

ABSTRACT

Roman Catholic Church Teaching and Abortion: A Historical View from the Early Church to Modern Day

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The Catholic Church is known today to be staunchly opposed to any practice that violates the dignity of human life, including abortion. While the Catechism refers to this teaching as constant and unchanging since the first century of the church, many have questioned whether the Church has always fully opposed abortion, especially in the early stages of pregnancy due to conversations surrounding theories of ensoulment and animation. In this thesis, I will argue that the Catholic Church has always embraced a respect for unborn human life from conception by opposing direct abortion. To do so, I trace the development of the Church's current canon law and magisterial teaching pertaining to direct abortion from the early Church to the 21st century by examining the writings of prominent theologians, papal documents, and previous collections of canon law.

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ROMAN CATHOLIC CHURCH TEACHING AND ABORTION:
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DEDICATION

To my mom, for encouraging me to grow in my faith and for always answering my calls.

INTRODUCTION

In a meeting with US Bishops in January of 2020, Pope Francis expressed agreement that protecting unborn life is the preeminent priority in today's social and political scene. While the Pope recognizes and affirms the importance of other life issues, ranging from euthanasia to immigration, he stated that the protection of unborn life in the womb is "a fundamental right."¹ In 2019 when speaking at the "Yes to Life" conference in Rome, Pope Francis commented, "Every child which arrives in a woman's womb is a gift."² For those familiar with the Catholic Church's teaching on abortion expressed in the Catechism, these statements are not surprising. The Catholic Church is known to vocally oppose abortion in both private and public discourse.

The Catechism's section on abortion places it within the context of an overall conversation surrounding Christ's greatest commandment to love one's neighbor as oneself, as stated in Matthew 22:35-40, Mark 12:28-34, and Luke 10:27. It is specifically discussed as an extension of the fifth commandment: "Thou shalt not kill" (Exodus 20:13). The Church believes that "God alone is the Lord of life from its beginning until its end; no one can under any circumstances claim for himself the right directly to destroy

¹ "Pope Speaks to U.S. Bishops about pro-Life Issues, Transgender Ideology | National Catholic Reporter," accessed April 27, 2020, <https://www.ncronline.org/news/vatican/pope-speaks-us-bishops-about-pro-life-issues-transgender-ideology>.

² "Pope Likens Abortion to 'hiring a Hitman' at Anti-Abortion Conference - CNN," accessed April 27, 2020, <https://www.cnn.com/2019/05/26/europe/pope-francis-abortions-hitman-rome-intl/index.html>.

an innocent human being.”³ Any action that is principally directed to harm life, including acts such as homicide and euthanasia, are contrary to moral law and therefore considered illicit by the Church. The Catechism affirms this teaching, noting that the Church has always taught that direct abortion is morally illicit.

Since the first century the Church has affirmed the moral evil of every procured abortion. This teaching has not changed and remains unchangeable. Direct abortion, that is to say, abortion willed either as an end or a means, is gravely contrary moral law.⁴

Abortion, as it is considered here, is defined as “the deliberate termination of a human pregnancy.”⁵ No act that principally intends the destruction of unborn life is morally acceptable in Church teaching. That includes direct procured abortion at any stage of pregnancy.

While the Catechism claims that this teaching “has not changed” from the first centuries of the Church’s existence, critics in the political and academic arenas have argued otherwise. Many have attempted to discredit or weaken the Church’s stance with claims surrounding the inconsistency of the Church’s historical record in such matters by pointing to historical discussions of the timing of ensoulment, or when the fetus is endowed with a human soul. In a 2008 *Meet the Press* interview, then Speaker of the House Nancy Pelosi justified her support of abortion rights as a Catholic. When asked a

³ “Catechism of the Catholic Church - The Fifth Commandment,” accessed April 27, 2020, https://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm, 2259.

⁴ “Catechism of the Catholic Church - The Fifth Commandment,” accessed April 27, 2020, https://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm, 2271.

⁵ “Definition of ABORTION,” accessed April 27, 2020, <https://www.merriam-webster.com/dictionary/abortion>.

question posed by Tom Brokaw of “When does life begin?” Pelosi answered that this a question for which the Church has not agreed upon an answer.

I would say that as an ardent, practicing Catholic, this is an issue that I have studied for a long time. And what I know is, over the centuries, the Doctors of the Church have not been able to make that definition. St. Augustine said ‘at three months.’ We don’t know.⁶

In these assertions, Pelosi conflates past discussions surrounding ensoulment, or when the fetus is endowed with a human soul, with questions of when life itself begins. While the Church does not currently hold a particular position on when ensoulment occurs, there is unequivocal agreement that human life begins and deserves protection from conception.

A 2020 article titled “The History of Catholic Teaching on Abortion Isn’t as Clear Cut as You Think” by journalist Molly Monk claims that the Church’s “position has hardly been ‘unchangeable’ throughout the past two millennia.”⁷ In this article, Monk writes that “typewriters, electric batteries, and elevators were all invented before the Catholic Church hardened its stance on abortion.”⁸ Her claim refers to Pope Pius’ 1869 decision to remove the distinction between a formed and unformed fetus from canon law penalties. However, the Church stood against abortion long before 1869, as even early Church documents and conciliar decisions denounce the practice.

Catholic layman Jon O’Brien echoes Monk’s sentiments. O’Brien is the president of a political activism group called “Catholics for Choice.” In a 2015 article in Time

⁶ “‘Meet the Press’ Transcript for August 24, 2008,” accessed April 27, 2020, http://www.nbcnews.com/id/26377338/ns/meet_the_press/t/meet-press-transcript-august/#.XqdvvJNJHGJ.

⁷ Molly Monk, “The History of Catholic Teaching on Abortion Isn’t as Clear Cut as You Think,” The Outline, accessed April 27, 2020, <https://theoutline.com/post/8536/catholic-history-abortion-brigid>.

⁸ Monk.

Magazine, O'Brien critiques the Church's characterization of their abortion teaching as constant and immutable.

Although the Catholic hierarchy says that the prohibition on abortion is both 'unchanged' and 'unchangeable,' this does not comport with the actual history of teaching and dissent within the church...The Catholic church has long taught that abortion is a sin, but the reasons have changed over time.⁹

According to their website, Catholics for Choice began in 1973 "to serve as a voice for Catholics who believe that the Catholic tradition supports a woman's moral and legal right to follow her conscience in matters of sexuality and reproductive health."¹⁰ Since their inception, this group has faced backlash from several U.S. bishops for their pro-abortion activism in the public sphere. Similar to Pelosi, O'Brien's claim that the Church's "reasons have changed over time" refers to that fact that early abortions were classified in medieval canon law documents as contraceptive, rather than homicidal, acts. However, this distinction was based on the Church's previous acceptance of the preeminent scientific opinion of the day, Aristotelian biology.

My interest in examining the history of the Catholic Church's teachings on abortion comes from my personal identity as a life-long Catholic and my involvement with pro-life activism. Before researching this topic, I was unaware of the critiques leveled by Pelosi, Monk, O'Brien and others. I desired to investigate these claims for myself, and to understand how the modern teaching found within today's Catechism developed.

⁹ Jon O'Brien, "The Catholic Case for Abortion Rights," September 22, 2015, <https://time.com/4045227/the-catholic-case-for-abortion-rights/>.

¹⁰ "About Us," *Catholics for Choice* (blog), accessed April 27, 2020, <https://www.catholicsforchoice.org/about-us/>.

Upon research into and examination of the development of the Catholic Church's perspective on abortion, I have concluded that the Church has always regarded as wrong direct abortion of the fetus at any stage of pregnancy. While the classification of the exact "type of wrong" abortion is has changed in accord with scientific advancements, the Church has never officially taught that the direct procurement of early abortion is permissible. In this paper, I will trace the development of the Church's modern teaching from the early church to the 20th century. While I am unable to exhaustively cover every detail of this long and complex history, I will include the most influential and impactful people, documents, and events.

Chapter One explores the context from which the Catholic doctrine on abortion first developed. This includes examining abortion in the ancient Greco-Roman world. Particularly highlighted is Aristotle's idea of embryology and his hylomorphic theory of soul development as these concepts greatly influenced later Catholic discussion. Jewish consideration of fetal status and therapeutic abortion is also discussed. Finally, the early Christian discussion of abortion is detailed through Scriptural frameworks for the sanctity of human life, early moral codes, and early Church councils.

Chapter Two considers the origins and development of the formation distinction influencing the Church's consideration of penalties for abortion in the context of canon law. This includes a detailed exploration of the writings of both eastern and western Church Fathers, specifically Tertullian, Jerome, Augustine, Clement, Basil and John Chrysostom. Then, early penitential canons and early canon law collections are discussed. The high point of the ensoulment distinction's consideration is examined

through Gratian's *Decretum* and Pope Gregory IX's *Decretals*. Finally, Thomas Aquinas' discussion of abortion, ensoulment, and fetal status is considered.

Chapter Three discusses early considerations of exceptions to the overall stance against abortion through the opinions of John of Naples and Thomas Sanchez. Then, the condemnation of their teachings by Pope Innocent XI is discussed. This chapter examines the impact of scientific discoveries in the arena of embryology on the Church's eventual removal of the formation distinction from canon law. This includes discussion of the influence of Thomas Fienus and Paolo Zacchia on Pope Pius IX's *Constitutio Apostolicae Saedis*. Finally, influential 20th century documents promoting respect for unborn life from conception are detailed.

Finally, I conclude that most confusion surrounding the Church's historically consistent stance against direct abortion is founded in three misconceptions: a misunderstanding in what qualifies as official Church teaching, an overemphasis on the role of the ensoulment and formation distinctions in Church teaching, and a lack of appreciation for the scientific facts informing prominent theological figures such as Augustine and Thomas Aquinas. Additionally, there are several common threads guiding Church teaching on this topic throughout history, namely a demonstration of concern for both the fetus and the mother, a consideration of abortion as a violation of the 5th commandment, and a consideration of abortion as a violation of the natural law.

CHAPTER ONE

Ancient World Context and Early Church Thought

Introduction

While some may assume that modern scientific advancements in abortion procedures were the impetus to the currently vitriolic abortion debate, this practice has been around since the ancient world. Essential to understanding the development of Catholic doctrine on abortion is a recognition of the context within which it first developed, namely the ancient Greco-Roman world and the precedent set by Jewish considerations. In this chapter, brief discussion is given to the prevalence and methods associated with abortion in the ancient world. Then, this chapter seeks to highlight the major facets of Greek and Roman philosophies surrounding abortion, namely Aristotle's understanding of animation and his hylomorphic theory of soul development as well as Ancient Roman stoic philosophy, as they relate to later Christian discussion on fetal status. Then, the teachings and practices of the Jewish tradition as it relates to abortion and fetal status is discussed. Finally, the early Christian perspective on abortion through 300 AD is considered through the lens of Biblical attitudes, Christian moral codes, and early Church councils.

Presence of Abortion in the Ancient World

Prevalence and Motivations

In considering the practice of abortion in the ancient world, it is crucial to remember that there was no unified ideology present throughout the entirety of the Greek

and Roman world. These civilizations contained their own unique myriad of philosophical ideas and spanned centuries. Distilling a singular viewpoint or expecting complete agreement on such a complex topic would be impossible. However, there is sufficient evidence to suggest that abortion was a known practice for both civilizations. Abortions were sought for a variety of reasons ranging from a desire to preserve beauty and sexual appeal, desires to avoid the difficulties associated with bearing and rearing a child, a societal-level concern over resource allocation, desire for male children as opposed to female based on societal advantages (both perceived and concrete), concern for the life of the mother in a difficult pregnancy, and a desire to hide fornication.¹

Prominent Methods

While the methods associated with procuring abortions were far from the streamlined medical procedures we know today, there was a plethora of methods for inducing an abortion. These generally fell into two categories: chemical and mechanical methods. Figures of ancient medicine such as Celsus, Galen, Hippocrates, and Pliny all discuss methods of inducing abortion in their writings.² Chemical methods were mainly comprised of herbal potions, pessaries, plants, and externally applied drugs, but their clinical efficacy is dubious. For example, in *Natural History*, Pliny the Elder asserts that

¹ Paul J. Carrick, *Medical Ethics in the Ancient World* (Washington D.C.: Georgetown University Press, 2001), 118.

² Plinio Prioreschi, "Contraception and Abortion in the Greco-Roman World," *Vesalius* I, no. 2 (1995): 77–87.

there are certain odors and pants capable of inducing an abortion if they are simply smelled.³ However, outside of these

However, ancient medical literature suggests that some of these poison cocktails were actually successful. Galen writes that certain drugs were capable of embryo destruction or, as he words it, causing “the rupture of certain of its membranes.”⁴ Due to the unpredictable nature of poison ingestion, women often perished in these attempts along with their unborn child. Chemical means were often seen as the first option, as they could be taken within the privacy of her own home. If these means were unsuccessful, more public mechanical methods were employed. Mechanical methods involved both self-inflicted measures such as intense physical exercise, binding the body around the womb, or the use of surgical instruments.⁵ In *On the Nature of the Child*, the Hippocratic writer details an experience inducing an abortion on a young woman by encouraging her to physically exert herself by jumping up and down, writing, I told her to spring up and down so as to kick her heels against her buttocks, and when she had sprung for the seventh time, the seed ran out on the ground with a noise.”⁶

³ Melinda Ryan, “Through the Oculi of Pliny the Elder: A Gendered Representation of Roman Women as Patients and Healers” (PhD Thesis, Macquarie University, Faculty of Arts, Department of Ancient History, 2016): 46.

⁴ Galen, *On the Natural Faculties*, trans. Arthur John Brock, 2013, <https://www.gutenberg.org/files/43383/43383-h/43383-h.htm>, 285.

⁵ Michael J. Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World* (Eugene, Oregon: Wipf and Stock, 1998): 17.

⁶ Jeffrey Henderson, “HIPPOCRATES OF COS, Nature of the Child,” Loeb Classical Library, accessed October 27, 2019, https://www.loebclassics.com/view/hippocrates_cos-nature_child/2012/pb_LCL520.35.xml.

Physical activity was not the only known way to mechanically induce an abortion in the ancient world, however. Primitive surgical techniques were utilized, as well. Tertullian describes an “instrument” used by Hippocrates, Asclepius, Erasistratus, Herophilus and others (*A Treatise on the Soul*, XXV).

Accordingly, among surgeons’ tools there is a certain instrument, which is formed with a nicely-adjusted flexible frame for opening the uterus first of all, and keeping it open; it is further furnished with an annular blade, by means of which the limbs within the womb are dissected with anxious but unfaltering care; its last appendage being a blunted or covered hook, wherewith the entire fetus is extracted by a violence delivery.⁷

The surgical abortion described here would most likely have been extremely dangerous for the mother, as it would have been conducted much before the advent of anesthesia or a modern understanding of bacteria and sterilization. Most likely, surgical methods would have been seen as a last resort if chemical concoctions failed to be efficacious.⁸

Greek Perspectives on Abortion

In order to understand Greek philosophy relating to abortion, it is important to understand the Greek view of the value and function of the human person. In his book *Medicine, Society, and Faith in the Ancient and Medieval Worlds*, Darrel Amundsen argues that “children’s worth is not intrinsic but only potential, and children are valued in proportion to their approximation to the ideal adult.”⁹ Amundsen claims that the value of a human life was based on its social value in ancient Greek society. Therefore, the social

⁷ Reverend Alexander Roberts, *The Ante-Nicene Fathers: The Writings of the Fathers Down to A. D. 325 Volume III Latin Christianity* (Cosimo, Inc., 2007).

⁸ Konstantinos A. Kapparis, *Abortion in the Ancient World* (Bristol Classical Press, 2002), 26-27.

⁹ Darrel W. Amundsen, *Medicine, Society, and Faith in the Ancient and Medieval Worlds*, 1996, 51.

value of the fetus was only in its value as a potential human child.¹⁰ Exploring the value of the human child in Greek society involves an understanding of how Greek society was ordered. Greek society was centered around the “polis,” or independent city state.¹¹ Each polis had its own legal system, constitution, and identity based on the *logos* of its citizens. *Logos* can be defined as reason or speech, and possession of *logos* related to the ability to have rational thought.¹² In Greek philosophical tradition, the concept of *logos* as it relates to human beings is of the utmost importance, as they believed that only free male citizens possessed the fullness of *logos*. Children did not develop *logos* until puberty, and therefore were thought to be less important than adults. As the only member of the family in full possession of *logos*, fathers were capable of exerting great control over their families.

Attitudes towards children and family life shaped how the Greeks approached topics like abortion. While the Greeks did not pass specific legislation relating to the practice of abortion, examining the views of prominent Greek philosophers such as Aristotle can help shed light on the society’s perception of practice’s acceptability. Aristotle’s writings demonstrate that, in general, Greek cultural admissibility of abortion was tied to the idea of ensoulment, or when the soul entered the fetus’ body, and utilitarian ideals.¹³ Among the myriad of Greek philosophies related to ensoulment,

¹⁰ Amundsen, 52-53.

¹¹ Odd Magne Bakke, *When Children Became People: The Birth of Childhood in Early Christianity* (Fortress Press, 2005), 249.

¹²The Editors of Encyclopedia Britannica, “Logos,” Encyclopedia Britannica, May 21, 2012, <https://www.britannica.com/topic/logos>.

¹³ Aristotle, *Politics*, trans. H. Rackham (Cambridge, Massachusetts: Harvard University Press, 1932).

Aristotle's ideas had the greatest impact on later Catholic discussions by central figures such as Thomas Aquinas.

Aristotle on Abortion and Embryology

Aristotle (384-322AD) was an ancient Greek philosopher and scientist who is widely known as one of Western history's greatest figures.¹⁴ While he is known for publishing several treatises and writings, his works that are most applicable to our present discussion are *Politics*, *On the Soul*, and *De Historia Animalium*. In his discussions of elective abortion, Aristotle argues for abortion from a utilitarian viewpoint. Aristotle believed that abortion was acceptable for the good of the state, namely in that it aided in avoiding a population excess and creating a "more perfect" population (*Politics*, VII.14.10).

As to exposing or rearing the children born, let there be a law that no deformed child shall be reared; but on the ground of number of children, if the regular customs hinder any of those born being exposed, there must be a limit fixed to the procreation of offspring, and if any people have a child as a result of intercourse in contravention of these regulations, abortion must be practiced on it before it has developed sensation and life; for the line between lawful and unlawful abortion will be marked by the fact of having sensation and being alive.¹⁵

In this passage, Aristotle also affirms the acceptability of infanticide in certain situations. Exceeding the limit of recommended number of offspring and avoiding the rearing of a "deformed" fetus appear to be the only valid reasons for pursuing an abortion. He does not mention other well-known motivations, such as preserving beauty or concealing

¹⁴ Anselm H. Amadio and Anthony J.P. Kenny, "Aristotle," *Encyclopedia Britannica*, March 30, 2020, <https://www.britannica.com/biography/Aristotle>.

¹⁵ Aristotle, *Politics*, trans. H. Rackham (Cambridge, Massachusetts: Harvard University Press, 1932).

fornication, as acceptable.¹⁶ Critical to understanding Aristotle's view on abortion is the last sentences of this excerpt from *Politics*: "abortion must be practiced on it before it has developed *sensation and life*." For Aristotle, his position on the acceptability of abortion hinges on whether the developing embryo has acquired *sense and life*. This statement demonstrates that Aristotle ascribed to a theory of fetal development that the fetus developed in utero from an unstructured state into a structured state, rather than the enlargement or growth of an already structured body.¹⁷ To further understand what Aristotle means by these descriptors, a discussion on his view of the soul and its relation to the body is essential.

Aristotle's view of the relationship between the soul and the body of the embryo is generally referred to as the hylomorphic theory.¹⁸ This states that the matter and form of any being must be mutually appropriate. The embryo could not be in possession of a human soul (or form) until its body (or matter) has reached a sufficient level of development. This theory connects to Aristotle's understanding of parental contributions in conception, and his understanding of how fetal life begins. In his article "Embryology: Medieval and Modern" Matthew Lu writes:

For Aristotle, the embryo is initially the result of the father's soul acting as the efficient cause upon matter inherited from the mother, with the semen functioning as the instrument of the father's soul...At conception, we have new vegetative

¹⁶ Carrick, *Medical Ethics in the Ancient World*, 132.

¹⁷ Joanna G. Patsioti, "Aristotelian Perspectives on Social Ethics," in *The Paideia Archive: Twentieth World Congress of Philosophy*, vol. 44, 1998, 167–174.

