of all things never has power sufficient to produce the faith necessary unto life and salvation").

¹⁹⁷ 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.

Id.

influence that Pope John Paul II, ¹⁹⁸ and Mother Teresa had not only on Roman Catholics, but on the entire world by standing up and speaking out against elective abortion - eloquently and persistently espousing the principles, values, doctrines, and 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? Then, in the presence of the unabashedly pro-abortion President and Mrs. Clinton and Vice-President and Mrs. Gore, the humble little nun very simply and powerfully declared that:

[*356]

The 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 **[*357]** future. As older people are called to God, only their children can take their places. ¹⁹⁹

Many other Catholic Church leaders, bishops, priests, and committed Catholic (and Protestant) lay persons (including many academic members of University Faculty for Life) also have been indefatigable over the past half-century in articulating and espousing reasons to reject elective abortion and protect unborn children. ²⁰⁰

¹⁹⁸ Pope John Paul II, *Evangelium Vitae* [Encyclical Letter on the Value and Inviolability of Human Life] P 3 (1995) (condemning "whatever is opposed to life itself, such as ... abortion ..."); see also Pope John Paul II, *Christifideles Laici* [Post-Synodal Apostolic Exhortation on the Vocation and the Mission of the Lay Faithful in the Church and in the World] P 38 (1988).

The inviolability of the person which is a reflection of the absolute inviolability of God, finds its primary and fundamental expression in the inviolability of human life... The Church has never yielded in the face of all the violations that the right to life of every human being has received, and continues to receive, both from individuals and from those in authority. The human being is entitled to such rights, in every phase of development, from conception until natural death; and in every condition, whether healthy or sick, whole or handicapped, rich or poor.

Id.

¹⁹⁹ Mother Teresa of Calcutta, Address to the National Prayer Breakfast, Washington, D.C. (Feb. 3, 1994), available at <http://www.priestsforlife.org/brochures/mtspeech.html>.

Due in great part to the pro-life members of religious communities, their voice and their church's teachings, the pro-abortion moment has begun to wane. A new generation of young people today is asking hard questions about why abortion is justified that few young persons would have dared to ask thirty years ago, and support for elective abortion is eroding. American public sentiment in favor of the pro-life position is greater today than it has ever been since Gallup began polling the issue in 1975; overall pro-life support in the Gallup opinion poll is higher today than all but two or three years since 1995; and the gap (which has never closed) between those who say abortion should be legal in only a few or no circumstances (61%) and the percentage of those who say it should be legal in most or any circumstances (37%) is the third greatest it has been in eighteen years.²⁰¹

Moreover, there has been a recent explosion of pro-life bills introduced and laws passed in recent years. The pro-abortion Alan Guttmacher Institute notes a "troubling trend" of many states shifting from having just a moderate number of abortion restrictions to having many such restrictions, and calls the change "unprecedented" and "a seismic shift."²⁰²

Focusing on 2011, Guttmacher researchers Gold and Nash summarize:

Over the course of 2011, legislators in all 50 states introduced more than 1,100 provisions related to reproductive health and rights. At the end of it **[*358]** all, states had adopted 135 new reproductive health provisions - a dramatic increase from the 89 enacted in 2010 and the 77 enacted in 2009. Fully 92 of the enacted provisions seek to restrict abortion, shattering the previous record of 34 abortion restrictions enacted in 2005... . A striking 68% of the reproductive health provisions from 2011 are abortion restrictions, compared with only 26% the year before.²⁰³

The pro-life legislative push continued in 2012. In its 2012 Mid-Year Legislative Wrap-Up, the Center for Reproductive Rights noted: "While over the last few years there has been an increasing hostility to women's access to a broad range of reproductive health care, the 2011 state legislative sessions were marked by unbridled animosity toward abortion and contraception."²⁰⁴ This report noted, inter alia, that for "the third year in a row, state legislatures considered a number of proposals to limit or eliminate women's access to insurance coverage for abortion,"²⁰⁵ that "at least nine states considered proposals to prohibit health care providers from providing medication abortion through telemedicine,"²⁰⁶ that in seventeen states, legislators introduced bills "imposing burdensome requirements that are different and more stringent than regulations applied to comparable medical practices,"²⁰⁷ that fourteen states ... considered new or expanded "conscience clause" provisions,²⁰⁸ and that,