¹⁸ The Editors of Encyclopedia Britannica, "Hylomorphism," Encyclopedia Britannica, March 15, 2016, <https://www.britannica.com/topic/hylomorphism>.

substance, the composite of a vegetative soul/form (inherited from the father) and matter (inherited from the mother).¹⁹

In Aristotle's understanding of conception, the father contributes the active matter, or semen, which acts upon the mother's passive matter, or her menstrual blood. This understanding was founded in his observations of how reproduction occurred, specifically that the woman's menstrual flow ceased after she was impregnated and that this only occurred after copulation with a man (in which semen was deposited).²⁰ Additionally, he postulated that the development of the fetus was guided by the father's soul until it reached a sufficient point of material development. The semen provides the means by which the father's soul can act on the mother's material by possessing a kind of "vital heat" or *pneuma*.²¹

The hylomorphic theory is outlined in *On the Soul*, where Aristotle discusses three distinctive types of souls: the nutritive soul, the perceptive soul, and the rational soul. To Aristotle, the soul of an organism is the system by which it performs activities, such as nutrition, movement, and thought.²² The nutritive soul is the minimal soul that can be ascribed to a living being, such as a plant. The perceptive soul involves the ability to feel pleasure and pain, and it can be ascribed to an animal. Finally, the rational soul involves the capacity for reason and can only be possessed by human beings. In

¹⁹ Mathew Lu, "Embryology: Medieval and Modern," *Human Life Review* 40, no. 2 (2014): 35–48.

²⁰ Norman M. Ford, *When Did I Begin?: Conception of the Human Individual in History, Philosophy and Science* (Cambridge University Press, 1988), 25.

²¹ Lu, "Embryology."

²² Hendrik Lorenz, "Ancient Theories of Soul," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, Summer 2009 (Metaphysics Research Lab, Stanford University, 2009), <https://plato.stanford.edu/archives/sum2009/entries/ancient-soul/>.

Aristotle's understanding of embryological development, the developing fetus moves through these three stages of soul development in utero as the unformed substance becomes a formed being, or fetus. A distinctive marker for Aristotle on the acceptability of abortion hinges on when the developing embryo transforms from possessing simply a nutritive, or vegetative soul, to a perceptive, or an animal soul. Based on his observations of embryonic development, Aristotle sheds light on when he believes the shift from a vegetative to a perceptive soul occurs for the female and male embryo (*Historia Animalium*, VII.3).

In the case of male children the first movement usually occurs on the right-hand side of the womb and about the fortieth day, but if the child be a female then on the left-hand side and about the ninetieth day. However, we must by no means to be an accurate statement of fact, for there are many exceptions... About this period the embryo begins to resolve into distinct parts, it having hitherto consisted of a fleshlike substance without distinction of parts... In the case of a male embryo aborted at the fortieth day, if it be placed in cold water it hold together in a sort of membrane, but if it be placed in any other fluid it dissolves and disappears. If the membrane be pulled to bits the embryo is revealed, as big as one of the large kind of ants; and all the limbs are plain to see, including the penis, and the eyes also, which as in other animals are of great size. But the female embryo, if it suffer abortion during the first three months, is as a rule found to be undifferentiated... In short, while within the womb, the female infant accomplishes the whole development of its parts more slowly than the male.²³

It is unclear from the text whether Aristotle is reflection on observations he himself gathered, or those of other scientists. Nevertheless, these reflections demonstrate Aristotle's belief in the importance of observing "quickenings" or the "animation" of the fetus (the first observable movement) and the differentiation of organs in marking the shift from nutritive soul to perceptive soul.²⁴ However, Aristotle acknowledges that

²³ Aristotle, "The History of Animals," trans. D'Arcy Wentworth Thompson, 1994, http://classics.mit.edu/Aristotle/history_anim.7.vii.html.

²⁴ Lu, "Embryology."

determining the fortieth day of gestation based on movement was not an exact science, or an “accurate statement of fact.” Abortion before the perceptive soul would be acceptable and not considered homicide, because the fetus was considered to be on the same level of existence to a plant. The “life” and “sense” referred to in the *Politics* passage refer to the “completion of form” and “first detected movements of the fetus.”²⁵

However, once the fetus was in possession of a perceptive soul, abortion is no longer acceptable. In Aristotle’s observation, males gained a perceptive soul at forty days and females at ninety days. Therefore, abortion of a male fetus before forty days and a female fetus before ninety days gestation would be considered acceptable. Ford suggests that this timeline is possibly based on observations of the “tail-fold” possessed by typically developing fetuses at 40 days gestation. Aristotle may have thought that this tail-fold was the penis, and therefore categorized all typically developing fetuses as male. By day 90, differentiated external genitalia are observable allowing females to be distinguished from males.²⁶ Aristotle does not address the specific moment in which the fetus gains a rational soul.

Aristotle’s theory related to soul development of the embryo impacted translations of texts such as Exodus 21:22-25, as well as some of the early Church Fathers and later theologians such as Thomas Aquinas. His biological observations concerning fetal development were regarded as the correct scientific opinion for over 2,000 years and were relatively unquestioned until the seventeenth century.

²⁵ David Albert Jones, “Thomas Aquinas, Augustine, and Aristotle on “Delayed Animation”,” *The Thomist: A Speculative Quarterly Review* 76, no. 1 (2012): 23.

²⁶ Ford, *When Did I Begin?*, 28.

Roman Perspectives on Abortion

Just as understanding the concept of *logos* was essential to the overall Greek conversation surrounding abortion, understanding the structuring of Roman society helps shed light on the acceptability of abortion. From a legal perspective, ancient Rome operated under a framework that left private, familial matters to the discretion of the family's patriarch. This was referred to as the *patria potestas*, which means "power of a father."²⁷ Women and children were not viewed as extensions of the household's patriarch, not autonomous beings. Children were viewed as an investment in one's future, and the grief experienced when a child died had more to do with the loss of potential rather than the loss of the actual child.²⁸ The *paterfamilias* (father of the household) had the power of life and death, referred to as *jus vitae necisque* over his wife, children, and slaves.²⁹ Rather than being regulated by civil law, the *paterfamilias* regulated the ethical life of his family according to ancestral customs and traditions referred to as the *mos maiorum*.³⁰

While there is ample evidence that abortion was a known practice, infanticide was more commonly done because a major reason to reject one's offspring was the fact that it was born with noticeable deformities.³¹ Later, the system of *patria potestas* was replaced with

²⁷ The Editors of Encyclopedia Britannica, "Patria Potestas," Encyclopedia Britannica, March 30, 2016, <https://www.britannica.com/topic/patria-potestas>.

²⁸ Bakke, *When Children Became People*, 306.

²⁹ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 25.

³⁰ John Connery, *Abortion: The Development of the Roman Catholic Perspective* (Chicago: Loyola University Press, 1977), 24.

³¹ Seneca, as quoted by Connery, 27.

the civil office of the censor that set laws penalizing abortion. However, it is more likely that these laws were motivated by a desire to slow population decline, rather than a concern for the fetus as a human being.³² One of the most influential Roman conceptions of the personhood status of the unborn was put forth by the Roman Stoic philosophy. This next section will explore this philosophy through one of its most influential adopters, Seneca.

Stoic Philosophy on Personhood

Stoic philosophy prized the cultivation of personal well-being, peace of mind, and a oneness with God and nature through the virtues of wisdom, courage, justice, and self-control.³³ Roman Stoics viewed the fetus as part of the mother; it was not considered a human being in possession of a soul until birth. This idea mirrors the fact that the Latin word for soul, *anima*, also means “breath.”³⁴ The Stoics referred to the fetus with the phrase *pars viscerum matris*, which translates to “part of the mother’s internal organs.”³⁵ Therefore, the fetus was not considered to have rights in and of itself. Lucius Annaeus Seneca (1BC- AD 65) was a Roman politician who espoused Stoic philosophy.³⁶ Seneca expresses Stoic ideas on the equivocation of personhood with birth.

Just as the mother’s womb holds us for ten months, not in preparation for itself, but for the region to which we seem to be discharged when we are capable of

³² Connery, 32.

³³ Carrick, *Medical Ethics in the Ancient World*, 134.

³⁴ Jeffrey H. Reiman, *Abortion and the Ways We Value Human Life* (Rowman & Littlefield, 1999): 19.

³⁵ Reiman, 19.

³⁶ Brad Inwood, “Seneca, Lucius Annaeus (4/1 BC–AD 65),” in *Routledge Encyclopedia of Philosophy*, 1st ed. (London: Routledge, 2016), <https://doi.org/10.4324/9780415249126-A105-1>.

drawing breath and surviving in the open, so in the span extending from infancy to old age, we are ripening for another birth.³⁷

In this quote, Seneca demonstrates his belief in the importance of being able to draw breath and surviving on one's own as critical events in being born. In Stoic philosophy, the essence of the soul is defined as the ability to possess "vital breath" or *pneuma*. This is essential for being considered a member of the human species.³⁸ Therefore, "birth marks the start of human life in virtue of the manifest capacity of the newborn to draw breath."³⁹ The soul was infused at birth and continued to develop until the age of fourteen. In light of these views, the Stoics were generally not vehemently opposed to abortion. While the fetus was not considered to be completely worthless, it "is entitled to our moral concern mainly insofar as nature intends fetuses to become rational beings in the usual scheme of things."⁴⁰ The fetus itself did not have much status in this ideology, and therefore abortion did not present a great moral question. While abortion was treated much differently in Jewish writings and practice, Roman Stoic conceptions of the status of the fetus as part of the mother bear similarities to Jewish ideas.

Jewish Thought on Abortion

The Catholic view on abortion was born out of the Jewish approach to this topic. In examining the practices of the ancient world, in which abortion seems to have been practiced frequently among the Greco-Roman pagans, there does not appear to be any

³⁷ Seneca as quoted by Paul J. Carrick, *Medical Ethics in the Ancient World* (Georgetown University Press, 2001): 134.

³⁸ Carrick, 134.

³⁹ Carrick, 134.

⁴⁰ Carrick, 135.

reference to “non-therapeutic Jewish abortion in any texts of the Hebrew Bible or of other Jewish literature through A.D. 500.”⁴¹ Jews believed elective abortion to undoubtedly be murder because of the explicit intention behind the act, so there was little room left for discussion on this subject.⁴² This belief came from the Ten Commandments, in which deliberate killing was clearly defined as wrong, and a general belief that human life is to be considered sacred.⁴³ In the first book of the Torah, Genesis, we also see the foundation for a Jewish belief in the sanctity of all human life as created in the image of God. Genesis 1:27 states, “So God created humankind in his own image, in the image of God he created them; male and female he created them.”⁴⁴ This verse expresses that since every human is created in the image of God, all humans have inherent value as reflections of the Divine Creator. This concept is often referred to as the *imago Dei*, or the distinct property possessed only by the human species to be a direct reflection of God as Creator.⁴⁵ Therefore, to the Jews, the fetus possesses an inherent value in not only its life once born, but also during its formation and development while in the womb because it is being fashioned in the image of the Creator. Gorman identifies common Jewish values that pervade considerations about abortion, namely “the duty and desire to populate the earth and ensure both Jewish survival and the divine presence,” as well as “a deep sense of the sanctity of life as God’s creation,” and “a profound horror of blood and

⁴¹ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 33.

⁴² Horrocks, “The Soul and Abortion in Ancient Greek Culture and Jewish Law,” 501.

⁴³ Horrocks, 505.

⁴⁴ Gen. 1:27 NIV

⁴⁵ Horrocks, 505.

bloodshed.”⁴⁶ This section will focus on Jewish texts concerning fetal status and personhood, as well as punishments prescribed for accidental miscarriages inflicted by a third party.

Jewish Thought on Personhood

Just as the fetus was considered *pars viscerum mulieris* (part of the mother) in Roman law, the *Talmud* explicitly states that the fetus is considered part of the mother. The *Talmud*, or the Oral Law, provides legal commentary on the statutes contained within the Torah.⁴⁷ It refers to the fetus with the phrase *ubar yerekh imo*, which roughly translates to “the fetus is [considered as if it were] a limb of its mother.”⁴⁸ However, unlike Roman considerations, this terminology was mainly used in legal discussions and not in life or death situations such as abortion. It was used to stress connection between parents and their offspring, not to show lesser value. In *Abortion and Judaism*, Daniel Schiff writes:

“Rather, the principle is employed, for both animals and humans, in a variety of lesser contexts. It is invoked, for example, to show that the fetus of a purchased animal belongs to the buyer, or to demonstrate that states of ritual impurity are transferred to unborn offspring, or to show that a fetus is considered converted to Judaism as an outgrowth of its mother’s conversion...its use was designed for those situations in which legal changes or decrees that effected the mother were also made applicable to the fetus.”⁴⁹

⁴⁶ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 33.

⁴⁷ “The Oral Law -Talmud & Mishna,” accessed April 27, 2020, <https://www.jewishvirtuallibrary.org/the-oral-law-talmud-and-mishna>.

⁴⁸ Daniel Schiff, *Abortion in Judaism* (Cambridge, UK: Cambridge University, 2002), 32.

⁴⁹ Schiff, 32.

This phrase was never applied in pre-Christian times as grounds to justify widespread abortion. Rather, it was utilized in legal contexts and considerations of ritual impurity. In addition to discussions of the fetus as *ubar yerekh imo*, the *Talmud* provides commentary on Jewish ideas of when ensoulment and personhood occur for the fetus.

In Hebrew, the word used to refer to a person is *nefesh*, or soul. In his article “The Jewish Attitude Toward Abortion,” Fred Rosner writes, “An unborn fetus in Jewish law is not considered a person (or *nefesh*) until it has been born.”⁵⁰ Similarly to the Aristotelian numerology related to animation, Jewish opinion considered the fetus to be “mere fluid” until 40 days post-conception.⁵¹ The fetus does not achieve the full legal status of an adult until it has reached 30 days post-partum.⁵² However, as discussed previously, while the fetus was not considered a *nefesh*, its destruction was not allowed in all circumstances because of the overall Jewish respect for the sacredness of human life. Only serious threat to the mother’s life or health was considered an acceptable reason for a therapeutic abortion. The fetus was recognized to have some status as a potential human being, or a *sofak nefesh*. It was considered to be a “partial person,” which was enough of a status to “prohibit its own destruction” for reasons outside of danger to the mother’s life.⁵³

⁵⁰ Fred Rosner, “The Jewish Attitude Toward Abortion,” *Tradition: A Journal of Orthodox Jewish Thought* 10, no. 2 (1968): 55.

⁵¹ Rosner, 55.

⁵² Rosner, 59.

⁵³ Rosner, 62.

Considerations of Miscarriage or Accidental Abortion

Discussion of accidental abortion, or miscarriage, can be found in the Pentateuch. Central to the Torah is the Sinai covenant given by God to Moses.⁵⁴ Because the Torah provides the basis for Jewish law, any detailed legislation or instruction related to abortion could be expected to be contained within its books. However, only one text that specifically mentions the death of an unborn child. This reference is contained in the second book of the Torah, Exodus. Exodus details the beginning of the Jewish people, as well as their time spent enslaved in Egypt, the start of the Sinai covenant, and their time spent in the wilderness.⁵⁵

Exodus 20:22-23:19 is a section known as “the book of the covenant.”⁵⁶ This part of Exodus contains a Jewish legal code that draws upon influences of neighboring civilizations, such as the Hammurabi code of laws, the Hittites, and the Assyrians.⁵⁷ The section that specifically contains an accidental abortion is Exodus 21:22-25:

If men strive together and strike a pregnant woman so that her child comes out of her, but there is no harm, [the guilty one] will surely be fined according to what the woman’s husband demands of him, and he will pay according to the judge’s decision. But if there is harm, then you must give life for life, eye for eye, tooth for tooth.⁵⁸

⁵⁴ “The Pentateuch,” accessed April 27, 2020, http://www.usccb.org/bible/scripture.cfm?src=_intros/pentateuch-intro.htm.

⁵⁵ Menachem Posner, “A Summary of the Book of Exodus,” Chabad, accessed April 27, 2020, https://www.chabad.org/parshah/article_cdo/aid/2116636/jewish/A-Summary-of-the-Book-of-Exodus.htm.

⁵⁶ Connery, *Abortion: The Development of the Roman Catholic Perspective*, 8.

⁵⁷ Connery, 8.

⁵⁸ Translation provided by Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 35.

In his article “The Interpretation of Exodus 21:22-25 and Abortion,” Joe M. Sprinkle explains that this specific law contains the situation of a pregnant woman, and an altercation between two men, one of whom is the woman’s husband. During the course of the altercation, one man accidentally strikes the woman. This type of law is casuistic, meaning that it contains a type of punishment to be given concerning a specific situation.⁵⁹ While the punishment for causing an accidental abortion or a miscarriage is a fine decided upon by the woman’s husband, the *lex talionis* (“injury/punishment in kind”) is applied if the woman is killed in the altercation. Sprinkle notes, “What is clear here is that the accidental killing of the unborn is punished.”⁶⁰ This passage appears to suggest different punishments for an act that causes the death of the fetus versus an act that causes death to the mother. However, extrapolating this verse, which clearly pertains to an accidental situation, to situations of direct abortion is difficult.

However, there are multiple possible exegeses and translations of this passage. In *Reading the Bible in the Strange World of Medicine*, Alan Verhey offers an alternative view based on the New International Version translation of the verse, which reads:

If men who are fighting hit a pregnant woman, and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman’s husband demands and the court allows. But if there is serious injury, you must take life for life.⁶¹

In this translation, it appears that the punishment is dependent on the degree of harm done to both the woman and the child. If the child is delivered early, but survives, only a fine is

⁵⁹ The Editors of Encyclopedia Britannica, “Hebraic Law,” July 20, 1998, <https://www.britannica.com/topic/Hebraic-law>.

⁶⁰ Joe M. Sprinkle, “The Interpretation of Exodus 21: 22-25 (Lex Talionis) and Abortion,” *Westminster Theological Journal* 55 (1993): 233–53.

⁶¹ Allen Verhey, *Reading the Bible in the Strange World of Medicine* (Grand Rapids, MI: W.B. Eerdmans Publ., 2003), 199.

to be rendered. However, if the child or the woman perishes, the *lex talonis* applies. This interpretation indicates an equal valuation of the mother's and fetus' life in the way of applicable punishments.⁶²

Either way, the Exodus passage indicates that fetal life was valued in the Jewish faith, and that even their accidental destruction warranted some kind of punishment. Later conversations within the Alexandrian School of Jewish thought and the Catholic Church concerning abortion involve the Greek Septuagint translation of this passage, which introduced the idea of a formation distinction to theological discourse concerning the status of the fetus.

Septuagint Mistranslation of Exodus 21:22-25

While Jewish tradition and teaching does not explicitly discuss elective abortions, there is a general consensus among scholars that there are two schools of thought related to specific legal and ethical declarations of therapeutic abortions. The Palestinian School was based in the Hebrew translation of the Torah described previously, while the Alexandrian School relied upon the Greek Septuagint translation. The Alexandrian school contributed more significantly to the development of later Christian conversation surrounding abortion and fetal personhood status.

The Alexandrian School of Jewish thought was more heavily influenced by the Septuagint (LXX) translation of Exodus 21:22-25 in the Old Testament and Aristotle's philosophical ideologies. Whether unintentionally or intentionally, the LXX translates the

⁶² Verhey, 200.

Hebrew word “zurah” or “surah” meaning “harm” as the Hebrew word “ason” meaning form.⁶³ The new translation reads:

And if two men fight and strike a pregnant woman, and her child comes not having been fully formed, he will suffer loss with a punishment. As the husband of the woman imposes, he will pay appropriately. But if it has been fully formed, he will give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.⁶⁴

While the Hebrew translation, or Masoretic Text, focuses the gravity of the penalty on the harm done to the woman, the LXX translation focuses on whether or not the fetus is considered “formed” when the event occurs. The term “formed” refers to Aristotle’s ideas of fetal development. While the LXX translation does not provide particular benchmarks for determining whether or not the fetus has reached formation, it is commonly understood that this refers to Aristotle’s forty and ninety day. This translation implies that the accidental abortion of a formed fetus should be punished as homicide, while the accidental abortion of the unformed fetus is punished as a crime less than that of homicide.⁶⁵

In his commentary on the LXX translation of Exodus, Philo of Alexandria specifically addresses Exodus 21:22-23. Philo was a Jewish thinker and philosopher living in Alexandria during the first century BCE. In his commentary, he accepts the distinction between a formed and unformed fetus as it relates to punishments for the fetus’ destruction (*On the Special Laws* XXIX.19.108-109).

⁶³ Translation provided by Donald DeMarco, *The Roman Catholic Church and Abortion: An Historical Perspective* (Right to Life Association of Toronto and Area, 1984).

⁶⁴ Daniel Gurtner, *Exodus: A Commentary on the Greek Text of Codex Vaticanus* (BRILL, 2013), 99.

⁶⁵ Connery, *Abortion: The Development of the Roman Catholic Perspective*, 17.