²⁰⁰ See generally Robert P. George & Patrick Lee, *The Wrong of Abortion*, in *Contemporary Debates in Applied Ethics* 13 (Andrew I. Cohen & Christopher Heath Wellman, eds., 2005); Mary Ann Glendon, *The Women of Roe v. Wade*, *First Things*, June/July 2003, at 14-18; National Conference of Catholic Bishops, *Resolution on Abortion* (Nov. 7, 1989), available at <http://old.usccb.org/prolife/tdocs/resabort89.shtml>; Cardinal George on Pelosi's Abortion Remarks, EWTN (Sept. 5, 2008), <http://www.ewtn.com/library/BISHOPS/zgeorgepelos.htm>; Robert P. George, *Obama's Abortion Extremism*, *Public Discourse* (Oct. 14, 2008), <http://www.thepublicdiscourse.com/2008/10/133>.

²⁰¹ Lydia Saad, *Americans Still Split Along "Pro-Choice," "Pro-Life" Lines*, *Gallup Politics* (May 23, 2011), <http://www.gallup.com/poll/147734/Americans-Split-Along-Pro-Choice-Pro-Life-Lines.aspx>.

²⁰² Rachel Benson Gold & Elizabeth Nash, *Troubling Trend: More States Hostile to Abortion Rights as Middle Ground Shrinks*, 15 *Guttmacher Pol'y Rev.* 14, 14-16 (Winter 2012).

²⁰³ *Id.* (citation omitted).

²⁰⁴ 2012 Mid-Year Legislative Wrap-Up, Center for Reproductive Rights, available at http://reproductiverights.org/sites/crr.civicactions.net/files/documents/USLP_midyear_7.18.12_v3.pdf (last visited Apr. 18, 2013). They also denoted: "At the mid-point of 2012, anti-choice legislators continue to push an extremist agenda, proposing a host of new bills. So far, at least 15 states have enacted around 40 harmful [to abortion-on-demand] laws." *Id.* at 2.

²⁰⁵ *Id.* at 3.

²⁰⁶ *Id.*

overall, by the end of June 2012, "at least seventeen states had enacted almost fifty harmful [to elective abortion] laws." ²⁰⁹

So the persistent, constant expression of pro-life views within and by members of faith communities, over time, seems to have had a profound effect upon public opinion and on resulting democratic processes and legislation. While correlation does not prove causation, and while undoubtedly many other factors have influenced public opinion and legislation regarding elective abortion, there does appear to be a positive association between the pattern of persistent pro-life expression in and by **[*359]** faith communities and strong pro-life sentiment measured in public opinion polls and evidenced in democratic and legislative proposals.

VIII. Conclusion: The Miracles of the Message and Modern Communications

Most importantly, it appears that communication of moral teachings, policies, and practical standards - clearly established and consistently espoused by leaders of faith communities - does have a positive impact on the beliefs and behaviors of many individual members of those faith communities and, through them, on the larger society. Message matters. Communication of that message matters. Explaining that message matters, especially where moral and ethical dilemmas and moral controversies are complicated by social pressures.

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

Our nation and the world are indebted to courageous, outstanding leaders and members of the Catholic and other faith communities for not giving up, for keeping the issue alive, for rejecting false justifications and for persistently teaching correct principles about the value of prenatal life and the evil of elective abortion. We all need to multiply our efforts. Church leaders and members of many faiths can do this.

As Pope Benedict XVI said in September 2011, the Christian churches "are walking side by side" and must "speak up jointly for the protection of human life from conception to natural death." ²¹⁰ Earlier, during a trip to England, he called upon Christians worldwide "to do more to protect human life from abortion" ²¹¹ "Each of us has a mission, each of us is called to change the world, to work for a culture of life," he added. ²¹² Pope John Paul II likewise declared: "You are called to stand up for life! To respect and **[*360]** defend the mystery of life always and everywhere, including the lives of unborn babies, giving real help and encouragement to mothers in difficult situations." ²¹³

²⁰⁷ Id.

²⁰⁸ [Id. at 5.](#)

²⁰⁹ [Id. at 4.](#)

²¹⁰ Pope: Gay Marriage, Abortion Threaten Church Values, Associated Press (Sept. 24, 2011), http://abclocal.go.com/kgostory?section=news/national_world&id=8366680.

²¹¹ Steven Ertelt, Pope Benedict Calls Christians to Protect Human Life From Abortion, Euthanasia, LifeNews.com (Sept. 20, 2010), <http://www.lifenews.com/2010/09/20/int-1647/>.

²¹² Id.

²¹³ Pope: All Humans Are Called to Stand Up for Life,' Andalusia Star-News (Jan. 21, 2012), <http://www.andalusiastarnews.com/2012/01/21/pope-all-humans-are-%E2%80%98called-to-stand-up-for-life%E2%80%99/>.

The courageous German Protestant martyr, Dietrich Bonhoeffer, expressed the core point in a different but very 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." ²¹⁴ Similarly, Elie Weisel said in his Nobel Prize acceptance speech, recalling his years in Auschwitz, where he witnessed infants being tossed into fire pits and other forms of lethal, depraved inhumanity: "I swore never to be silent We must take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor" ²¹⁵

All of our faith communities, and probably most of us individually, can do more and do it better. We all need to teach more clearly, communicate more effectively, and 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. As Weisel put it: "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 difference of life and death." ²¹⁶ By clearly, effectively, persistently teaching correct principles and implementing just 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.

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Appendix I

Major Supreme Court Abortion Cases

(Excluding Most Summary Dispositions and Procedural or Incidental Cases)

* = pro-life free speech or expression case

1. [*United States v. Vuitch*, 402 U.S. 62 \(1971\)](#)
2. [*Roe v. Wade*, 410 U.S. 113 \(1973\)](#)
3. [*Doe v. Bolton*, 410 U.S. 179 \(1973\)](#)
4. [*Bigelow v. Virginia*, 421 U.S. 809 \(1975\)](#)
5. [*Connecticut v. Menillo*, 423 U.S. 9 \(1975\)](#)
6. [*Planned Parenthood v. Danforth*, 428 U.S. 52 \(1976\)](#)
7. [*Bellotti v. Baird \(I\)*, 428 U.S. 132 \(1976\)](#)
8. [*Maher v. Roe*, 432 U.S. 464 \(1977\)](#)
9. [*Beal v. Doe*, 432 U.S. 438 \(1977\)](#)
10. [*Poelker v. Doe*, 432 U.S. 519 \(1977\)](#)
11. [*Colautti v. Franklin*, 439 U.S. 379 \(1979\)](#)
12. [*Bellotti v. Baird \(II\)*, 443 U.S. 622 \(1979\)](#)

²¹⁴ Eric Metaxas, *Bonhoeffer: Pastor, Martyr, Prophet, Spy* (2010).

²¹⁵ The Nobel Peace Prize Acceptance Speech Delivered by Elie Wiesel in Oslo on December 10, 1986, in *Night* 117-118 (Elie Wiesel ed., Marion Wiesel trans., 2006).

²¹⁶ *Id.* at 120.