“But if anyone has a contest with a woman who is pregnant, and strike her a blow on her belly, and she miscarry, if the child which was conceived within her is still unfashioned and unformed, he shall be punished by a fine, both for the assault which he committed and also because he has prevented nature, who was fashioning and preparing that most excellent of all creatures, a human being, from bringing him into existence. But if the child which was conceived had assumed a distinct Shape in all its parts, having received all its proper connective and distinctive qualities, he shall die; for such a creature as that is a man, whom he has slain while still in the workshop of nature...”⁶⁶

This quote comes from a larger section of *On the Special Laws* in which Philo is condemning the practice of infant exposure. His purpose in including the Exodus example is to argue that although Moses never forbade the practice of child exposure word-for-word, he implicitly condemned the practice by instituting the death penalty for causing the death of a formed fetus.⁶⁷ In this exegesis, Philo supports the idea that even causing an accidental abortion of an unformed fetus should be punished with a fine. However, the accidental abortion of a formed fetus should be punished with the death penalty.

As evidenced by the LXX translation itself and Philo’s commentary in *On the Special Laws*, the later Alexandrian School of Jewish thought classified abortion of the formed fetus to be homicide, but not the abortion of the unformed fetus. The LXX translation was the predominant text used to evangelize and Christianize the Roman world, so it impacted further discussions of western Church Fathers.⁶⁸ While early Church writings and legislation did not explicitly address or accept the formed versus unformed distinction, later Church Fathers would provide further commentary on the

⁶⁶ “The Works of Philo,” Early Christian Writings, accessed April 27, 2020, <http://www.earlychristianwritings.com/yonge/book29.html>.

⁶⁷ Stanley Isser, “Two Traditions: The Law of Exodus 21: 22-23 Revisited,” *The Catholic Biblical Quarterly* 52, no. 1 (1990): 37.

⁶⁸ Paul V. Harrington, “Abortion: Part VII,” *The Linacre Quarterly* 34, no. 4 (1967): 44.

idea. Further discussion of the formed versus unformed distinction's impact on the Church's conversation will continue in the second chapter. An examination of the earliest Christian writings on the topic of abortion will occur first.

Early Christian Thought on Abortion

Early Christian teaching and writing established congruous stance against the procurement of abortions but had little to say about any distinctions of form or ensoulment. Christians were motivated in their opposition to abortion by the concept of *imago Dei* as well as the commandment against killing. While there are no explicit references to intentional abortions in the New Testament, Paul's use of the term *pharmakeia* in Galatians 5:20 is argued by some scholars to provide an implicit condemnation of the use of abortifacient drugs. Extra-canonical documents such as the *Didache*, *Epistle to Barnabas* and the *Apocalypse of Peter* provide early explicit condemnations of abortive acts as well. In his discussion of the apparent silence of the New Testament on the topic of abortion compared to the strong condemnations found in moral codes, Connery explains that while New Testament texts were primarily directed at a Jewish audience with no tradition of condoning abortion, documents such as the *Didache* were directed at converts coming from a culture that practiced both abortion and infanticide.⁶⁹ Therefore, it makes more sense for catechetical documents to address the subject.

⁶⁹ Connery, *Abortion: The Development of the Roman Catholic Perspective*, 36.

New Testament References

While the New Testament does not discuss the topic of abortion explicitly, there are passages that help ascertain a Biblical view of the practice. One such passage comes from Paul's first century letter to the Galatians. Paul reminds the Christian community in Galatia that they are to love their neighbor as themselves. He then condemns behaviors that would violate this maxim.

The acts of the flesh are obvious: sexual immorality, impurity and debauchery, idolatry and witchcraft, hatred, discord, jealousy, fits of rage, selfish ambition, dissensions, factions and envy, drunkenness, orgies, and the like. I warn you, as I did before, that those who live like this will not inherit the kingdom of God (Gal. 5:20).⁷⁰

Among the actions he condemns, Paul includes the Greek word *pharmakeia*. This term is often translated as "witchcraft" or "sorcery." However, Noonan points out that there is evidence that this word was contextually used in a more broad-reaching way to refer to occult medicine, or the "employment of drugs with occult properties for a variety of purposes that include contraception and abortion."⁷¹ While this usage of *pharmakeia* was in no way restrictive to abortion, it is comprehensive enough to possibly also refer to abortifacient drugs. While the text does not support that Paul had the act of abortion exclusively in mind when detailing the "acts of the flesh," it is reasonable to think that Paul was extending his condemnations to such an act.

However, this exegetical interpretation of Paul's use of *pharmakeia* is not universally accepted by biblical scholars. In *The Moral Vision of the New Testament*,

⁷⁰ Gal 5:20 (NIV)

⁷¹ John Noonan, "Abortion and the Catholic Church: A Summary History," *Nat. LF* 12 (1967): 90.

Richard B. Hays refutes this interpretation as a proposal “hardly worthy of discussion.”⁷² He further argues, “The word *pharmakeia* is not a specific technical term for the taking of abortifacient drugs; it is an entirely generic term for the practice of magic arts.”⁷³ Hays does not believe that the interpretation of *pharmakeia* referring to acts beyond occult religious practices is supported by the context of the text itself.

Due to the conflict surrounding the interpretation of *pharmakeia*, more explicit understandings of the early Church’s teachings on abortion come from extra-canonical texts. While the New Testament does not explicitly address abortion in particular, possibly due to the distinction in audiences discussed by Connery, early Christian moral codes such as the *Didache* and texts such as the *Epistle to Barnabas* and the *Apocalypse of Peter* provide more explicit insight to the views of the early Church on this topic.

Early Christian Moral Codes

Didache (1st Century)

The *Didache* clearly lays out the early Christian attitude towards abortion. Also referred to as the “Teaching of the Twelve Apostles to the Nations,” the *Didache* is typically dated to the first century AD. It was considered required reading material for early catechumens, or converts training, before they entered the Church.⁷⁴ In helping new Catechumens understand the Church, the *Didache* explains a distinctively Christian moral code, the Church’s hierarchy and guidelines for living in Christian community. The

⁷² Richard B. Hays, *The Moral Vision of the New Testament* (Harper Collins, 1996), 448.

⁷³ Hays, 448.

⁷⁴ Aaron Milavec, *The Didache: Text, Translation, Analysis, and Commentary* (Liturgical Press, 2016): ix.

first section of the *Didache* is commonly referred to as “The Two Ways.” This treatise compares two ways of living one’s life, namely: the “Way of Life,” and “The Way of Death.” The text states, “There are two ways, one of life and one of death, and there is a great difference between the two ways.”⁷⁵ This framework implies a difference between the practices and conduct of the culture of the time, and the way Christians are called to live in light of Christ’s greatest command in the New Testament.

First of all, you shall love the God who made you. Second, love your neighbor as yourself. And all things you would not want done to you, do not do to another person.⁷⁶

Following this description is a series of “you shall not” statements based on the Septuagint translation of the Decalogue. These prohibitions provide practical application for what the love owed to one’s neighbor looks like in daily practice. One of the statements explicitly reads: “You shall not murder a child by abortion, nor kill a child at birth.” This general command is given without qualifications and is written plainly. The *Didache* uniformly forbids abortion at any stage of pregnancy, without a reference to a formation distinction. Contrastingly, the *Didache* describes the “Way of Death,” as being “evil and full of curses,” and including “murderers of children” and “corrupters of creatures of God.”⁷⁷ The phrase “murders of children” is thought to apply to both those who practice infanticide and abortion. Here, the unborn child is referred to specifically as a “creature of God.” It is not referred to as part of the mother or property of the father, as was seen in Jewish and Greco-Roman considerations. Rather, the fetus is recognized to

⁷⁵ “The Didache” (Legacy Icons, 2013), 4.

⁷⁶ “The Didache,” 4.

⁷⁷ “The Didache,” 4.

be an independent work of God. Therefore, destruction of the fetus at any stage of pregnancy is an offense against God as the Creator of that life.

Epistle of Barnabas (1st Century)

The *Epistle of Barnabas* is a first century text that warns about the consequences of procuring an abortion. The author and the exact date the *Epistle*'s was written are both unknown. However, it appears to have been written between 70 AD and before 135 AD.⁷⁸ In a similar style to the *Didache*, the *Epistle of Barnabas* includes a framework contrasting the way of life and the way of death.

Thou shalt love thy neighbor more than thine own soul. Thou shalt not murder a child by abortion, nor again shalt thou kill it when it is born (Barnabas 19:5).⁷⁹

While the *Didache* bases the Way of Life on the biblical command to “Love your neighbor as yourself,” the *Epistle* expands the command to “Love your neighbor more than your own life.” Just like the *Didache* referred to the fetus as a “creature of God” rather than as simply part of the mother, this text considers the fetus as “neighbor.” Abortion is again considered to be contrary to the love one is required to give his or her neighbor in light of Christ’s commands. Additionally, abortion is referred to as “murder” in this text, which demonstrates that early Christians recognized that a command against abortion ought to be considered a sub-commandment of the Decalogue’s instruction against killing.⁸⁰

⁷⁸ “The Development of the Canon of the New Testament - Epistle of Barnabas,” accessed April 27, 2020, http://www.ntcanon.org/Epistle_of_Barnabas.shtml.

⁷⁹ J.B. Lightfoot, “The Epistle of Barnabas,” accessed April 27, 2020, <http://www.earlychristianwritings.com/text/barnabas-lightfoot.html>.

⁸⁰ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 51.

Apocalypse of Peter (2nd Century)

The *Apocalypse of Peter* is a second century pseudepigraphal Christian writing that was popular among early Christians as evidenced by its inclusion in the Muratorian Canon.⁸¹ It details a conversation between the author and Jesus concerning events that will occur at the end of the world, and it provides the earliest Christian description of hell.⁸² In this description, women who procure abortions, as well as those guilty of infanticide, are grouped together in their eternal punishment. In this description of hell, individuals are punished in a manner that corresponds to their earthly sins. For example, those who are guilty of “blaspheming the way of righteousness,” punished by being hung by their tongues over fire.⁸³ In his essay “Abortion, Infanticide, and the Social Rhetoric of the *Apocalypse of Peter*,” Patrick Gray explains the graphic nature of the women’s torment:

The women are buried up to their necks in a pit of excrement near a great flame while the aborted children sit nearby crying to God, with flashes of lightning going out from the children and piercing their mother’s eyes.⁸⁴

The *Apocalypse of Peter* identifies that women have committed abortions to hide fornication. While fornication in itself is also considered punishable, it is not as serious as the abortion because abortion “reverses” the “creative act” of God.⁸⁵ While abortion is

⁸¹ Patrick Gray, “Abortion, Infanticide, and the Social Rhetoric of the *Apocalypse of Peter*,” *Journal of Early Christian Studies* 9, no. 3 (2001): 315.

⁸² Gray, 313.

⁸³ Jan N. Bremmer, *The Apocalypse of Peter*, vol. 7 (Peeters Publishers, 2003), 310.

⁸⁴ Gray, “Abortion, Infanticide, and the Social Rhetoric of the *Apocalypse of Peter*,” 314.

⁸⁵ Gray, 321.

considered in the context of adultery, it is discussed as a separate sin that explicitly involves destruction of life.

Early Church Councils

Council of Elvira (305 AD)

As early writings such the *Didache*, *Epistle of Barnabas*, and *Apocalypse of Peter* demonstrate, abortion was unequivocally considered wrong by early Christians. Because of this, it was necessary to determine appropriate penalties for Christians who committed this sin. The first official Church bodies to set specific punishments and penances for abortion were ecclesiastical councils. Councils have been essential to defining essential teachings of the Catholic faith from the earliest days of the Church, and they involve the convention of ecclesiastical hierarchy such as priests, bishops, and the Pope in order to define official doctrine and regulate appropriate disciplinary measures.⁸⁶

In 305 AD, the Council of Elvira was held in Spain, near modern-day Granada. Nineteen bishops and twenty-four priests gathered with the intention to establish disciplinary measures within the church.⁸⁷ In total, this council passed 81 canons that centered around severe penalties for those who committed apostasy amidst persecution and adultery.⁸⁸ Many of the sins described are punished by life-long excommunication,

⁸⁶ Joseph Wilhelm, "General Councils," in *The Catholic Encyclopedia* (New York: Robert Appleton Company, 1908), <https://www.newadvent.org/cathen/04423f.htm>.

⁸⁷ The Editors of Encyclopedia Britannica, "Council of Elvira," July 20, 1998, <https://www.britannica.com/event/Council-of-Elvira>.

⁸⁸ "Council of Elvira," accessed April 27, 2020, http://ldsinger.stjohnsem.edu/@magist/0305_Elvira/00a_start.htm.

abortion being included in that especially grave category. The Council of Elvira was officially the “first Christian body to enact punishment for abortion.”⁸⁹

Of the canons written after the Council of Elvira, canon 63 specifically discusses abortion without mention of an ensoulment or formation distinction.

If a woman, while her husband is away, conceives by adultery and after that crime commits abortion, she shall not be given communion even at the approach of death, since she has doubled her crime.⁹⁰

In this canon, abortion is considered in the context of adultery. Bakke notes that while abortion is considered in the context of other sexual sins, it is condemned separately as murder.

Although the context of this condemnation of abortion is sexual sins, it is not these actions as such, but rather *murder* that is the main subject and determines the extent of the penalty to be meted out.⁹¹

Abortion is not considered wrong because it is done to hide sexual sin; rather, it is wrong because it causes the death of the unborn child. The connection with adultery is simply an observation that hiding fornication was a common motivation for a woman to seek abortion. Notably, the punishment this canon specifies is directed solely at the mother herself. It does not mention the husband, who may have pressured his wife or mistress into receiving an abortion, or the individual performing the procedure (in situations where it is not the mother herself). Later councils (such as Ancyra) and penitential canons recognize mitigating factors in the crime of abortion, such as pressures placed on the mother by outside forces. In reflecting on how severely bishops at Elvira viewed

⁸⁹ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 64.

⁹⁰ “Council of Elvira.”

⁹¹ Bakke, *When Children Became People*, 129.

abortion, Gorman writes that “the local synod viewed abortion as a combination of adultery and murder, punishable by the gravest penalty.”⁹²

Council of Ancyra (314 AD)

The Council of Ancyra was held in 314 AD. Present at this council were bishops representing Syria and Asia minor, indicating that it was representative of a larger geographic region than Elvira. Just like Elvira, this council was called to determine punishments for *lapsi*.⁹³ This council passed legislation that specifically punish women who “slay what is generated and work to destroy it with abortifacients.” Bishops present at Ancyra were aware of the precedent set by Elvira and made a conscious decision to decide on a milder sentence, possibly in recognition of complicated factors and pressures that could coerce a woman to abort.⁹⁴

Concerning women who commit fornication, and destroy that which they have conceived, or who are employed in making drugs for abortion, a former decree excluded them until the hour of death, and to this some have assented. Nevertheless, being desirous to use somewhat greater lenity, we have ordained that they fulfil ten years [of penance], according to the prescribed degrees.⁹⁵

While Elvira indicated a life-long excommunication, this council prescribed a ten-year penitential period. During the penitential period, women were excluded from

⁹² Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 65.

⁹³ Gorman, 65.

⁹⁴ Bakke, *When Children Became People*, 130.

⁹⁵ Philip Schaff and Henry Wace, eds., “Council of Ancyra (A.D. 314),” in *Nicene and Post-Nicene Fathers*, trans. Henry Percival, vol. 14, 2 (Buffalo, NY: Christian Literature Publishing, 1990), <https://www.newadvent.org/fathers/3802.htm>.

participation in the sacraments, such as baptism and communion.⁹⁶ Additional penalties, such as abstention from meat, could be prescribed by an individual confessor.⁹⁷ While the moral severity of abortion remained unquestioned, the legal penance was in between that of accidental murder and adultery.⁹⁸ Through the Middle Ages, the ten-year punishment would hold in many regions as standard.

Conclusion

Early Catholic condemnation of abortion was influenced by Jewish thought and stood in contrast to the general acceptance of abortion in pagan Greco-Roman society. While the New Testament does not offer verses particularly pertaining to abortion, early Christians generally understood abortion as contrary to the call to love one's neighbor, and as a violation of the Decalogue's command against killing. These attitudes are expressed in the *Didache*, the *Epistle of Barnabas*, and the *Apocalypse of Peter*, all of which were influential texts for the early Church. Just as there is no reference to ensoulment or animation distinctions within these texts, there is also no reference to such distinctions in the earliest councils prescribing penances for abortion. While the Council of Elvira prescribed a penance of excommunication until death, the Council of Ancyra lightened this penance to ten years in an acknowledgement of the myriad of mitigating factors that could possibly force a woman into an abortion at the time. Consideration of

⁹⁶ Dennis Di Mauro, *A Love for Life: Christianity's Consistent Protection of the Unborn* (Wipf and Stock Publishers, 2008), 15.

⁹⁷ Di Mauro, 15.

⁹⁸ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 65.

the formation distinction as discussed by Church Fathers, penitential canons, and early canon law collections will be discussed in the next chapter.

CHAPTER TWO

Development of the Ensoulment Distinction

Introduction

While early Church condemnations of abortion expressed through documents such as the *Didache* and early councils, namely Elvira and Ancyra, do not mention the animation distinction put forth by the Septuagint's mistranslation of Exodus 21:22-25, the writings of Church Fathers do discuss this distinction. Whether intentional or unintentional, the Septuagint's translation of this passage included the Aristotelian distinction between a formed and unformed fetus, adding a distinction and additional meaning not present in the original Hebrew verbiage. While some fathers, like Basil, dismiss the distinction as a matter of little importance, others include it in their understanding of the type of offense early versus later term abortions should be considered. However, in their acceptance of a distinction between a formed and unformed fetus, they never consider the abortion of an unformed fetus to be permissible. All the Church Fathers agreed that abortion was a grave sin, just not that it was legally equivalent to homicide at all stages of pregnancy. Additionally, the formation distinction influenced later penitential documents that prescribed appropriate punishments for abortion, as well as later collections of canon law. All references to law in this chapter refer strictly to the canon law of the Church, not to civil laws. Thomas Aquinas, the foremost Catholic philosopher and theologian of the medieval period, also accepted the formation

distinction on the basis of his understanding of embryological development presented by Aristotle.

Early Church Fathers of the Western Church

Tertullian (155-240 AD)

Tertullian is one of the first Latin Fathers of the Church. He was raised as a pagan and spent most of his life in Carthage, but converted to Christianity as an adult.¹

Tertullian's familial wealth allowed him to receive a broad-ranging education that included advanced rhetorical instruction, as well as Christian theology.² Tertullian is the first Christian writer to mention the Septuagint distinction between a pre-formed and formed fetus.³ Much of Tertullian's writings on the topic of abortion are found within his apologetic defenses of the Church against claims from secular Romans that Christians performed rites that involved cannibalism of children (*Apology*, IX.32).

But Christians now are so far from homicide, that with them it is utterly unlawful to take away a child in the womb, when nature is in deliberation about the man; for to kill a child before it is born is to commit murder by way of advance; and there is no difference whether you destroy a child in its formation, or after it is formed and delivered. For we Christians look upon him as a man, who is one in embryo; for he is in being, like the fruit in blossom, and in a little time would have been a perfect man, had nature met with no disturbance⁴

This work, which dates to 197 AD, was directed towards Roman governors and the emperor Septimius Severus. In defending Christians against the claim that they practice child sacrifice in their rituals, Tertullian appeals to the high moral standards held by

¹ Everett Ferguson, "Tertullian," *The Expository Times* 120, no. 7 (2009): 313.

² Ferguson, 313.

³ DeMarco, *The Roman Catholic Church and Abortion*.

⁴ William Reeve and Jeremy Collier, *The Apology of Tertullian*, vol. 31 (Griffith Farran Okeden & Welsh, 1889), 32.

Christians. He considers this claim in his chapter entitled, “That the pagans are guilty both in private and public of the same crimes they charge upon Christians.”⁵ Specifically, he mentions that the Romans participate in “ritual sacrifice of children” as well as “drowning children and exposing them to cold, hunger, and dogs.”⁶ Conversely, Christians hold even the destruction of the fetus in the womb as immoral and unacceptable. In this quote, Tertullian also mentions the distinction between the formed and unformed fetus. However, he claims that “there is no difference” in the moral gravity of the act on the basis of a formation distinction. Because both cases involve the intention to destroy life, or to “commit murder by way of advance,” they are condemned. Whether or not the fetus is a fully formed human being makes no difference in the intention to destroy fetal life. Life in the womb, left undisturbed, will eventually become “a perfect man.” While his embryological understanding represented by the metaphor of “fruit in blossom” is outdated, the sentiment of his expression is that the embryo is not to be violated by abortion no matter its stage of development.