13. [Harris v. McRae, 448 U.S. 297 \(1980\)](#)
14. [Williams v. Zbaraz, 448 U.S. 358 \(1980\)](#)
15. [H. L. v. Matheson, 450 U.S. 398 \(1981\)](#)
16. [City of Akron v. Akron Center for Reproductive Health, Inc., 462 U.S. 416 \(1983\)](#)
17. [Planned Parenthood Association of Kansas, Missouri, Inc. v. Ashcroft, 462 U.S. 476 \(1983\)](#)
18. [Simopoulos v. Virginia, 462 U.S. 506 \(1983\)](#)
19. [Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747 \(1986\)](#)
20. [Diamond v. Charles, 476 U.S. 54 \(1986\)](#)
21. [Frisby v. Schultz, 487 U.S. 474 \(1988\)*](#)
22. [Webster v. Reproductive Health Center, Inc., 492 U.S. 490 \(1989\)*](#)
23. [Hodgson v. Minnesota, 497 U.S. 417 \(1990\)](#)
24. [Ohio v. Akron Center for Reproductive Health, Inc., 497 U.S. 502 \(1990\)](#)
25. [Rust v. Sullivan, 500 U.S. 173 \(1991\)](#)
26. [Planned Parenthood v. Casey, 505 U.S. 833 \(1992\)*](#)
27. [Bray v. Alexandria Women's Health Clinic, 508 U.S. 263 \(1993\)*](#)
28. [National Organization for Women, Inc. v. Scheidler, 510 U.S. 249 \(1994\)*](#)
29. [Madsen v. Women's Health Center, Inc., 512 U.S. 753 \(1994\)*](#)
- [*362] 30. [Schenck v. Pro-Choice Network of Western New York, 519 U.S. 357 \(1997\)*](#)
31. [Lambert v. Wicklund, 117 S. Ct. 1169 \(1997\)](#)
32. [Mazurek v. Armstrong, 117 S. Ct. 1865 \(1997\)](#)
33. [Hill v. Colorado, 530 U.S. 703 \(2000\)*](#)
34. [Stenberg v. Carhart, 530 U.S. 914 \(2000\)](#)
35. [Ayotte v. Planned Parenthood, 546 U.S. 320 \(2006\)](#)
36. [Scheidler v. National Organization for Women, Inc., 537 U.S. 393 \(2006\)*](#)
37. [Gonzales v. Carhart, 550 U.S. 124 \(2007\)](#)

Other Significant Supreme Court Cases Involving Abortion

1. [Arnold v. Sendak, 429 U.S. 968 \(1976\)](#)
2. [Guste v. Jackson, 429 U.S. 399 \(1977\)*](#)

3. *Hartigan v. Zbaraz*, 108 S. Ct. 479 (1987)
4. *Fargo Women's Clinics v. Schafer*, 507 U.S. 1013 (1993)
5. *Lawson v. Murray*, 515 U.S. 1110 (1995)*
6. [*Leavitt v. Jane L.*, 116 S. Ct. 2068 \(1996\)](#)
7. *Janklow v. Planned Parenthood*, 517 U.S. 1174 (1996)
8. [*Lawson v. Murray*, 525 U.S. 955\(1998\)*](#)
9. *Federal Election Commission v. Wisconsin Right to Life*, 551 U.S. 449 (2007)*

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Appendix II: Abortions in the United States,

In Even and "5" Years, 1972, 1973-2008²¹⁷

Year	# Abortions	Ab Rate ²¹⁸	Ab Ratio ²¹⁹	% Repeat ²²⁰	%<19 Yr	% un= d
1972	587,000	N/A	N/A	N/A	N/A	N/A
1973	745,000	16.3	193	N/A	32.8	71.0
1974	899,000	19.3	220	15.2	32.5	72.4
1975	1,034,200	21.7	249	-	-	-
1976	1,179,000	24.2	265	22.7	32.1	75.4
1978	1,410,000	27.7	294	29.5	30.8	76.5
1980	1,554,000	29.3	300	33.0	29.6	79.4
1982	1,574,000	28.8	299	36.8	27.5	80.9
1984	1,577,000	28.1	297	N/A	26.4	81.8
1985	1,589,000	28.0	298	40.5	26.2	82.3
1986	1,574,000	27.4	294	41.4	25.7	82.3