Tertullian highlights his disdain for abortion through the specific verbiage he chooses to describe the act. He describes intentional abortions with the term *parricidium*, which is an ancient Roman legal term used solely to describe the murder of close relatives.⁷ This term had not only legal connotations; it also carried seriously negative social overtones as it was considered one of the most shocking crimes a Roman could

⁵ Reeve and Collier.

⁶ Connery, *Abortion: The Development of the Roman Catholic Perspective*, 40.

⁷ Zubin Mistry, *Abortion in the Early Middle Ages, C. 500-900* (Boydell & Brewer, 2015), 39.

commit. By using this term, Tertullian sought to again highlight the “superiority of Christian moral norms” in comparison to the norms of the pagan Roman population.⁸

Tertullian’s discussions of the origins of the human soul also bear impact the conversation. In his writing, he describes a belief that both life and the soul begin at conception (*Treatise on the Soul* XXVII).

Now we allow that life begins with conception, because we contend that the soul also begins from conception; life taking its commencement at the same moment and place the soul does.⁹

In this quote, Tertullian expresses his belief that life begins and ensoulment occurs at conception. Tertullian’s view on the origin of the soul is referred to as traducianism, which teaches that the human soul is passed on to the conceptus, or offspring, from the parents.¹⁰ In this doctrine, the “soul” is present in some capacity in both the sperm and the egg, and their combination results in the immediate formation of a new and distinct soul for the fetus.¹¹ While this view is now known to be heretical, it was not expressly condemned in Tertullian’s day. To back up his view that both the soul and the body are brought forth at conception, Tertullian points to Scriptural references of “the live wombs of the most holy woman and the infants not only breathing there but even prophesying.”¹² He references Jacob and Esau fighting in Rachel’s womb (Genesis 25:22-23), John the

⁸ Mistry, 39.

⁹ Tertullian, *Treatise on the Soul*, 27 as quoted by Jimmy Akin, *The Fathers Know Best: Your Essential Guide to the Teachings of the Early Church* (Catholic Answers, 2010), 234.

¹⁰ Charles Dubray, “Traducianism,” in *The Catholic Encyclopedia* (New York: Robert Appleton Company, 1912), <https://www.newadvent.org/cathen/15014a.htm>.

¹¹ Larry Poston and Lindsey Disney, “The Breath of Life: Christian Perspectives on Conception and Ensoulment,” 2010, 275.

¹² Tertullian, *De Anima* as quoted by Zubin Mistry, *Abortion in the Early Middle Ages, C. 500-900*, 39.

Baptist leaping in Elizabeth’s womb (Luke 1:41), and Mary glorifying the Lord being “magnified” within her (Luke 1:46). He also references Jeremiah 1:5. Gorman notes that Tertullian is the first Christian apologist to reference these Scriptures when discussing the problem of abortion.¹³

Jerome (347-420 AD)

Jerome is a Doctor of the Church, theologian, and historian. He was born in Strido, Dalmatia and studied classical literature, rhetoric, Greek, Latin, and philosophy in Rome.¹⁴ He lived as a hermit before turning to Bible translation and serving as a priest and papal secretary. Jerome is regarded as the “most learned of the Latin Fathers.”¹⁵

Jerome’s most oft-referenced work in the conversation surrounding abortion comes from a letter he wrote in the early 380s. At this point, Jerome was in Rome and had become connected with a group of religious, aristocratic women. One of these women, Paula, had a teenage daughter named Eustochium who desired to become a female ascetic.¹⁶ St. Jerome defines asceticism as “an effort to attain true perfection” of virtue through self-denying acts such as fasting and abstinence.¹⁷ In this letter to Eustochium, Jerome attacks the moral lapses of women in the church who vowed to

¹³ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 57.

¹⁴ “History of St. Jerome,” St Jerome Catholic Church, accessed April 27, 2020, <https://www.stjeromeonline.org/history-of-st-jerome.html>.

¹⁵ “St. Jerome,” Encyclopedia Britannica, January 2, 2020, <https://www.britannica.com/biography/Saint-Jerome>.

¹⁶ Zubin Mistry, *Abortion in the Early Middle Ages, C. 500-900*, 47.

¹⁷ Thomas Campbell, “Asceticism,” in *The Catholic Encyclopedia* (New York: Robert Appleton Company, 1907), <https://www.newadvent.org/cathen/01767c.htm>.

remain virgins. He explains that many of these women attempt to hide their sexual sins by procuring abortions before they are visibly pregnant, which results in grave sin and eternal punishment.

I cannot bring myself to speak of the many virgins who fall every day and are lost to the bosom of the Church, their mother...Some, when they find themselves with child through their sin, use drugs to procure abortion, and when (as often happens) they die with their offspring, they enter the lower world laden with the guilt of not only adultery against Christ but also of suicide and child murder.¹⁸

This passage puts forth a strong condemnation of the practice of abortion. Not only is the abortion a result of the a sin of fornication, it is separately and explicitly condemned as “child murder.” He also recognizes the danger that abortifacient potions pose to the pregnant woman herself, as he writes that these women often “die with their offspring.” Thus, they are guilty of taking their own lives and taking their children’s lives.

Jerome relied on the Septuagint translation of Scripture, and therefore was aware of the formed versus unformed distinction expressed by the mistranslation in Exodus. Because of this mistranslation, Jerome treats as questionable the exact type of sin abortion is before formation. In a letter to Algasia, he writes that “seeds are gradually formed in the uterus, and [abortion] is not reputed homicide until the scattered elements receive their appearance and members.”¹⁹ Therefore, if homicide is defined as taking the life of a human being, abortion cannot be considered homicide in the legal definition until the fetus is fully formed. However, Jerome still considers abortion at any stage to be a sin against God as the giver of life. He considers abortion before formation homicide by intent, but he does not believe it fits the legal definition of homicide.

¹⁸ St. Jerome, *Letters 22:13* as quoted by Akin, *The Fathers Know Best*, 236.

¹⁹ W.H. Fremantle, G. Lewis, and W.G. Martley, trans., “Letter 121,” accessed April 27, 2020, <https://www.newadvent.org/fathers/3001121.htm>.

Another questionable concept in Jerome's writings is his definite opinion on the time when formation is complete, and ensoulment occurs. Unlike Tertullian's traducianism, Jerome espouses the doctrine of creationism and claims that it is the only theory compatible with orthodox Christianity.²⁰ Creationism teaches that "the individual human soul is the immediate act of God's creative act."²¹ Contrary to what traducianists taught, Jerome does not believe that the soul is present in the parent's contributions. Rather, the soul is bestowed on the fetus uniquely by God. While Jerome espoused creationism, he did not say exactly when God endows the fetus with the soul.

Augustine (354-430 AD)

Augustine lived in what is now Algeria. He is best known demonstrating that Christianity could be compatible with the goals and ideals of the classical system of thought.²² Augustine is a Doctor of the Church and is considered the most authoritative writer from the early Christian period.

Augustine's considerations of abortion are best understood in light of his overall writings on the sexual relationship between a married couple. In "Abortion: The Myths, the Realities, and the Arguments," Germain Grisez notes that Augustine's discussion of abortion

²⁰ Jones, "Thomas Aquinas, Augustine, and Aristotle on Delayed Animation," 13-14.

²¹ Francis Siegfried, "Creationism," in *The Catholic Encyclopedia* (New York: Robert Appleton Company, 1908), <https://www.newadvent.org/cathen/04475a.htm>.

²² "Saint Augustine," *Encyclopedia Britannica*, February 19, 2020, <https://www.britannica.com/biography/Saint-Augustine>.

occurs in a context where he is explaining his view that marriage is of itself good and that it uses sexual desire well – though such desire is not of itself good – for the procreation of children.²³

Augustine considers abortion in the context of marriage. He did not consider sexual desire in general to be good; however, such desire can be directed towards good ends such as procreation in the context of a marital relationship. Augustine’s undertones behind his view of sex may be motivated by his own life experiences. Before his conversion, Augustine maintained a sexual relationship with a concubine that produced one son. Mistry notes that “rueful memories of his ... own moral failure occasionally surfaced in his treatises on marriage.”²⁴ In Augustine’s view, married couples sin when they use contraceptives or abortifacients, as they unnaturally frustrate the procreative end of marriage. Augustine characterizes such actions as being motivated by “cruel lust.”

Sometimes this lustful cruelty or cruel lust comes to this that they even procure poisons of sterility, and if these do not work, they extinguish and destroy the fetus in some way in the womb, preferring that their offspring die before it lives, or if it was already alive in the womb, to kill it before it was born. Assuredly if both husband and wife are like this, they are not married, and if they were like this from the beginning, they come together not joined in matrimony but seduction. If both are not like this, I dare to say that either the wife is in a fashion the harlot of her husband, or he is an adulterer with his own wife.²⁵

In Augustine’s understanding, the procurement of an abortion within the context of the marital covenant is grounds for threatening the very legitimacy of the covenant. The couple is joined by “cruel lust” rather than sacred matrimony. This passage became

²³ Germain Grisez as quoted by William May, “Abortion and Ensoulment: Augustine and Aquinas vs. Pelosi and Biden, Part I |,” *Culture of Life Foundation* (blog), September 16, 2008, <https://www.cultureoflife.org/2008/09/16/abortion-and-ensoulment-augustine-and-aquinas-vs-pelosi-and-biden-part-i/>.

²⁴ Zubin Mistry, *Abortion in the Early Middle Ages, C. 500-900*, 48.

²⁵ Augustine, *Marriage and Concupiscence*, as quoted by Noonan, “Abortion and the Catholic Church,” 95.

known as *Aliquando* because of the Latin translation of its opening word, “sometimes.” It is often referenced in ensuing discussions and collections. Augustine sees both the husband and wife as culpable for this sin.

While Augustine was adamant about the sinfulness of abortion, he definitively determine when ensoulment occurs. Augustine remains open to the idea that the soul may be generated by the fetus’ parents, as this would best explain the transmission of original sin.²⁶ However, Augustine was constrained in his views of fetal personhood by his reliance on the Septuagint which implies that only the death of a formed fetus is equivalent to homicide. Augustine comments on this text in *Questions on Exodus 80*, where he treats only the abortion of a formed fetus as homicide.

If therefore there is an unformed embryo, animated in an unformed way – since the great question of the soul is not to be rushed into rashly with thoughtless opinion – then on this account the Law does not pertain to homicide, because it is not yet possible to say that a living soul is in this body since it is bereft of sense, if (the soul) be in flesh that is not yet formed and hence not yet endowed with sense.²⁷

He recognizes that “the Law does not pertain to homicide” for the unformed fetus, but he hedges this statement by commenting that “the great question of the soul is not to be rushed into rashly with thoughtless opinion.” This hedging demonstrates that Augustine did not consider the matter of fetal ensoulment settled. In an effort to reconcile his notion that the soul is generated by the parents with the Septuagint translation of Exodus, Augustine postulates that the fetus may possess a type of soul that is not yet “living” until it possesses “sense.” In considering this argument in his essay “The Human Embryo in

²⁶ David Albert Jones, “The Human Embryo in the Christian Tradition: A Reconsideration,” *Journal of Medical Ethics* 31, no. 12 (2005): 711.

²⁷ Augustine, *Questions on Exodus 80*, as quoted by Jones, “Thomas Aquinas, Augustine, and Aristotle on Delayed Animation.”

the Christian Tradition” D.A. Jones recognizes that Augustine grapples with the Septuagint mistranslation.

This explanation is hardly satisfying. If there is a soul in the unformed embryo then, even if it is dormant, it is surely alive. Augustine struggles and fails to make sense of a text we now know to be a mistranslation.²⁸

In his *Enchiridion*, Augustine discusses what might happen to both the formed and unformed fetus in the Resurrection. Here, he expresses that even unformed fetuses will rise to new life.

But who will dare to deny, though he may not dare to affirm, that at the resurrection every defect in the form shall be supplied, and that thus the perfection which time would have brought shall not be wanting, any more than the blemishes which time did bring shall be present: so that the nature shall neither want anything suitable and in harmony with it that length of days would have added, nor be debased by the presence of anything of an opposite kind that length of days has added; but that what is not yet complete shall be completed, just as what has been injured shall be renewed.²⁹

This treatment of the unformed fetus expresses a belief that human life is present in some way in the womb even before ensoulment occurs. In the resurrection, Augustine believes that “every defect of form shall be supplied” for unformed fetuses, and that they will rise alongside the unformed fetuses.

Overall, Augustine does not use the formation distinction in Exodus to justify early abortions. While he condemns late abortions of formed fetuses on the grounds of the fetus’ status as a human being, he additionally condemns the abortion of the unformed fetus as a violation of the sacred nature of the marriage covenant. Additionally, while constrained by the Septuagint’s mistranslation, Augustine expresses an inclination

²⁸ Jones, “The Human Embryo in the Christian Tradition,” 712.

²⁹ J.F. Shaw, trans., “Augustine’s ENCHIRIDION, Chs. 78-96,” accessed April 28, 2020, <http://www.leaderu.com/cyber/books/augenchiridion/enchiridion78-96.html>.

to treat even the unformed fetus as human in some sense. Noonan notes that the distinctions of form and ensoulment serve to allow Augustine language to condemn three separate acts as sinful: contraception, the killing of the unformed fetus, and the killing of the formed fetus.³⁰

Early Church Fathers of the Eastern Church

Clement of Alexandria (150-215 AD)

Clement of Alexandria was a Christian convert and missionary, as well as a catechetical teacher in Alexandria.³¹ In his writing, Clement attempted to demonstrate the intellectual capabilities of Christianity by combining it with Greek thought.³² While Clement only mentioned abortion twice in his extensive writings, it is clear that he is decidedly opposed to it. Clement mentions the *Apocalypse of Peter's* teaching on abortion in his second century work, *The Tutor*.³³

Our whole life can go on in observation of the laws of nature, if we gain dominion over our desires from the beginning and if we do not kill, by various means of perverse art, the human offspring, born according to the designs of divine providence; for these women who, in order to hide their immorality, use abortive drugs which expel the matter completely dead, abort at the same time their human feelings.³⁴

³⁰ Noonan, "Abortion and the Catholic Church," 96.

³¹ "Saint Clement of Alexandria," Encyclopedia Britannica, January 3, 2020, <https://www.britannica.com/biography/Saint-Clement-of-Alexandria>.

³² Ronald J. Sider, *The Early Church on Killing: A Comprehensive Sourcebook on War, Abortion, and Capital Punishment* (Baker Books, 2012): 26.

³³ Di Mauro, *A Love for Life*, 11.

³⁴ Clement of Alexandria, *The Tutor* as quoted by Di Mauro, 11.

This quote recognizes the damaging effects abortive potions can have on the woman consuming them, as well as the harmful emotional complications that can follow abortions. Additionally, Clement frames abortion as contrary to the natural laws of nature, in which parents are supposed to look after and care for their offspring. Later comments by Thomas Aquinas will also discuss abortion as contrary to the natural law.

Basil of Caesarea (330-379 AD)

Basil is one of the Cappadocian Fathers of the Church. He is known as a great orthodox theologian, as well as a reformer and the Father of Eastern Monasticism.³⁵ The main source for Basil's opinions on abortion come from his Canonical Letters, which held great influence over theology and doctrine in the Eastern Church as a whole. In these letters, Basil accepts the ten year penance for abortion from the Council of Ancyra as opposed to the life-long penance of Elvira. Additionally, Basil rejects the formed versus unformed distinction in a 347 AD letter to Ampilocheus.³⁶

She who has deliberately destroyed a fetus has to pay the penalty of murder. And there is no exact inquiry among us as to whether the fetus was formed or unformed. For, here it is not only the child to be born that is vindicated, but also the woman herself who has made an attempt against her own life, because usually the women die in such attempts. Furthermore, added to this is the destruction of the embryo, another murder, at least according to the intention of those who dare these things. Nevertheless, we should not prolong their penance until death, but should accept a term of ten years, and we should determine the treatment not by time, but by the matter of repentance.³⁷

³⁵ Gorman, *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*, 66.

³⁶ James A. Coriden, "Church Law and Abortion," *Jurist* 33 (1973): 188.

³⁷ Agnes Way and Roy Deferrari, "188 (1) . To Amphilochius, Concerning the Canons (1-16)," in *The Fathers of the Church*, vol. 28 (Catholic University of America Press, 1955), 12-13, <https://doi.org/10.2307/j.ctt32b0bp.6>.

In this passage, Basil considers the destruction of the fetus to be equivalent to murder. He also firmly rejects any distinction in penance related to the Septuagint's consideration of formed versus unformed fetuses. He considers an "obsessive precision" related to the exact moment of formation to be morally irrelevant because it is too subtle.³⁸ All abortions have as their intent the embryo's destruction, and therefore should be considered homicide in Basil's view. This letter also recognizes the danger that abortifacients pose to the mother herself. Basil is more concerned with the individual woman's personal repentance than the length of the penitential period. In a later letter, Basil states that those who supply a woman with abortifacient drugs are also guilty of homicide.³⁹

John Chrysostom (347-407 AD)

John Chrysostom is considered to be the greatest Doctor of the Greek Church as well as a gifted preacher.⁴⁰ Chrysostom makes a unique contribution to the discussion surrounding abortion because he directs his critiques towards men. He places his condemnation of abortion in the context of the plight of prostitutes.

I beseech you, flee fornication...why sow where the ground makes it its job to destroy the fruit? Where there are many efforts at abortion? Where there is murder before the birth? For even the harlot you do not let continue a mere harlot but make her a murderess also. You see how drunkenness leads to whoredom, whoredom to adultery, adultery to murder, or rather to something even worse than murder. For I have no name to give it, since it does not take away the thing born, but prevents it being born Why then dost thou abuse the gift from God, and fight with His laws, and follow after what is a curse as if a blessing, and make the chamber of procreation a chamber for murder, and arm the woman that was given

³⁸ Zubin Mistry, *Abortion in the Early Middle Ages, C. 500-900*, 52.

³⁹ Connery, 50.

⁴⁰ Chrysostom Baur, "John Chrysostom," in *The Catholic Encyclopedia* (Robert Appleton Company, 1910), <https://www.newadvent.org/cathen/08452b.htm>.

for childbearing into slaughter? For with a view to drawing more money by being agreeable and an object of longing to her lovers, even this she is not backward to do, so heaping upon thy head a great pile of fire. For even if the daring deed be hers, yet the causing of it is thine.⁴¹

In this quote, Chrysostom discusses abortion in the context sexual sins, but does not view it as only the fault of the woman involved. In addressing the Romans, he includes his observations that abortions are often sought out by prostitutes to preserve their sexual appeal, as their job and livelihood hinged on their physical attractiveness. Rather than minimize or invalidate these concerns, Chrysostom recognizes them as valid, and instead directs his homily towards men. He sees them as ultimately responsible, writing that “even if the daring deed be hers, yet the causing of it thine.” Men’s drunkenness leads to visiting brothels, committing adultery, and then forcing prostitutes into having abortions. In this quote, Chrysostom also speaks of abortion as murder, or “something even worse than murder.” He writes that the prostitute’s sin is compounded by abortion because she ceases “to be a mere harlot” and becomes “a murderess also.”

Penitential Canons and Development of Early Canon Law

Penitential Canons

A penitential is a document that names specific sins and aligns them with an appropriate corresponding penance. In order for an offense to be included in a penitential canon, it had to be considered a particularly grave sin because officially legislated penances are not necessary for venial, or less serious sins. Typically, these penances

⁴¹ John Chrysostom, Homilies on Romans 24 as quoted by Jimmy Akin, *The Fathers Know Best: Your Essential Guide to the Teachings of the Early Church* (Catholic Answers, 2010), 236.

involve prescribed periods of fasting.⁴² Prior to the popularized use of penitential canons, punishments related to the sin of abortion were documented through canonical legislation from councils such as Elvira and Ancyra previously mentioned. These councils discussed punishments that involved excluding the person responsible for the abortion from communion with the faithful community, either for life or for a period of ten years.

As previously discussed, while the norm of the ten-year penitential period established at Ancyra was generally accepted, it was never officially legislated. At this time, penances for various sins varied drastically by location and were documented in penitential canons.⁴³ The documented penances for abortion contained within the canons demonstrate that the formation and ensoulment distinctions continued to be influential through the medieval era, as some penitential canons describe graded penances based on the fetus' developmental stage. For example, the Penitential of Theodore, Archbishop of Canterbury stated that the punishment for aborting a fetus prior to 40 days was one year in duration. However, after 40 days, the punishment lasted 3 years.⁴⁴ Similarly, the Old Irish Penitential sets specific penances based on such distinctions.

A woman who causes a miscarriage of that which she has conceived after it has become established in the womb, three and a half of penance. If the flesh has formed, it is seven years. If the soul has entered it, fourteen years' penance.⁴⁵

While this penitential differentiates between abortions rendered after formation and after ensoulment, it does not explicitly state when ensoulment was believed to occur.