²¹⁷ Data taken from U.S. Teenage Pregnancies, Births and Abortions: National and State Trends and Trends by Race and Ethnicity, Guttmacher Inst. 7-15 (2010); U.S. Dept. of Commerce, National Data Book and Guide to Sources: Statistical Abstract of the United States, 1985 66-68 (105th ed., 1985); Telephone interview with Christine Loretto, Guttmacher Inst. (data from Stanley Henshaw). See also Rachel K. Jones, Jacqueline E. Darroch, & Stanley K. Henshaw, Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000-2001, 34 Perspectives on. Sexual & Repro. Health 226, 228 (2002); Stanley K. Henshaw & Kathryn Kost, Trends in the Characteristics of Women Obtaining Abortions, 1974 to 2004, Guttmacher Inst. 6, 18-27 (2008); Lawrence B. Finer & Stanley K. Henshaw, Estimates of U.S. Abortion Incidence, 2001-2003, Guttmacher Inst (2006), available at http://www.guttmacher.org/pubs/2006/08/03/ab_incidence.pdf; R. K. Jones, et al., Abortion in the United States: Incidence and Access to Services, 2005, 40 Perspectives on. Sexual & Repro. Health 6-16 (2008); Lilo T. Strauss, et al, Abortion Surveillance - United States, 2001, U.S. Center for Disease Control, 53(SS09) (2004), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5309a1.htm>.

²¹⁸ Rate is per 1,000 women aged fifteen to forty-four.

²¹⁹ Ratio is per 1,000 known pregnancies (known live births plus abortions).Henshaw & Kost, supra note 217, at 6.

²²⁰ This is the percentage of women having abortions who previously had one or more abortion(s).

1987	1,559,110	26.9	289	42.2	25.4	82.4
1988	1,590,800	27.3	288	N/A	25.6	82.6
1990	1,609,000	27.4	280	45.0	23.0	82.0
1992	1,529,000	25.9	275	47	-	-
1994	1,423,000	22.5	266	N/A	21.85	81.66
1995	1,359,400	22.5	259	-	-	-
1996	1,360,200	22.4	259	N/A	N/A	N/A
n1998	1,319,000	21.5	250	-	-	-
2000	1,313,000	21.3	245	48	19.37	83.08
n2002	1,293,000	20.9	242	-	-	82.012
2004	*					
n2005	1,206,200	19.4	224	47	-	-
2006	*	*	*	*	*	*
2008	1,212,400	19.6	n/a*	n/a*	n/a*	n/a*

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Appendix III. Abortion number, rate, and ratio in the United States²²¹ and Utah²²²

Year	U.S. Total Abortions	Utah Total Abortions	US Rate Per 1,000 Females 15- 44 years old	Utah Rate Per 1,000 Females 15-44 years old	US Ratio per 1,000 Live Births	Utah Ratio per 1,000 Live Births
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	1,588,600	4,400	28.0	11.1	425	116
1990	1,608,600	4,796	27.4	10.5	389	114.7
1995	1,359,400	3,705	22.5	6.9	350	83.2
2000	1,313,000	3,509	21.3	6.2	324	69.3
2005	1,206,200	3,556	19.4	5.7	Not Available ²²³	63.4
2008	1,212,400	3,779	19.6	5.7	Not Available	66.1

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²²¹ All information about the United States was gathered at The 2012 Statistical Abstract: Earlier Editions, United States Census Bureau, http://www.census.gov/compendia/statab/past_years.html (last visited Apr. 22, 2013).

²²² Information for Utah from 1973-1985 was gathered from United States Census Bureau; Utah information from 1990-2008 was gathered from Utah Dep't of Health, Utah's Vital Statistics: Abortions, at S-3 (2010), available at http://health.utah.gov/vitalrecords/pub_vs/ia10/10a_112011.pdf.

²²³ The United States Statistical Abstract ceased reporting the ratio of abortions per 1,000 live births after 2003.

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