⁴² Zubin Mistry, *Abortion in the Early Middle Ages, C. 500-900*, 126.

⁴³ Connery, *Abortion: The Development of the Roman Catholic Perspective*. Connery, 74

⁴⁴ *Early Penitentials The Canons of Theodore*, accessed April 28, 2020, <http://archive.org/details/EarlyPenitentialsTheCanonsOfTheodore>.

⁴⁵ E. J. Gwynn, "An Irish Penitential," *Ériu* 7 (1914): 167.

Typically, the terms “formation,” “ensoulment,” and “animation” were used interchangeably, so it is unusual and unique that this canon differentiates between formation and ensoulment.

Early canon law documents written and circulated around this time drew upon the penitential documents. Two specific early canon law collections will be discussed in the subsequent section, as they were greatly influential to later Church legislation and discussion concerning abortion and ensoulment. While one did draw upon these penitential documents, the other focused more on statements from Church Fathers such as Augustine.

Regino of Prüm's Libri synodales

In the 10th century, bishops made concerted efforts to instill uniformity of penance across the larger Church so that penances did not vary greatly by location. In order to accomplish this uniformity, several synodal meetings were held. One of the most influential collections put together for these synods was the *Libri synodales*, published by Regino of Prüm. This collection aimed to inform synod attendees with a background on a variety of issues and their past associated penances. It was commissioned by the Archbishop of Trier, Rathbod and completed in 906 AD.⁴⁶ This collection was officially titled *Libri duo de synodalibus causis et disciplinis ecclesiasticis*.⁴⁷ In this compilation, Regino included upon both conciliar precedent and penitential documents in his consideration of abortion.

⁴⁶ Constant van de Wiel, *History of Canon Law* (Peeters Publishers, 1991), 70.

⁴⁷ Wiel, 70.

When dealing with the abortion, Regino cited the council canons of Ancyra and Elvira. Additionally, he cited the penitential canon of Pseudo-Bede. Similar to the Old Irish Penitential, this penitential canon describes three periods of penance according to separate stages of fetal development. If the fetus is destroyed before forty days, the woman must complete a one-year penance. After forty days, the penance is three years. After ensoulment, the penance for homicide applies. These distinctions are noteworthy because other penitential canons indicate that the time of animation (post-forty days) and ensoulment are the same.

The most impactful section of *Libri synodales* does not come from a canon that explicitly mentions abortion (*Libri synodales*, II.89).

If someone to satisfy his lust or in deliberate hatred does something to a man or woman so that no children can be born of him or her, or gives them to drink, so that he cannot impregnate or she cannot conceive, let this be treated as homicide.⁴⁸

This passage became known as *Si aliquis* due to the Latin translation of its opening words “if someone.”⁴⁹ On an explicit level, this passage applies to sterilization practices. This line of reasoning hearkens back to Jerome’s condemnation of contraceptive acts as similar to homicide.⁵⁰ However, abortion is implicitly included in the condemnation. If one who causes sterility before conception has even taken place should be considered as a murderer, one who causes an abortion should be considered a murderer even more so. The *Si aliquis* passage is referenced in later documents.

⁴⁸ Regino of Prüm, as quoted by James A. Brundage, “Canon Law and Contraception,” in *Encyclopedia of Birth Control*, ed. Vern L. Bullough (ABC-CLIO, 2001), 52.

⁴⁹ Brundage, 52.

⁵⁰ W.H. Fremantle, G. Lewis, and W.G. Martley, trans., “Letter 22,” accessed April 28, 2020, <https://www.newadvent.org/fathers/3001022.htm>.

Ivo of Chartres' Decretum

Ivo of Chartres was one of the most important bishops of France in the 12th century, and he is considered to be the most important canonist before Gratian.⁵¹ He was a prolific writer, and he is best known for his collections of canonical writings, letters, and sermons. Of his writings, Ivo of Chartres' *Decretum* was most influential to the Church's conversation on abortion at the time. This document was published in 1094, and it is a concise, practical work that seeks to apply canon law to marriage cases.⁵² It is divided into a total of seventeen themed sections. In his discussion of abortion, Ivo cites the opinions of the Councils of Ancyra and Lerida, the canon of Martin of Braga, and Augustine. Notably, he does not draw upon the penitential documents. This suggests that by this time, official canon law took precedent over local penitential collections.

In citing Augustine, Ivo refers to his *Aliquando* passage. While Ivo considered abortion a grave sin when procured both before and after ensoulment, he agrees with Augustine and only considers it to qualify as homicide post-ensoulment.⁵³ This opinion is further promulgated by Gratian in his *Decretal* collection as well.

⁵¹ Joseph Ghellinck, "St. Ivo of Chartres," in *The Catholic Encyclopedia* (New York: Robert Appleton Company), accessed April 28, 2020, <https://www.newadvent.org/cathen/08257a.htm>.

⁵² Peter Biller, *The Measure of Multitude: Population in Medieval Thought* (Oxford University Press on Demand, 2000). 158

⁵³ Connery, *Abortion: The Development of the Roman Catholic Perspective*, 87.

High Points of the Ensoulment Distinction

Gratian's Decretum

Johannes Gratian was a Camaldolese monk and bishop who is often referred to as the “Father of the Science of Canon Law.”⁵⁴ However, much of Gratian’s personal life is unknown as his earliest biographies date to the thirteenth century.⁵⁵ While earlier documents such as Ivo of Chartres’ *Decretum* demonstrate the early developments of canon law, this document is much more formalized and systematic in tone.⁵⁶ Gratian’s main contribution to this conversation is known as the *Decretum Gratiani*, or the *Concordantia Discordantium Canonum*. Commonly referred to as Gratian’s *Decretum*, this collection was prepared in 1140. Peter Landau notes that the *Decretum* provides both a summary of Church law from the first eleven centuries, and also the foundation for canon law through the twentieth century.⁵⁷ While it was not officially commissioned or approved by a pope, the *Decretum* was heavily relied upon by schools of canon law at the time.⁵⁸ It continued the Church’s longstanding tradition of unequivocal condemnation of abortion at any stage, though it did distinguish between early and late abortion on the basis of ensoulment for the legal charge of homicide.

⁵⁴ “Gratian’s Decree,” 1165, <https://www.wdl.org/en/item/14708/>.

⁵⁵ Peter Landau, “Gratian and the Decretum Gratiani,” in *The History of Medieval Canon Law in the Classical Period, 1140-1234* (Catholic University of America Press, 2008), 22–54, <http://www.jstor.org/stable/j.ctt2853s5.6>.

⁵⁶ Sisk and Reid Jr, “Abortion, Bishops, Eucharist, and Politicians.”

⁵⁷ Peter Landau, “Gratian and the Decretum Gratiani.”

⁵⁸ Anders Winroth, *The Making of Gratian's Decretum* (Cambridge University Press, 2000), 2.

Gratian collected and examined several existing texts on the topic of abortion, namely Augustine's writings (as quoted by Ivo of Chartres). Similar to Ivo of Chartres, Gratian cites Augustine to distinguish between an animate fetus and an inanimate fetus for the legal charge of homicide. Biller observes the systematic, step-by-step style of the *Decretum's* examination of moral issues.

Gratian's schematicism smells of the textbook and the classroom. First, marriage: for procreation or incontinence. Second, incontinence: with or without deliberate avoiding? Third, deliberate avoiding: avoiding contraception or abortion. Fourth, abortion: early or late?⁵⁹

In his discussion of abortion, Gratian advances two central points through the *Decretum*. Firstly, in referencing Augustine's *Aliquando*, Gratian confirms that married couples who use sterilizing or contraceptive drugs are acting in violation of the marriage covenant. Secondly, he speaks of abortion in reference to homicide. While he condemns both early and late abortion as contrary to the sacred nature of marriage, Gratian only considers late abortion of an ensouled fetus to be homicide according to canon law. He writes, "He is not a murderer who brings about abortion before the soul is in the body."⁶⁰ Overall, while Gratian's *Decretum* considers abortion at any stage abhorrent, only abortion of an animated fetus carries the same legal penalty as homicide. However, he does not define when ensoulment occurs in utero.⁶¹

⁵⁹ Biller, *The Measure of Multitude*, 159.

⁶⁰ Gratian's *Decretals* 8.32.2 as quoted by Frank K. Flinn, *Encyclopedia of Catholicism* (Infobase Publishing, 2007), 4.

⁶¹ Harrington, "Abortion," 50.

Pope Gregory IX's Decretals

Pope Gregory IX commissioned Raymond of Pennafort to compile an official collection of the new canon law for the universal Church in 1234.⁶² Raymond of Pennafort was from Barcelona, and he became a professor of canon law in 1195. He taught for fifteen years before completing his canon law studies in Bologna in 1210, serving as a university canon law chair, and publishing a treatise on ecclesiastical legislation.⁶³

Raymond selected two canons that related to abortion, namely a letter dating to 1211 A.D. written by Pope Innocent III and Regino of Prüm's *Si aliquis*. The 1211 letter of Pope Innocent III concerned a canon that determined for what offense a priest obtained an "irregularity." An irregularity is defined as "a canonical impediment directly impeding the reception...of Holy Orders or preventing the exercise of orders already received."⁶⁴ In the letter, which was later referred to as *Sicut ex*, Innocent writes that an irregularity is only incurred for the abortion of a "vivified," or ensouled, fetus.⁶⁵ The only norm mentioned as far as time of vivification was concerned was the Aristotelian forty-day criterion for male fetuses, and ninety-day measure for female fetuses.⁶⁶

The second canon Raymond included was the *Si aliquis* from Raymond of Prüm. As previously stated, this canon states that any act a married couple participates in that

⁶² Coriden, "Church Law and Abortion" 191.

⁶³ Michael O'Kane, "St. Raymond of Peñafort," in *The Catholic Encyclopedia* (New York: Robert Appleton Company, 1911), <https://www.newadvent.org/cathen/12671c.htm>.

⁶⁴ William Fanning, "Irregularity," in *The Catholic Encyclopedia*, 1910, <https://www.newadvent.org/cathen/08170a.htm>.

⁶⁵ Noonan, "Abortion and the Catholic Church." 99.

⁶⁶ Coriden, "Church Law and Abortion," 191.

interferes with or prevents conceptions should be considered as homicide. On the surface, the inclusion of both *Sicut ex* and *Si aliquis* appears to spark contradiction. On one hand, only the abortion of a formed fetus results in an irregularity due to homicide, while on the other any act that merely interferes with conception in general is considered homicidal. Harrington responds to the apparent contradiction between including *Sicut ex* and *Si aliquis* by noting the difference between “murder” and “quasi-homicide.”

“In the Decretal law, abortion, sterilization, contraception, and any interference with procreation was considered to be murder. The commentators on the Decretal laws interpreted the canons to mean that abortion of an animated fetus was true murder because a human being was killed and merited the full penalties for murder... The abortion of a non-animated fetus, sterilization and contraception were considered to be quasi-homicide or conditioned or interpretative homicide because of the spiritual penances, which were imposed.”⁶⁷

By including both canons, Raymond is drawing a distinction between acts that have the intention of murder of potential human beings and acts that actually murder ensouled fetuses. Both are considered abhorrent in terms of morality and sinfulness, but only the abortion of an ensouled fetus can result in full penalties of homicide.

Thomas Aquinas (1226-1274)

Thomas Aquinas was a prominent Italian theologian and Doctor of the Church, who lived at a time when the introduction of the Latin translations of Aristotle’s works impacted the cultural conversation surrounding the relationship between faith and reason.⁶⁸ He is best known for his two masterworks: the *Summa Theologica* and the

⁶⁷ Harrington, “Abortion,” 51.

⁶⁸ Ralph McInerney and John O’Callaghan, “Saint Thomas Aquinas,” in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, Summer 2018 (Metaphysics Research Lab, Stanford University, 2018), <https://plato.stanford.edu/archives/sum2018/entries/aquinas/>.

Summa Contra Gentiles. In their article “Aquinas on Human Ensoulment, Abortion, and the Value of Life,” John Haldane and Patrick Lee note that abortion is not a topic discussed extensively in Aquinas’ writings, and that he never specifically tackles the idea of intended abortion.⁶⁹ However, Aquinas’ acceptance of Aristotle’s hylomorphic theory and his considerations of abortion in light of natural law shaped the Church’s discussion and subsequent casuistic considerations of possible exceptions.

Haldane and Lee note that there are only two places in Aquinas’ writings where the topic of abortion is generally mentioned. He discusses accidental abortion in the context of Exodus 21:22 (ST I-II, Q64, ad. 2).

He that strikes a woman with child does something unlawful: wherefore if there results the death of the woman or of the animated fetus, he will not be excused from homicide, especially seeing that death is the natural result of such a blow.⁷⁰

Here, Aquinas accepts the animation distinction as it relates to the accidental abortion in Exodus. He agrees that if the woman or animated fetus dies, the punishment for homicide results. However, the central consideration Aquinas grapples with here is the accidental nature of the miscarriage, not the formation distinction. While he recognizes that the miscarriage was not directly intended by the act of striking, it is still punishable because the overall act of striking a bystander is wrong.

Aquinas’ writings also recognize that the fetus is not be valued above the mother in answering the question of whether one should remove a fetus from the womb if it is in danger of dying so that it may be baptized. In his response, Aquinas quotes Romans 3:8,

⁶⁹ John Haldane and Patrick Lee, “Aquinas on Human Ensoulment, Abortion and the Value of Life,” *Philosophy* 78, no. 2 (2003): 255–278.

⁷⁰ St Thomas Aquinas, *Summa Theologica Part II (“Secunda Secundae”)* (Annotated Edition) (Jazzybee Verlag, 2012).

expressing that evil is not to be done so that good can come of it. Haldane and Lee point out that according to this principle, Aquinas says that one should not commit homicide against the mother so that the good of baptism can be accomplished.⁷¹ The fetus and the mother's life are of equal value, and one is not to be valued above the other.

While Aquinas did not discuss intended abortion, his acceptance of Aristotelian embryology andhylomorphic theory impacted the theological conversation surrounding the formation distinction. Because it was the preeminent scientific opinion of his day, Aquinas accepted Aristotle's understanding that conception and early embryological development involved "the solidification and formation of menstrual fluid under the influence of the father as mediated by the semen."⁷² He held that the developing fetus first possesses a vegetative soul, then sensitive, and finally a rational was infused by God after forty or ninety days depending on the fetus' gender (*SCG*, 88.89).

For since the soul is united with the body as a form, it is only united with that body of which it is properly the actualization. Now the soul is the actualization of an organized body. Therefore, before the organization of the body the soul is in the male semen, not actually, but virtually.⁷³

According to Aquinas, rational soul can only be infused when the body is properly formed enough to receive it. Aquinas also goes beyond Aristotle's claims to say that God individually creates and infuses the rational soul when proper formation is reached.⁷⁴ This involves the beginnings of sensory organs, such as the brain.⁷⁵ Centrally, Aquinas'

⁷¹ Haldane and Lee,, "Aquinas on Human Ensoulment, Abortion, and the Value of Life," 257.

⁷² Haldane and Lee, 261.

⁷³ Saint Thomas Aquinas, *Saint Thomas Aquinas Collection [22 Books]* (Aeterna Press, n.d.).

⁷⁴ Ford, *When Did I Begin?*, 40.

⁷⁵ Haldane and Lee, "Aquinas on Human Ensoulment, Abortion and the Value of Life," 267.

key metaphysical principle concerning ensoulment is that “in a material substance the matter must be proportioned to the form, or in a living material substance, to the soul.”⁷⁶ Aquinas’ claims related to the succession of souls are founded in his biological understanding of how generation occurs, as gathered from Aristotle. Haldane and Lee note that if the semen does not act in the formative way Aristotle, and therefore Aquinas, postulate, the embryo’s soul itself must be responsible for that formation.⁷⁷ Later reconsiderations of the Aristotelian framework by Thomas Fienus and Paolo Zacchia discuss this possibility.

The 1974 Declaration on Procured Abortion mentions Aquinas directly, stating that he taught “abortion is a grave sin against the natural law.”⁷⁸ Aquinas’ teaching referred to here comes from Question 94 of the *Summa*, in which he writes that the “first precept” of natural law is that “good ought to be done and pursued and evil ought to be avoided.”⁷⁹ On a basic level, for human beings “pursuing good” involves a desire to remain in existence. In the article “Natural Law and Abortion,” Howard Kainz writes that

The corollary duty for us who observe this law operative in some other individual is to respect that tendency, and do nothing to impede it, as long as that individual does not forfeit his rights in some way.⁸⁰

⁷⁶ Haldane and Lee, 268.

⁷⁷ Stephen J. Heaney, “Aquinas and the Presence of the Human Rational Soul in the Early Embryo,” *The Thomist: A Speculative Quarterly Review* 56, no. 1 (1992): 29.

⁷⁸ Congregation for the Doctrine of the Faith, “Declaration on Procured Abortion,” November 18, 1974, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html, 7.

⁷⁹ Saint Thomas Aquinas, *Summa Theologica*, I-II, 9. 94, art. 2

⁸⁰ Howard Kainz, “Natural Law and Abortion,” *Crisis Magazine*, January 6, 2010, <https://www.crisismagazine.com/2010/natural-law-and-abortion>.

Humans are to respect other individuals' desire for and right to existence and not impede it in any way, unless that right is forfeited through unjust aggression. The second precept of the natural law describes that parents bear especially grave, self-sacrificing responsibility to their offspring. In light of both these principals, abortion is gravely contrary to natural law.

Conclusion

While distinctions of formation and ensoulment were not mentioned in early Church documents and councils, this distinction was discussed by Church Fathers. This distinction did not result in an acceptance of early abortions, but it did affect penalties and considerations of what type of legal crime early abortion was to be considered. This distinction is reflected in medieval penitential canons, as well as early collections of canon law such as Gratian's *Decretum*. Additionally, Thomas Aquinas accepted the distinction on the basis of his understanding of Aristotelian biology.

CHAPTER THREE

Solidification of the Modern Penalties

Introduction

After Thomas Aquinas introduced the idea that, according to natural law, one may forfeit his/her right to life through unjust aggression, the question was raised as to whether a fetus may qualify under the title of “unjust aggressor” when a mother’s life was endangered because of the pregnancy. This consideration was discussed by prominent casuists such as John of Naples and Thomas Sanchez and helped to define the Church’s understanding of procedures which qualify as direct abortions versus those that are considered legitimate medical interventions. In the seventeenth century, scientific progress in the area of embryology helped disprove Aristotle’s biological ideas and resulted in the removal of the canon law distinction between formed and unformed fetuses. In the 19th and 20th centuries, the Church promulgated several encyclicals affirming the dignity of human life from conception to combat cultural acceptance of abortion, contraception, and reproductive technologies such as in-vitro fertilization.

Casuistic Considerations of Possible Exceptions

John of Naples

John of Naples, also known as Johannes de Regina, was a 14th century Dominican theologian and respected teacher.¹ He was a student of Thomas Aquinas and therefore he

¹ Romanus Cessario OP and Cajetan Cuddy OP, *Thomas and the Thomists: The Achievement of Thomas Aquinas and His Interpreters* (Fortress Press, 2018), 56.

tended to use quotations from Aquinas to support his ideas.² John of Naples is notable in the Church's conversation surrounding abortion and fetal animation because he was the first to suggest that the distinction between an animated and unanimated fetus could be used to support an exception to the general condemnation of abortion in cases where the life of the mother was in danger. These abortions were referred to as "therapeutic abortions," because they were reasoned to have a therapeutic benefit to the mother's life. John of Naples' consideration of therapeutic abortion influenced casuistic inquiry into this exception consideration.

In his *Quodlibets*, John allowed for the abortion of an unanimated fetus when it was necessary in order to preserve the life of the mother. The rudimentary reasoning behind his support of this exception was that the unanimated fetus was not yet an actual human being, as it was thought to lack a soul. *Criminalization of Abortion in the West*, Wolfgang Müller explains that John's logic was informed by previous conclusions of Peter the Chanter. After considering the case of a physician asked to supply a woman with contraceptives who would perish should she become pregnant, Peter concludes that the physician cannot supply contraceptive drugs. Because contraceptives are considered morally illicit, they cannot be used as direct means to achieve a good.³

Recalling this reasoning in 1320, John of Naples argued that a physician should not induce an abortion on a woman, even if she was to die in childbirth.⁴ This echoes Peter the Chanter's previous maxim. However, he suggests that there can be two different

² Wolfgang P. Müller, *The Criminalization of Abortion in the West: Its Origins in Medieval Law* (Cornell University Press, 2012): 111.

³ DeMarco, *The Roman Catholic Church and Abortion*.

⁴ Müller, *The Criminalization of Abortion in Medieval Law*, 112.

morally licit approaches based on whether or not the fetus has achieved formation and possess a soul. Müller explains John of Naples' justification.

For assuming the body in the womb had not yet acquired human features, it seemed permissible in his eyes to have an abortion performed on the grounds of necessity. The inanimate embryo lacked an immortal soul, and interrupting gestation prematurely implied the sacrifice of a lesser good for a greater one, the demise of a future instead of an actual person.⁵

If the threshold of formation had been crossed, it would be morally illicit to induce an abortion. However, if the fetus was considered unformed or unensouled, John of Naples advocates for saving the life of the mother over the potential life of the fetus.

Thomas Sanchez

While John of Naples introduced the general idea of weighing other values (such as the life of the mother) against the value of the life of the unensouled fetus, Thomas Sanchez, a 16th century Jesuit theologian. Sanchez was born in Cordoba, Spain and entered the Society of Jesus (known as the Jesuit order) in 1567.⁶ He is considered a principal theologian of the Spanish Golden Age, and is best known for his prominent writing concerning marriage. One of his central works, *De Sancto Matrimonii Sacramento*, discusses the morality of both contraception and abortion. While Sanchez upholds a firm general condemnation of contraception, he writes that the condemnation of abortion could lawfully have exceptions during the period of time when the fetus is not yet considered to be ensouled.⁷

⁵ Müller, *The Criminalization of Abortion in the West*, 112.

⁶ John Witte, Gary S. Hauk, and Rafael Domingo, eds., "Thomas Sanchez," in *Christianity and Family Law: An Introduction* (Cambridge University Press, 2017), 247.

⁷ Noonan, "Abortion and the Catholic Church," 105.

Continuing John of Naples argumentation, Sanchez proposes that in cases where the mother would perish lest intervention occur, direct abortion of the un-ensouled fetus is permissible. Recalling Aquinas' teaching, Sanchez compared the fetus to an "unjust attacker." In situations where the mother's life was in danger as a result of her pregnancy, he felt that the only way to ameliorate the situation was to destroy the fetus. After establishing this general framework, Sanchez applies it to specific hypothetical considerations. This exercise of reasoning from general principles to more challenging, specific cases is known as casuistry.⁸ Sanchez drew heavily upon casuistry in his writings challenging the Church's absolute prohibition on abortion.

In *De Sancto*, Sanchez considered three specific cases involving balancing the life of the mother and the life of the fetus. Noonan documents that the first case Sanchez considered involves an unmarried woman who would face death if her pregnancy was publicly revealed. In response to this situation, Sanchez wrote that the abortion of an unensouled fetus would be licit.⁹ Secondly, he discusses an engaged woman who is pregnant by someone other than her fiancé and facing similar deathly consequences should her pregnancy be discovered. Echoing the first situation, Sanchez writes that abortion of the unensouled fetus should be allowed. However, Sanchez clarifies that "if an abortion were merely to protect a girl's reputation, the peril was too remote, the fetus not an attacker" the abortion would be considered unjustified.¹⁰ The woman must be

⁸ David P. Schmidt, "Casuistry," Encyclopedia Britannica, September 15, 2014, <https://www.britannica.com/topic/casuistry>.

⁹ Noonan, "Abortion and the Catholic Church," 106.

¹⁰ Noonan, 106.

facing immediate, deathly consequences for carrying her pregnancy for this argument to apply.

Finally, Sanchez considers a situation that helps set the stage for later debates concerning procedures or means that qualify as a direct abortion, versus those that constitute legitimate medical intervention. He discusses whether a woman can lawfully take medications necessary to her health even if they may impact the life of an ensouled fetus. Noonan explains Sanchez's conclusions, and his early differentiation of a direct abortion from a medical procedure that does not principally intend to destroy the embryo.

If the means 'tended directly' to killing the embryo, as would its wounding or beating or the use of poisonous drugs directed to its death, they were not lawful. Nor were they lawful if there were a doubt as to the ensoulment of the fetus... But other means which endangered the embryo also served the health of the mother... Sanchez held that they were lawful even if they were equally directed to the killing of the fetus and the salvation of the mother.¹¹

Sanchez allows for more direct exceptions to the general prohibition on abortion for the unensouled fetus, but he is must more cautious and rigid when considering situations involving the ensouled fetus. When discussing the ensouled fetus he believed that only certain interventions that principally intend to save the life of the mother and do not directly involve the fetus' destruction are acceptable. However, he allows for actions directly intended to destroy the unensouled fetus. It is important to note, however, that he warns against pursuing any drastic actions if there is "doubt as to the ensoulment of the fetus." The distinction between direct abortion and legitimate interventions for the mother's health was the subject of vitriolic debate in subsequent centuries, and only became more complex as medical interventions developed further. This distinction was

¹¹ Noonan, 106.

better clarified and established in the 1940s by Pope Pius XII, whose comments will be discussed later.

Pope Innocent XI's Condemnation

Pope Innocent XI implicitly censured the opinions of John of Naples and Thomas Sanchez in his papal bull *Sanctissimus Dominus* issued on March 2nd, 1679. Innocent XI is remembered as a pope who was deeply concerned with preserving purity of faith and morals among his flock, both lay and clerical. In pursuit of this goal, he reformed monasteries, discouraged gambling, encouraged modesty among women, and encouraged clergy to set the example for laity in terms of leading pure lives.^{12,13}

In *Sanctissimus Dominus*, Innocent XI railed against several propositions that he considered to communicate moral laxity, and two mention abortion. Included among these propositions was Thomas Sanchez's argument for the abortion of the unensouled fetus when the mother's life was endangered by the discovery of her pregnancy.¹⁴ The first principle Innocent XI rejects is listed as number thirty-four in the document, writing, "It is lawful to procure an abortion before the conception is quickened, lest the woman being discovered to be with child should be either killed or defamed."¹⁵ Here, Innocent XI flatly rejects that such an exception to the general prohibition on direct abortion can

¹² The Editors of Encyclopedia Britannica, "Blessed Innocent XI," Encyclopedia Britannica, August 8, 2019, <https://www.britannica.com/biography/Blessed-Innocent-XI>.

¹³ Michael Ott, "Pope Innocent XI," in *The Catholic Encyclopedia* (New York: Robert Appleton Company, 1910), <https://www.newadvent.org/cathen/08021a.htm>.

¹⁴ Katherine Brind'Amour and Benjamin Garcia, "Pope Innocent XI (1611-1689)," The Embryo Project Encyclopedia, November 11, 2007, <https://embryo.asu.edu/pages/pope-innocent-xi-1611-1689>.

¹⁵ Pope Innocent XI, "A Decree Made at Rome, The Second of March 1679 Condemning Some Opinions of the Jesuits and Other Casuists," 1679, http://eebo.chadwyck.com.ezproxy.baylor.edu/search/full_rec?SOURCE=pgimages.cfg&ACTION=ByID&ID=V94678&discovery_service=primo.

be made even for an unanimated fetus, here referred to as “before the conception is quickened.” The fetus is innocent, and therefore does not qualify as an “unjust aggressor.” In order to be considered an unjust aggressor, one must be guilty of knowingly committing an offense against another person. The fetus does not meet this criterion, and therefore no act that directly intends the fetus’ destruction can be permissible. However, Innocent does not specifically address what treatments or interventions are deemed “indirect” and which are considered “direct.”

The second principle Innocent XI rejects refers to the concept of ensoulment or hominization before birth on the whole, and it is listed as number thirty-five in the document. This principle states:

It seems probable that all Conceptions as long as they are in the Womb, are without a reasonable Soul; and that they begin to have one when they are first born, and by consequence there is no murder committed in any abortion.¹⁶

In keeping with Church tradition, in this principal Innocent XI reaffirms that the unborn fetus is considered human, and that ensoulment does not occur after birth. This reaffirms the idea that the soul is not conferred with the first breath, as some ancient philosophies suggested, but that it is bestowed in the womb.

16th through 18th Century Discussion

Pope Sixtus V's Effraenatam

On October 29, 1588, Sixtus V issued a set of canon laws that were primarily aimed at mitigating the growing practice of prostitution in Rome. These laws became known as the papal bull *Effraenatam*, and they included severe prohibitions against

¹⁶ Pope Innocent XI.

abortion. Unlike the casuist arguments of John of Naples and Thomas Sanchez, this document is meant to determine general prohibitions, not analyze specific situations. A papal bull is defined as a formal declaration issued by a Roman Catholic pope that communicates both canon law penalties and general theological teachings, and the title of “bull” derives from the document’s *bull*a, or its authenticating seal.^{17, 18} The word *Effraenatam* means “unrestrained,” and this title reflects the strict nature of the bulls’ teachings and penalties.¹⁸

Within this document, Sixtus V defines abortion as intending “to kill...immature fetuses in the maternal viscera.”¹⁹ He details prominent methods of causing an abortion, connects this prohibition to the Old Testament command against killing, and communicates that the unborn deserve protection under canon law because they are made in the image of God.

The most distinct contribution of the *Effraenatam* is that it does not draw any distinction between the animated and unanimated fetus.²⁰ Rather, intentionally procured abortions of both unanimated and animated fetuses, were punished with the legal sentences for homicide: excommunication. Pope Sixtus also cites Augustine’s *Aliquando* when he rhetorically questions, “Who would not punish such cruel lust with the most

¹⁷ John Christopoulos, “Abortion and the Confessional in Counter-Reformation Italy,” *Renaissance Quarterly* 65, no. 2 (2012): 466.

¹⁸ Katherine Brind’Amour, “‘Effraenatam’ (1588), by Pope Sixtus V,” The Embryo Project Encyclopedia, November 11, 2007, <https://embryo.asu.edu/pages/effraenatam-1588-pope-sixtus-v>.

¹⁹ Christopoulos, 465.

²⁰ Charles J. Reid, “Children and the Right to Life in the Canon Law and the Magisterium of the Catholic Church: 1878 to the Present,” SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, September 19, 2007), <https://papers.ssrn.com/abstract=1015402>, 8-9.

severe punishments?”²¹ As *Effraenatam* continues, Pope Sixtus V lays out specific punishments for those who aid in the procurement of abortions, such as doctors who prescribe abortifacients to women. Sixtus also clarifies that the abortion must be successfully “procured” in order for the canonical penalty of excommunication to apply. Harrington explains what is meant by the term “procured.”

The procuring of abortion was interpreted...as referring to an express or virtual intent to obtain an abortion, the use of effective means and the desire of the abortion as an end in itself or as a means to achieving some other objective.²²

While an unsuccessful attempt with the intent to cause an abortion still results in a grave sin because of its intention, it does not qualify for excommunication.

While the penitential canons previously discussed focused on pregnant woman as the active agents in procuring an abortion, *Effraenatam* is directed at men. Sixtus’ language demonstrates that he saw men as the primary individuals who desired abortion and provided the necessary materials to carry out the act. Sixtus depicts women as passive victims, as he writes that abortions are imposed upon women. This echoes John Chrysostom’s observations concerning the man’s role in the procurement of abortions in Roman society as a result of visiting brothers and impregnating prostitutes. In reflecting on this aspect of *Effraenatam*, Christopoulos writes,

Women were being sterilized, impeded from conceiving and giving birth, given poisons and medicine to abort...While the female body was the site and cause of the sin, Sixtus sought to control the practice of abortion by disciplining the men who put women in this situation.²³

²¹ Noonan, “Abortion and the Catholic Church,” 10.

²² Harrington, “Abortion,” 54.

²³ Christopoulos, “Abortion and the Confessional in Counter-Reformation Italy,” 467.

Sixtus only mentions women who knowingly and freely abort on two occasions throughout the text. While they are to be punished alongside men who force women to abort, there is no punishment mentioned for women who are forced into an abortion by their husband or another person. All those knowingly and willfully involved in procuring an abortion received automatic excommunication. Additionally, absolution for this excommunication could only be given by the Pope, not a local bishop.²⁴

Pope Gregory XIV's Reversal

The harsh penalties instituted by *Effraenatam* did not remain in effect for a long period of time, as they were drastically modified by Sixtus V's successor, Gregory XIV. The penalties instituted by *Effraenatam* were found to be impractical and overly harsh, especially because absolution was reserved to the Pope alone. Many individuals were unable to travel to receive absolution, which caused great distress.²⁵

In hopes of remedying the situation, Gregory XIV issued a new constitution, called *Sedes apostolica*, in 1591. As support for his reversal, Gregory XIV cites Innocent III's *Sicut ex*. In *Sedes apostolica*, Gregory IX reinstates the animation distinction, and accepts quickening as the time of animation. He continues to punish the abortion of an animated fetus with excommunication, but allows absolution to be given by local priests and bishops as opposed to solely the Pope.^{26,27} This constitution remained in effect until it was revised by Pope Pius IX in 1869.

²⁴ Coriden, "Church Law and Abortion," 192.

²⁵ Connery, *Abortion: The Development of the Roman Catholic Perspective*, 148.

²⁶ Angel Lopez, "Pope Gregory XIV (1535-1591)," The Embryo Project Encyclopedia, June 22, 2010, <https://embryo.asu.edu/pages/pope-gregory-xiv-1535-1591>.

²⁷ Coriden, "Church Law and Abortion" 193.

Thomas Fienus and Paolo Zacchia

The seventeenth century was marked by several shifts in the philosophy of embryology and ensoulment that began the Church's departure from the inclusion of the animation distinction in canon law. Two seventeenth century figures whose thoughts most greatly impacted the Church's conversation surrounding ensoulment and animation distinctions were Thomas Fienus and Paolo Zacchia. While they were working within the same basic framework as Aristotle and Aquinas, Fienus and Zacchia drew much different conclusions about the necessity of postulating a successive idea of soul development.

Thomas Fienus (1567-1631) was a Belgian physician and philosopher who also served as a medical school professor at the University of Louvain. He published several medical treatises, the most notable of which was on the topic of fetal soul development. Fienus' work was titled *De formatione foetus liber in quo ostenditur animam rationalem tertia die* ("A book on the formation of the fetus, in which it is shown that the rational soul is infused on the third day").²⁸ As the title suggests, Fienus asserted that the soul was infused in the embryo on the third day of life. Working within the Aristotelian framework, Fienus thought that the male semen was able to prepare the mother's menstrual blood through coagulation to receive the rational soul by the third day after copulation took place.²⁹

²⁸ Melissa Rovig Vanden Bout, "Thomas Aquinas and the Generation of the Embryo: Being Human before the Rational Soul" (PhD Thesis, Boston College, 2013).

²⁹ Ford, *When Did I Begin?*, 47.

Fienus recognized the gravity of his decision to depart from the commonly held opinion of delayed hominization or ensoulment, and the precedent of greats such as Aristotle, but he felt that his objections were firmly grounded in reason.³⁰ Fienus' main concern was discovering exactly what served as the cause of embryological development. He considers the merits of historical ideas (such as the uterus, the male seed, and *pneuma* or heat), before concluding that it must be the soul of the embryo itself. Needham reflects on this assertion in his summary of Fienus' discovery.

The soul is the principle which organizes the body from within, arranging an organ, or each of its faculties and preparing its own residence, not merely consenting to be breathed into a physical being which has already organized itself.³¹

Additionally, Fienus argues that this soul, which is the "principle which organizes the body," does not logically refer to a succession of souls (such as vegetative, sensitive, then rational), as suggested by Aristotle and Aquinas. In Fienus' view, if a vegetative and sensitive soul came before a rational soul, it would suggest that the developing fetus was a species other than human.³² Therefore, it made more sense to Fienus that the rational soul be the first and only soul introduced to the fetus. In his book *When Did I Begin?*, Norman Ford summarizes Fienus' position.

He regarded the rational soul as the form of the living body that developed epigenetically from within. He argued that the rational soul was present after birth even though rational functions could not begin to be performed before the age of two or three years. Hence, he saw no point in delaying rational animation for

³⁰ Carlos Steel, *Aristotle's Animals in the Middle Ages and Renaissance* (Leuven University Press, 1999), 323.

³¹ Joseph Needham, *A History of Embryology* (CUP Archive, 1959), 120.

³² Steel, *Aristotle's Animals in the Middle Ages and Renaissance*, 324.

some 40 days beyond the conception of the living body that occurs on the third day, even if no evidence of rational functions could be found at that stage.³³

Fienus' argued that even after the infant is born, it is incapable of performing fully rational thought and activity until the age of two or three. Therefore, if the rational soul can be present when fully rational thought is not yet present in a born infant, the same can be said for the developing fetus. The gradual development of the fetus is directed by a rational soul, and no explanation of a "succession of soul" as postulated by Aristotle or Aquinas is necessary for this to occur.

Paolo Zacchia published a treatise espousing similar views to Fienus in 1621. Zacchia was a well-respected seventeenth century expert in medical forensics. Additionally, he was bestowed the title of "General Proto-Physician of the Entire Roman Ecclesiastical State" by Pope Innocent X in 1644.³⁴ In *Quaestiones medico-legales*, Zacchia wrote that the rational soul is created by God and infused at the moment of conception.³⁵ After conception, the fetus continues to develop in a manner organized by the rational soul. He did not claim that distinct organs were present from conception, rather that the rational soul guides such organ formation. Zacchia dismissed the Septuagint's apparent espousal of the ensoulment distinction in Exodus by explaining that it was not an authoritative version of Scripture, and that such a distinction was not present in the Hebrew or Latin translations.³⁶ Additionally, he remarked that Church

³³ Ford, *When Did I Begin?*, 47.

³⁴ Stefania Tutino, *Uncertainty in Post-Reformation Catholicism: A History of Probabilism* (Oxford University Press, 2017), 300.

³⁵ Augustine Anthony, "Human Dignity from the Beginning of Life: German and Indian Moral Theological Perspectives in an Attempt at Dialogue with Hinduism" (PhD Thesis, 2014), 129.

³⁶ David Albert Jones, *The Soul of the Embryo* (Continuum London, 2004), 163.

Fathers such as Jerome and Augustine did not hold particular views on the timing of ensoulment. In *Soul of the Embryo*, DA Jones summarizes Zacchia's views:

The process of development was therefore due to (the soul of) the embryo, and not directly due to (the soul of) the parent. Thus, the embryo must be human, with a human soul, from conception.³⁷

Similar to Fienus, Zacchia did not see a need to postulate a succession of souls directing the embryo's development. Rather, from the moment of conception, a single human soul is infused by God and is responsible for directing the formation of the embryo.

While the ideas of Fienus and Zacchia were not immediately accepted by theologians, they gained credence as scientific observations concerning conception and fetal development continued to progress in the 17th through 19th centuries. For example, Niels Stenson's 1667 discovery of ova within female reproductive organs demonstrated that women actively contributed to the reproductive process rather than passively supplying material upon which the male contribution acted, as had been postulated by Aristotle.³⁸ Additionally, Van Leeuwenhoek discovered the individual spermatozoon in 1678, and in 1683 suggested that fertilization involved the joining of the spermatozoon and the ovum.³⁹ These discoveries clarified that conception did not involve the father's contribution acting upon an unformed substance in the mother's menstrual blood. Rather, fertilization resulted in the formation of a completely new human genetic material.

³⁷ Jones, 164.

³⁸ Ford, *When Did I Begin?*, 48.

³⁹ Ford, *When Did I Begin?*, 48.

19th and 20th Century Canon Legislation and Encyclical Documents

Pope Pius IX and Apostolicae Sedis (1869)

In 1869, Pope Pius IX officially removed the distinction between the animated and unanimated fetus from canon law in the Constitution *Apostolicae Sedis*.⁴⁰ This document was primarily concerned with canonical crimes that resulted in automatic censure, or excommunication.⁴¹ In light of the biological discoveries made by Stenson and Leeuwenhoek, as well as the philosophical insight provided by Fienus and Zacchias, Pius did not feel that the Aristotelian formation distinction could be rationally maintained. Therefore, such a distinction should not be reflected by canon law penalties distinguishing between abortions of unformed or formed fetuses. Abortions procured at any point after conception were punished in the same way. New biological discoveries indicated a new, unique life begins at fertilization with the formation of a zygote. The Church decided that this new genetic identity should be treated as a human being from the moment of conception.⁴²

⁴⁰ Angel Lopez, "Pope Pius IX (1792-1878)," The Embryo Project Encyclopedia, accessed April 29, 2020, <https://embryo.asu.edu/pages/pope-pius-ix-1792-1878>.

⁴¹ Harrington, "Abortion," 54.

⁴² Ford, *When Did I Begin?*, 58.

The document specifies that “procurers of abortion, upon accomplishment having been secured” are subject to immediate excommunication.⁴³ Similarly to the criteria outlined in *Effraenatam*, in order for the abortion to result in an excommunication it must be intentionally sought and successfully carried out. However, this document contains the phrase *effectu secuto* that is not seen in *Effraenatam*. Roger Huser explains the implications of this phrase.

It is required for the verification of the crime of abortion (A) that the abortion actually take place; (B) that it result from the specific means employed to bring it about; and (C) that there be certitude in this regard.⁴⁴

While intention alone to commit abortion is gravely sinful, the excommunication only results from a successful abortion that meets the above criteria.

1917 Code of Canon Law

In 1917, the Pio-Benedictine Code of Canon Law replaced Gratian’s *Decretum* of 1140. It was compiled under the pontificate of Pope Benedict XV. Following the pronouncement of Pope Pius IX in *Apostolicae Saedis* that removed the distinction between a formed and an unformed fetus, this code prescribes excommunication for those who secure, or aid in the securing, an abortion at any stage of fetal development. It reads:

Procurers of abortion, the mother not excepted, incur, upon accomplishment of having been secured, excommunication *latae sententiae* reserved to the ordinary; and if they are clerics, they are also to be deposed.⁴⁵

⁴³ Joseph Michael Arias, “Magisterial Teachings on Direct Abortion and Their Interpretation by Moral Theologians from the Late Nineteenth Century Decisions of The Holy Office to the Present” (Washington D.C., The Catholic University of America, 2018), ProQuest, 62.

⁴⁴ Roger John Huser, “The Crime of Abortion in Canon Law: An Historical Synopsis and Commentary” (PhD Thesis, Catholic University of America Press, 1942), 116.

⁴⁵ Catholic Church and Edward N. Peters, *The 1917 Or Pio-Benedictine Code of Canon Law: In English Translation with Extensive Scholarly Apparatus* (Ignatius Press, 2001): 1398.

The 1917 code cites Gratian's *Decretum*, as well as Pope Gregory IX and *Effraenatam*, in support of this punishment.⁴⁶ Additionally, it places abortion in the context of offenses against the Decalogue commandment not to kill. Absolution was left to the local bishop, as opposed to the Pope.⁴⁷ Additionally, this Code removed the formation distinction from the charge of irregularity.

They are irregular from delict: Who perpetrate voluntary homicide or who procure abortion of a human fetus, upon accomplishment of having been secured, and all cooperators.⁴⁸

The newest code of canon law was put forth in 1983 by Pope John Paul II, and it repeats this same penalty with similar phraseology.⁴⁹

Pope Pius XI's Casti Connubii (1930)

Casti Connubii was a papal encyclical issued by Pope Pius XI on December 31, 1930.⁵⁰ Its title translates to "On Christian Marriage" or "On Chastity in Marriage." This encyclical was written at a time in which artificial contraception was becoming a more common practice in the modern world. One of the main events that served as an impetus

⁴⁶ Reid, "Children and the Right to Life in the Canon Law and the Magisterium of the Catholic Church," 8-9.

⁴⁷ Coriden, "Church Law and Abortion," 193.

⁴⁸ Catholic Church and Edward N. Peters, *The 1917 Or Pio-Benedictine Code of Canon Law: In English Translation with Extensive Scholarly Apparatus* (Ignatius Press, 2001): 1046.

⁴⁹ Brundage, "Canon Law and Contraception," 51.

⁵⁰ Katherine Brind'Amour, "Casti Connubii (1930), by Pope Pius XI," The Embryo Project Encyclopedia, January 20, 2009, <https://embryo.asu.edu/pages/casti-connubii-1930-pope-pius-xi>.

to this encyclical's construction was the acceptance of artificial contraception by the Anglican Lambeth Conference.⁵¹ The document expresses this motivation as it states:

Yet not only do We, looking with paternal eye on the universal world from this Apostolic See...seeing deeply grieve...that a great number of men, forgetful of that divine work of redemption, either entirely ignore or shamelessly deny the great sanctity of Christian wedlock...And since these most pernicious errors and depraved morals have begun to spread even amongst the faithful and are gradually gaining ground, in Our office as Christ's Vicar upon earth and Supreme Shepherd and Teacher We consider it Our duty to raise Our voice to keep the flock committed to Our care from poisoned pastures and, as far as in Us lies, to preserve it from harm.⁵²

This quote reflects the Magisterium's awareness of the growing acceptance of birth control, divorce, and sterilization both in secular culture and among the Catholic faithful. In recognition of this, there is a strong desire to clarify the Church's teaching on marriage and moral issues related to reproduction so as to enable the faithful to avoid sin.⁵³ The central purpose of this document was to reiterate the goods of marriage as expressed by Augustine (namely children, conjugal fidelity, and sacramental graces) and address threats to the covenant of marriage, such as contraception, abortion, state-sponsored eugenic sterilization practices, and infidelity. Abortion is discussed as an evil opposed to the good of procreation.

⁵¹ "Casti Connubii, by Pope Pius XI - Summary Outline," accessed April 29, 2020, <https://www.pathsoflove.com/texts/casti-connubii-outline/>.

⁵² Pope Pius XI, *Casti Connubii: Encyclical of Pope Pius XI on Christian Marriage to the Venerable Brethren, Patriarchs, Primate, Archbishops, Bishops, and Other Local Ordinaries Enjoying Peace and Communion with the Apostolic See* (Vatican City, 1930), http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_31121930_casti-connubii_en.html, 3.

⁵³ Moira Mary McQueen, "Changing Emphases in the Concept of Responsible Parenthood in Roman Catholic Magisterial Teaching Since 'Casti Connubii', 1930" (PhD Thesis, National Library of Canada= Bibliothèque nationale du Canada, 1998): 52.

Abortion is specifically mentioned in paragraphs 63 through 67 of *Casti Connubii*. It is mentioned as a “very grave crime” that regards “the taking of the life of the offspring hidden in the mother’s womb.”⁵⁴ The encyclical recognizes that, at the time, there were many people in the public sphere campaigning for abortion to be legalized, or “left to the will of the father or the mother.”⁵⁵ In considering situations in which the life of the mother may be endangered, the encyclical states, “However much we may pity the mother whose health and even life is gravely imperiled in the performance of the duty allotted to her nature, nevertheless what could ever be a sufficient reason for excusing in any way the direct murder of the innocent?”⁵⁶ The encyclical acknowledges that both the life of the mother and the life of the child are of equal value, but that the unborn child cannot be considered an “unjust aggressor” because it is innocent. Instead of performing actions that principally intend the death of either the mother or the child, physicians that are “most praiseworthy” strive to “guard and preserve the lives of both mother and child.”⁵⁷

In paragraph 65, Pius references Augustine’s passage that denounces married couples who practice contraceptive or abortive measures as being joined by lustful cruelty. Eugenic motivations for procuring or forcing abortions are referred to as “unthinkable” in paragraph 67. The following section addresses the legal sector, stating that

⁵⁴ Pope Pius XI, *Casti Connubii*, 63.

⁵⁵ Pope Pius XI, *Casti Connubii*, 63.

⁵⁶ Pope Pius XI, *Casti Connubii*, 64.

⁵⁷ Pope Pius XI, *Casti Connubii*, 64.

Those who hold the reins of government should not forget that it is the duty of public authority by appropriate laws and sanctions to defend the lives of the innocent, and this all the more so since those whose lives are endangered and assailed cannot defend themselves. Among whom we must mention in the first-place infants hidden in the mother's womb.⁵⁸

This statement insists that it is the job of governing bodies to defend those who are unable to protect themselves. They should pass “appropriate laws and sanctions” to protect unborn lives, which would include not legalizing practices such as abortion. Later on, the encyclical calls for governments to assist families struggling to provide for their children financially, rather than designating funding for abortion or forced sterilizations.

Pope Pius XII: Defining Direct Abortion vs. Legitimate Medical Procedures

Considerations of the life of the mother exception, as well as the distinctions between procedures that qualify as direct abortions versus legitimate medical procedures, made for serious theological debate through the 20th century as surgical technologies advanced. In the 1940s and 1950s, Pope Pius XII clarified the distinction between direct abortions and licit medical procedures through a series of speeches and letters. Pius XII stated:

As long as a man is not guilty, his life is untouchable, and therefore any act directly tending to destroy it is illicit, whether such destruction is intended as an end in itself or only as a means to an end, whether it is a question of life in the embryonic stage or in a stage of full development or already in its final stages.⁵⁹

Direct abortion involves any act that has as its intended end the fetus' destruction. This framework informed the Church's guidelines contained in the *Ethical and Religious*

⁵⁸ Pope Pius XI, *Casti Connubii*, 67.

⁵⁹ Pope Pius XII, “To the Italian Medical-Biological Union,” November 12, 1944, https://www.vatican.va/content/pius-xii/it/speeches/1944/documents/hf_p-xii_spe_19441112_unione-medico-biologica.html.

Directives for Catholic Healthcare Services. Drawing from Pius XII's writings, directives 45 and 47 distinguish between direct abortions and licit interventions.⁶⁰ Number 45 defines what constitutes a direct abortion.

Abortion (that is, the directly intended termination of pregnancy before viability or the directly intended destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion, which, in moral context, includes the interval between conception and implantation of the embryo.⁶¹

Similar to the distinction introduced by Sanchez, directive 47 defines what procedures can be considered legitimate medical procedures.

Operations, treatments, and medications that have as their direct purpose the cure of a proportionately serious pathological condition of a pregnant woman are permitted when they cannot be safely postponed until the unborn child is viable, even if they will result in the death of the unborn child.⁶²

Legitimate medical procedures have, as the intention of their action, curing a proportionately grave ailment of the mother. For example, a doctor may recommend the removal of a cancerous uterus in order to save the mother's life. This intervention is urgently needed and performed for a grave reason. The death of the fetus is an indirect and unintended result of the action, which directly intends to address the problem of the cancerous uterus.⁶³ Therefore, the removal of a cancerous uterus would be a licit intervention.

The Declaration on Procured Abortion (1974)

⁶⁰ United States Conference of Catholic Bishops, "The Distinction Between Direct Abortion and Legitimate Medical Procedures" (United States Conference of Catholic Bishops, June 23, 2010).

⁶¹ National Conference of Catholic Bishops Committee on Doctrine, "Ethical and Religious Directives for Catholic Health Care Services" (United States Conference of Catholic Bishops, 2001), 45.

⁶² National Conference of Catholic Bishops Committee on Doctrine, 47.

⁶³ United States Conference of Catholic Bishops, "The Distinction Between Direct Abortion and Legitimate Medical Procedures," 3.

The Congregation for the Doctrine of the Faith (CDF) issued *The Declaration on Procured Abortion* on November 18, 1974, during Pope Paul VI's papacy.⁶⁴ The CDF was instituted in 1542 by Pope Paul III, and it consists of cardinals and bishops.⁶⁵ Its purpose is to “promote and safeguard the doctrine on faith and morals in the whole Catholic world.”⁶⁶ Leading up to the *Declaration's* publication, several nations passed laws or decided court cases that legalized abortion. Particularly, the United States' landmark abortion case *Roe vs. Wade* was decided on January 22, 1973. This decision ruled that “unduly restrictive state regulation of abortion is unconstitutional.”⁶⁷ In response to these legalizations, the CDF felt it necessary to clarify the Church's teaching on the moral issue of abortion to ward off any confusion among the faithful. The *Declaration on Procured Abortion* contains 27 total sections organized into 6 general categories: an introduction, considerations of abortion in the light of faith, considerations of abortion in the light of reason, replies to objections, considerations of morality and the law, and a conclusion.

In the introduction, the CDF observes a growing acceptance of legalized abortion in the global political spheres and clarifies why it is necessary for the Church to speak on the issue of abortion.

⁶⁴ William May, *Catholic Bioethics and the Gift of Human Life* (Our Sunday Visitor, 2008): 38.

⁶⁵ “Congregation for the Doctrine of the Faith - Profile,” accessed April 29, 2020, http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_14071997_en.html.

⁶⁶ “Doctrine of the Faith,” Catholic Hierarchy, accessed April 29, 2020, <http://www.catholic-hierarchy.org/diocese/dxcdf.html>.

⁶⁷ The Editors of Encyclopedia Britannica, “Roe v. Wade,” Encyclopedia Britannica, December 16, 2019, <https://www.britannica.com/event/Roe-v-Wade>.

The Church is too conscious of the fact that it belongs to her vocation to defend man against everything that could disintegrate or lessen his dignity to remain silent on such a topic.

The Church sees the issue of abortion as an offense against human dignity. In paragraph 2, the Church reiterates that abortion cannot simply be left as an issue of private conscience or ideological pluralism because it involves such a grave issue: the protection of innocent life. Because of this, the Church writes that “one cannot claim freedom of opinion as a pretext for attacking the rights of others, most especially the right to life.”⁶⁸

In paragraph three, the document recognizes that many lay Catholics as well as clergy have fought against the legalization of abortion. However, there has been confusion over the Church’s teaching even among Catholics themselves. Therefore, it is necessary for the teaching to be clarified by the CDF in this document. Paragraph four emphasizes that it is pivotally important for Catholics to submit to the teachings of the Magisterium, as it is the Magisterium’s responsibility to transmit to the faithful “moral norms in the light of faith...It is therefore clear that this declaration necessarily entails a grave obligation for Christian consciences.”⁶⁹ The teachings expressed in this document are to be accepted by the faithful, and lay a serious obligation on their individual consciences to uphold the dignity of all human life by opposing abortion.

The next section of the Declaration focuses on the character of God as a God of life, as well as the historical continuity of the Church’s teachings. Paragraph five emphasizes the importance of our earthly bodies, as they are made in God’s image and

⁶⁸ Congregation for the Doctrine of the Faith, "Declaration on Procured Abortion," November 18, 1974, https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html, 2.

⁶⁹ Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 4.

allow us to know and serve Him. Paragraphs six and seven discuss the Church's historical consistency on opposing direct abortion from the times of the early Church. This section references the *Didache's*, as well as Tertullian's, prohibitions and condemnations of abortion. Additionally, it recognizes the existence of historical conversations surrounding the ensoulment distinction. Paragraph seven states:

In the course of history, the Fathers of the Church, her Pastors and her Doctors have taught the same doctrine - the various opinions on the infusion of the spiritual soul did not introduce any doubt about the illicitness of abortion. It is true that in the Middle Ages, when the opinion was generally held that the spiritual soul was not present until after the first few weeks, a distinction was made in the evaluation of the sin and the gravity of penal sanctions...But it was never denied at that time that procured abortion, even during the first days, was objectively grave fault. The condemnation was in fact unanimous.⁷⁰

While the ensoulment distinction did impact the classification of a penalties for abortion, it never resulted in a blanket acceptance of the practice. The Church does not hide the impact of ensoulment conversations; rather she clarifies that such a conversation was related to canon law categorizations and not overall moral teachings. William May reflects on the Church's historical consistency as communicated through the *Declaration*.

The teaching condemning abortion as gravely sinful, even those who though that the soul was not infused at conception, has been consistent throughout Church history and has been forcefully proclaimed by the Magisterium, especially in our day.⁷¹

To support this point, the *Declaration* mentions conciliar precedent, former collections of canon law such as Gratian's *Decretals*, Pope Sixtus V, Innocent XI, Pius XI, and Pius XII among others. After establishing the continuity of teaching in the light of faith, the CDF continues to support the Church's teaching in the additional light of reason, Here, the

⁷⁰ Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 7.

⁷¹ May, *Catholic Bioethics and the Gift of Human Life*, 39.

CDF explains that human reason is sufficient to deduce that human life should be protected from the moment of conception. Paragraph 12 states that “Any discrimination based on the various stages of life is no more justified than any other discrimination.”⁷² From conception to natural death, the right to life is fundamental and non-negotiable. Of particular interest in this section are paragraphs 12 and 13, which claim that modern scientific evidence “brings valuable confirmation” to the belief that life begins at conception.

From the time that the ovum is fertilized, a life is begun which is neither that of the father nor of the mother, it is rather the life of a new human being with his own growth. It would never be made human if it were not human already... Right from fertilization it is begun the adventure of human life, and each of its capacities requires time...to find its place and be in a position to act.⁷³

At the moment of conception, there is a new genetic identity that is not identical to the mother or the father. This fact of science supports the idea that the “adventure of human life” is one that begins when “the ovum is fertilized.” In footnote 19 of this paragraph, the *Declaration* notes that it “expressly leaves aside the question of the moment when the spiritual soul is infused” because there is not “a unanimous tradition on this point.”⁷⁴ It states that this is a question to be answered by philosophy, not science. The morality of abortion does not hinge on the answer to this question. William May summarizes why abortion can be considered morally opposed by the Church without a settled debate concerning the timing of ensoulment.

Even if one supposes that animation occurs after conception, the life in question is incipiently human, preparing for and calling for a soul in which the nature

⁷² Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 13.

⁷³ Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 13-14.

⁷⁴ Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, footnote 19.

received from the parents is completed. It is enough that the presence of a soul is at least probable – and the contrary cannot be established with certainty – to show that the taking the life of the fetus at least runs the risk of killing a person already in possession of a soul.⁷⁵

As described by this clarifying footnote contained in the *Declaration*, the Church does not hold an official position concerning when ensoulment occurs in utero. Answering the question of ensoulment is not essential to the Church’s teaching on the morality of abortion, as even a being with the potential to possess a human soul deserves protection.

The final section of the *Declaration* contains replies to common objections to the Church’s teaching. Here, the CDF clarifies that while there may be serious motivations for a woman to seek an abortion, (personal health concerns, abnormal fetal development, financial burden) these concerns and burdens do not outweigh the fetus’s right to his or her life. Additionally, legally available abortion is not necessary for the “emancipation of women,” “sexual freedom,” or “scientific progress.”⁷⁶ The *Declaration* also explains that Catholics should never politically support the legalization of abortion because it is the state’s responsibility to defend the weak and vulnerable.

One can never approve of abortion, but it is above all necessary at the same time to influence morality and to do everything possible to help families, mothers, and children.⁷⁷

Not only are Catholics called to oppose abortion, they are also called to strive to alleviate social pressures and financial burdens that may cause a woman to consider abortion. This includes raising cultural awareness about the sanctity and dignity of human life from

⁷⁵ May, *Catholic Bioethics and the Gift of Human Life*, 40.

⁷⁶ Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 15-17.

⁷⁷ Congregation for the Doctrine of the Faith, *Declaration on Procured Abortion*, 26.

conception and providing for the needs of families experiencing distress or financial hardship.

1987 Donum Vitae

Donum Vitae (Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation) was prepared by the Congregation for the Doctrine of the Faith and published in February of 1987, during the papacy of Pope John Paul II.⁷⁸ It is an official document of magisterial teaching that aims to provide clarification and reflection on how natural moral law applies to particular reproductive technologies that became more prominent towards the end of the 20th century. The document responds to questions raised by a plethora of individuals, such as bishops, theologians, doctors, and scientists concerning such technologies.⁷⁹ It emphasizes the fact that man is not simply just another animal, but a being that is made, unique and unrepeatable, in God's image and likeness. It consists of an introduction, as well as three content sections: respect for human embryos, interventions upon human procreation, and moral law and civil law.

In the section pertaining to respect for human embryos, *Donum Vitae* recalls the *Declaration's* statement that “the biological identity of a new human individual is already

⁷⁸ Paul F. deLadurantaye, “From Humanae Vitae to Donum Vitae: Symmetry and Consistency in Catholic Biomedical Teaching,” *The Linacre Quarterly* 66, no. 1 (February 1, 1999): 7–20, <https://doi.org/10.1080/20508549.1999.11877525>, 8.

⁷⁹ deLadurantaye, 8.

constituted in the zygote resulting from fertilization.”⁸⁰ Therefore, the fetus deserves protection and respect from conception. *Donum Vitae* specifically emphasizes producing human embryos to be used as research material is immoral, as well as reproductive technologies such as cloning, genetic engineering, and artificial gestation. Additionally, *Donum Vitae* writes that while the Magisterium has not committed to a particular teaching on the timing of ensoulment, the “moral condemnation of any kind of procured abortion” is “unchangeable.”⁸¹

John Paul II's Evangelium Vitae

Evangelium Vitae (“Gospel of Life”) is an encyclical written by Pope John Paul II in 1995 to affirm the Catholic Church’s stance on the fundamental value of human life from conception to natural death.⁸² Echoing the *Didache*’s distinction between the way of life and the way of death, John Paul II calls Catholics to build a cultural of life amidst a secular culture of death that affirms practices such as contraception, sterilization, embryonic stem cell research, and experimentation with fetal cells. Catholics are to act sacrificially to build a culture of life within their families and communities that affirms, welcomes, and cares for each human life through political action and personal charity. William May summarizes the central purpose of *Evangelium Vitae*.

It is, above all, an impassioned plea to all people of goodwill to recognize the dignity and sanctity of human life, to defend it from the vicious and at times subtle attacks launched against it today, and to love it as a precious gift from God

⁸⁰ May, *Catholic Bioethics and the Gift of Human Life*, 34.

⁸¹ Congregation for the Doctrine of the Faith, *Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation Replies to Certain Questions of the Day* (Rome, 1987): 26.

⁸² Benjamin Garcia and Katherine Brind’Amour, “*Evangelium Vitae* (1995), by Pope John Paul II,” *The Embryo Project Encyclopedia*, November 11, 2007, <https://embryo.asu.edu/pages/evangelium-vitae-1995-pope-john-paul-ii>.

whose only-begotten-Son-made-man poured forth his life on the Cross precisely so that everyone might have life in abundance and in union with him to conquer death and rise to everlasting life in fellowship with the Triune God, the Giver of Life and Love.⁸³

In discussing abortion, *Evangelium Vitae* affirms that “all those who commit this crime with knowledge of the penalty attached” and “those accomplices without whose help the crime would not have been committed” are punished with automatic excommunication according to canon law.⁸⁴ Additionally, John Paul II writes that “direct abortion, that is, abortion willed as an end or a means, always constitutes a grave moral disorder.”⁸⁵ He explains that this doctrine is “based upon the natural law and upon the written Word of God, is transmitted by the Church’s Tradition and taught by the ordinary and universal Magisterium” and therefore cannot be changed.⁸⁶

In addition to affirming the Church’s teaching on abortion, *Evangelium Vitae* contains a section directed to post-abortive women. John Paul recognizes that women may be pressured into making such a choice, writing

Sometimes the woman is subjected to such strong pressure that she feels psychologically forced to have an abortion: certainly, in this case moral responsibility lies particularly with those who have directly or indirectly obliged her to have an abortion.⁸⁷

⁸³ May, *Catholic Bioethics and the Gift of Human Life*, 20.

⁸⁴ Pope John Paul II, *Evangelium Vitae* (Rome, 1995), http://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html. EV 63

⁸⁵ Pope John Paul II, *Evangelium Vitae*, 63.

⁸⁶ Pope John Paul II, *Evangelium Vitae*, 62.

⁸⁷ Pope John Paul II, *Evangelium Vitae*, 59.

If a woman does not make the choice to abort freely, she is not held responsible for the action. Later in the encyclical, John Paul emphasizes that no one is excluded from God's forgiveness and redemption.

I would now like to say a special word to women who have had an abortion...Certainly what happened was and remains terribly wrong. But do not give in to discouragement and do not lose hope...The Father of mercies is ready to give you his forgiveness and his peace in the Sacrament of Reconciliation. You will come to understand that nothing is definitively lost, and you will also be able to ask forgiveness from your child, who is now living in the Lord.⁸⁸

John Paul II emphasizes that post-abortive women can play a special role in building up the culture of life by using their painful experience to be “among the most eloquent defenders of everyone's right to life” and bringing comfort and companionship to women facing similar circumstances.

Conclusion

Casuistic considerations of exceptions to the general prohibition of abortion begun by John of Naples and further expressed by Thomas Sanchez helped begin to delineate between procedures and interventions that are considered direct abortions and legitimate medical interventions. In the 17th century, scientific progress and philosophical reconsiderations resulted in the Church's removal of the formation distinction from canon law penalties in *Apostolicae Sedis*. Moving into the 19th and 20th centuries, the legalization of abortion in several nations and newly developed reproductive technologies necessitated the Church's clarification of their teachings on the sanctity of human life through encyclicals such as *Casti Connubii*, *Donum Vitae* and *Evangelium Vitae*, as well as the particularly grave evil of abortion in the *Declaration on Procured Abortion*.

⁸⁸ Pope John Paul II, *Evangelium Vitae*, 99.

CONCLUSION

The Catholic Church's stance against directly procured abortion has been consistently maintained from the time of the early Church. While practices such as abortion and infanticide were prevalent in ancient Greek and Roman pagan culture, Christian opposition to such practices was founded in Jewish teachings and expressed explicitly through writings such as the *Didache*, the *Epistle of Barnabas*, and the *Apocalypse of Peter*. The formation distinction introduced by the Septuagint's mistranslation of Exodus 21:22-25 was accepted by some early Church Fathers. This impacted the canon law penalties prescribed for abortions procured before a fetus was considered "formed." This distinction has its roots in Aristotle's hylomorphic theory of soul development and his scientific ideas concerning conception, which were later accepted by Thomas Aquinas. In the seventeenth century, scientific progress and contributions of individuals such as Thomas Fienus and Paolo Zacchia influenced the Church's decision to remove the formation distinction from canon law. In the modern era, the Church has clarified and affirmed her teachings concerning the dignity of every human life by continuing to oppose direct abortion and any reproductive technology that infringes upon the right of the fetus to life.

Throughout the Church's discussion of teachings on abortion, several aspects of the conversation that have remained continuous. From the 1st century as expressed in the *Didache* to the most recent collection of canon law, abortion has been considered contrary to the commandment against killing. While the formation distinction implied

that abortions procured before formation could not be punished as legal homicide, it was still considered gravely sinful because the intention involved was that of destroying life.

Additionally, there is a repeated concern expressed for the mother's well-being, and for mitigating factors involved in her decision to abort. In the early Church, this concern was expressed in the Council of Ancyra's decision to lessen the penitential period incurred as a result of abortion. Jerome and Basil recognize that women often die as a result of attempting abortion and consider that tragedy an additional reason to oppose the practice. John Chrysostom and Pope Sixtus V aim their condemnation of abortion at men, in recognition that they often force their mistresses to abort. In modern canon law, the mother can only incur an excommunication if she undergoes an abortion with full knowledge of the penalties resulting from the act and free from exterior pressures. Another constant thread in the Church's conversation has been viewing abortion as contrary to the natural law. This concept was articulated by Thomas Aquinas and has been continually referenced in subsequent encyclical documents.

Overall, I conclude that the confusion and criticism surrounding the Catholic Church's consistent teachings on the gravely sinful nature of directly procured abortion stems from three apparent misconceptions: a misunderstanding in what qualifies as official Church teaching, an overemphasis on the role of the formation distinction in Church teaching, and a lack of appreciation for the scientific facts informing prominent theological figures such as Augustine and Thomas Aquinas. Upon examination, the Catholic Church has never affirmed direct abortion for any reason, at any stage of pregnancy, regardless of a formation distinction.

In examining past discussions on abortion, it is important to consider what constitutes official Church teaching, and what is personal theological or philosophical inquiry. This distinction is best exemplified in John of Naples and Pope Innocent XI. John of Naples embraced the idea that the direct abortion of an unanimated fetus could be permissible, if necessary, to save the life of the mother. However, this teaching was condemned by Pope Innocent in the papal bull *Sanctissimus Dominus* in 1679. Simply put, just because a Catholic individual embraced a certain understanding or ideology concerning the permissibility of abortion does not equate to official Church teaching expressing such an idea. In the Catholic faith, official teachings are decided upon and promulgated through the Magisterium or teaching body of the Church with the guidance of Sacred Scripture and Tradition.

Secondly, critics of the Church's historical consistency have overemphasized the role of ensoulment distinctions in Church teaching. This distinction was never utilized to say that abortions before formation or ensoulment were acceptable; rather, it was used to distinguish specific penalties. Furthermore, the Church's current teaching does not rest on the idea of immediate ensoulment. Rather, the Church has decided that the new genetic material resulting from fertilization constitutes a human presence, and therefore deserves unequivocal protection. The benefit of any doubt concerning personhood or ensoulment should side in favor of the embryo's existence. The mere probability that the embryo is endowed with a human soul from conception is enough to protect from threats against its right to life. When Nancy Pelosi claims that the Church is undecided as to when life begins, she is referencing the question of ensoulment. While the Church has left the

timing of ensoulment to philosophical discussion, the teaching that life begins at and deserves protection from conception is clearly stated.

Finally, in considering past inclusions of the formation and ensoulment distinctions in canon law and commentaries by figures such as Aquinas, it is important to recognize that these assessments were made in light of reliance on Aristotelian biology. They were unaware that the zygote, as it is known understood in the light of modern science, meets their metaphysical criteria for a human being. For example, Haldane and Lee note that Aquinas' key metaphysical principle in considering fetal ensoulment was that "in a material substance the matter must be proportioned to the form, or in a living material substance, to the soul," meaning that the "epigenetic primordia of the organs that support the operations proper to the species" must be present.⁸⁹ Aquinas was unaware that such "epigenetic primordia" are present from conception, long before visibly observable organs are present. Additionally, critics such as Jon O'Brien who state that the Church has changed her reasoning for opposing abortion are referencing changes in the type of sin abortion was considered on the basis of this distinction. Scientific developments that have helped better articulate what occurs at conception have rendered this distinction unnecessary.

Overall, the Church's teaching on abortion has been consistent from the time of the early church to the modern day. As cultural acceptance of abortion has ebbed and flowed throughout the ages, the Church has remained solid in the belief that human life, made in the image of God, deserves protection from the start.

⁸⁹ Haldane and Lee, "Aquinas on Human Ensoulment, Abortion and the Value of Life," 268.

BIBLIOGRAPHY

- Catholics for Choice. "About Us." Accessed April 27, 2020.
<https://www.catholicsforchoice.org/about-us/>.
- Akin, Jimmy. *The Fathers Know Best: Your Essential Guide to the Teachings of the Early Church*. Catholic Answers, 2010.
- Amadio, Anselm H., and Anthony J.P. Kenny. "Aristotle." *Encyclopedia Britannica*, March 30, 2020. <https://www.britannica.com/biography/Aristotle>.
- Amundsen, Darrel W. *Medicine, Society, and Faith in the Ancient and Medieval Worlds*, 1996.
- Anthony, Augustine. "Human Dignity from the Beginning of Life: German and Indian Moral Theological Perspectives in an Attempt at Dialogue with Hinduism," 2014.
- Aristotle. *Politics*. Translated by H. Rackham. Cambridge, Massachusetts: Harvard University Press, 1932.
- . "The History of Animals." Translated by D'Arcy Wentworth Thompson, 1994.
http://classics.mit.edu/Aristotle/history_anim.7.vii.html.
- Bakke, Odd Magne. *When Children Became People: The Birth of Childhood in Early Christianity*. Fortress Press, 2005.
- Baur, Chrysostom. "John Chrysostom." In *The Catholic Encyclopedia*. Vol. 8. Robert Appleton Company, 1910. <https://www.newadvent.org/cathen/08452b.htm>.
- Biller, Peter. *The Measure of Multitude: Population in Medieval Thought*. Oxford University Press on Demand, 2000.
- Bout, Melissa Rovig Vanden. "Thomas Aquinas and the Generation of the Embryo: Being Human before the Rational Soul." PhD Thesis, Boston College, 2013.
- Bremmer, Jan N. *The Apocalypse of Peter*. Vol. 7. Peeters Publishers, 2003.
- Brundage, James A. "Canon Law and Contraception." In *Encyclopedia of Birth Control*, edited by Vern L. Bullough. ABC-CLIO, 2001.
- Carrick, Paul J. *Medical Ethics in the Ancient World*. Washington D.C.: Georgetown University Press, 2001.

- Cessario, Romanus and Cajetan Cuddy. *Thomas and the Thomists: The Achievement of Thomas Aquinas and His Interpreters*. Fortress Press, 2018.
- “Casti Connubii, by Pope Pius XI - Summary Outline.” Accessed April 29, 2020. <https://www.pathsoflove.com/texts/casti-connubii-outline/>.
- “Catechism of the Catholic Church - The Fifth Commandment.” Accessed April 27, 2020. https://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm.
- “Catechism of the Catholic Church - The Fifth Commandment.” Accessed April 27, 2020. https://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm.
- Christopoulos, John. “Abortion and the Confessional in Counter-Reformation Italy.” *Renaissance Quarterly* 65, no. 2 (2012): 443–484.
- Church, Catholic, and Edward N. Peters. *The 1917 Or Pio-Benedictine Code of Canon Law: In English Translation with Extensive Scholarly Apparatus*. Ignatius Press, 2001.
- Congregation for the Doctrine of the Faith. “Declaration on Procured Abortion,” November 18, 1974. https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html.
- . *Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation Replies to Certain Questions of the Day*. Rome, 1987.
- “Congregation for the Doctrine of the Faith - Profile.” Accessed April 29, 2020. http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_pro_14071997_en.html.
- Connery, John. *Abortion: The Development of the Roman Catholic Perspective*. Chicago: Loyola University Press, 1977.
- Coriden, James A. “Church Law and Abortion.” *Jurist* 33 (1973): 184–98.
- “Council of Elvira.” Accessed April 27, 2020. http://ldysinger.stjohnsem.edu/@magist/0305_Elvira/00a_start.htm.
- David P. Schmidt. “Casuistry.” *Encyclopedia Britannica*, September 15, 2014. <https://www.britannica.com/topic/casuistry>.
- “Definition of ABORTION.” Accessed April 27, 2020. <https://www.merriam-webster.com/dictionary/abortion>.

- DeMarco, Donald. *The Roman Catholic Church and Abortion: An Historical Perspective*. Right to Life Association of Toronto and Area, 1984.
- Di Mauro, Dennis. *A Love for Life: Christianity's Consistent Protection of the Unborn*. Wipf and Stock Publishers, 2008.
- Catholic Hierarchy. "Doctrine of the Faith." Accessed April 29, 2020. <http://www.catholic-hierarchy.org/diocese/dxcdf.html>.
- Dubray, Charles. "Traducianism." In *The Catholic Encyclopedia*. Vol. 15. New York: Robert Appleton Company, 1912. <https://www.newadvent.org/cathen/15014a.htm>.
- Early Penitentials The Canons Of Theodore*. Accessed April 28, 2020. <http://archive.org/details/EarlyPenitentialsTheCanonsOfTheodore>.
- Ferguson, Everett. "Tertullian." *The Expository Times* 120, no. 7 (2009): 313–321.
- Flinn, Frank K. *Encyclopedia of Catholicism*. Infobase Publishing, 2007.
- Ford, Norman M. *When Did I Begin?: Conception of the Human Individual in History, Philosophy and Science*. Cambridge University Press, 1988.
- Fremantle, W.H., G. Lewis, and W.G. Martley, trans. "Letter 22." Accessed April 28, 2020. <https://www.newadvent.org/fathers/3001022.htm>.
- Galen. *On the Natural Faculties*. Translated by Arthur John Brock, 2013. <https://www.gutenberg.org/files/43383/43383-h/43383-h.htm>.
- Garcia, Benjamin and Katherine Brind'Amour. "Evangelium Vitae (1995), by Pope John Paul II." The Embryo Project Encyclopedia, November 11, 2007. <https://embryo.asu.edu/pages/evangelium-vitae-1995-pope-john-paul-ii>.
- Ghellinck, Joseph. "St. Ivo of Chartres." In *The Catholic Encyclopedia*. New York: Robert Appleton Company. Accessed April 28, 2020. <https://www.newadvent.org/cathen/08257a.htm>.
- Gorman, Michael J. *Abortion and the Early Church: Christian, Jewish & Pagan Attitudes in the Greco-Roman World*. Eugene, Oregon: Wipf and Stock, 1998.
- "Gratian's Decree," 1165. <https://www.wdl.org/en/item/14708/>.
- Gray, Patrick. "Abortion, Infanticide, and the Social Rhetoric of the Apocalypse of Peter." *Journal of Early Christian Studies* 9, no. 3 (2001): 313–337.

- Gurtner, Daniel. *Exodus: A Commentary on the Greek Text of Codex Vaticanus*. BRILL, 2013.
- Gwynn, E. J. "An Irish Penitential." *Ériu* 7 (1914): 121–95.
- Haldane, John, and Patrick Lee. "Aquinas on Human Ensoulment, Abortion and the Value of Life." *Philosophy* 78, no. 2 (2003): 255–278.
- Harrington, Paul V. "Abortion: Part VII." *The Linacre Quarterly* 34, no. 4 (1967): 5.
- Hays, Richard B. *The Moral Vision of the New Testament*. Harper Collins, 1996.
- Heaney, Stephen J. "Aquinas and the Presence of the Human Rational Soul in the Early Embryo." *The Thomist: A Speculative Quarterly Review* 56, no. 1 (1992): 19–48.
- Henderson, Jeffrey. "HIPPOCRATES OF COS, Nature of the Child." Loeb Classical Library. Accessed October 27, 2019.
https://www.loebclassics.com/view/hippocrates_cos-nature_child/2012/pb_LCL520.35.xml.
- St Jerome Catholic Church. "History of St. Jerome." Accessed April 27, 2020.
<https://www.stjeromeonline.org/history-of-st-jerome.html>.
- Horrocks, Alyssa. "The Soul and Abortion in Ancient Greek Culture and Jewish Law." *Journal of Undergraduate Research, Asheville*, 2014, 500–511.
- Huser, Roger John. "The Crime of Abortion in Canon Law: An Historical Synopsis and Commentary." PhD Thesis, Catholic University of America Press, 1942.
- Inwood, Brad. "Seneca, Lucius Annaeus (4/1 BC–AD 65)." In *Routledge Encyclopedia of Philosophy*, 1st ed. London: Routledge, 2016.
<https://doi.org/10.4324/9780415249126-A105-1>.
- Isser, Stanley. "Two Traditions: The Law of Exodus 21: 22-23 Revisited." *The Catholic Biblical Quarterly* 52, no. 1 (1990): 30–45.
- Shaw, J.F., trans. "Augustine's ENCHIRIDION, Chs. 78-96." Accessed April 28, 2020.
<http://www.leaderu.com/cyber/books/augenchiridion/enchiridion78-96.html>.
- Jones, David Albert. "The Human Embryo in the Christian Tradition: A Reconsideration." *Journal of Medical Ethics* 31, no. 12 (2005): 710–714.
- . *The Soul of the Embryo*. Continuum London, 2004.
- . "Thomas Aquinas, Augustine, and Aristotle on "Delayed Animation"." *The Thomist: A Speculative Quarterly Review* 76, no. 1 (2012): 1–36.

- Joseph Michael Arias. "Magisterial Teachings on Direct Abortion and Their Interpretation by Moral Theologians from the Late Nineteenth Century Decisions of The Holy Office to the Present." The Catholic University of America, 2018. ProQuest.
- Kainz, Howard. "Natural Law and Abortion." *Crisis Magazine*, January 6, 2010. <https://www.crisismagazine.com/2010/natural-law-and-abortion>.
- Kapparis, Konstantinos A. *Abortion in the Ancient World*. Bristol Classical Press, 2002.
- Brind'Amour, Katherine. "Casti Connubii (1930), by Pope Pius XI." The Embryo Project Encyclopedia, January 20, 2009. <https://embryo.asu.edu/pages/casti-connubii-1930-pope-pius-xi>.
- . "'Effraenatam' (1588), by Pope Sixtus V." The Embryo Project Encyclopedia, November 11, 2007. <https://embryo.asu.edu/pages/effraenatam-1588-pope-sixtus-v>.
- Katherine Brind'Amour, and Benjamin Garcia. "Pope Innocent XI (1611-1689)." The Embryo Project Encyclopedia, November 11, 2007. <https://embryo.asu.edu/pages/pope-innocent-xi-1611-1689>.
- Lightfoot, J.B. "The Epistle of Barnabas." Accessed April 27, 2020. <http://www.earlychristianwritings.com/text/barnabas-lightfoot.html>.
- Lopez, Angel. "Pope Gregory XIV (1535-1591)." The Embryo Project Encyclopedia, June 22, 2010. <https://embryo.asu.edu/pages/pope-gregory-xiv-1535-1591>.
- . "Pope Pius IX (1792-1878)." The Embryo Project Encyclopedia. Accessed April 29, 2020. <https://embryo.asu.edu/pages/pope-pius-ix-1792-1878>.
- Lorenz, Hendrik. "Ancient Theories of Soul." In *The Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta, Summer 2009. Metaphysics Research Lab, Stanford University, 2009. <https://plato.stanford.edu/archives/sum2009/entries/ancient-soul/>.
- Lu, Mathew. "Embryology: Medieval and Modern." *Human Life Review* 40, no. 2 (2014): 35–48.
- May, William. "Abortion and Ensoulment: Augustine and Aquinas vs. Pelosi and Biden, Part I |." *Culture of Life Foundation* (blog), September 16, 2008. <https://www.cultureoflife.org/2008/09/16/abortion-and-ensoulment-augustine-and-aquinas-vs-pelosi-and-biden-part-i/>.
- . *Catholic Bioethics and the Gift of Human Life*. Our Sunday Visitor, 2008.

- McInerny, Ralph, and John O'Callaghan. "Saint Thomas Aquinas." In *The Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta, Summer 2018. Metaphysics Research Lab, Stanford University, 2018. <https://plato.stanford.edu/archives/sum2018/entries/aquinas/>.
- McQueen, Moira Mary. "Changing Emphases in the Concept of Responsible Parenthood in Roman Catholic Magisterial Teaching Since "Casti Connubii", 1930." PhD Thesis, National Library of Canada= Bibliothèque nationale du Canada, 1998.
- "'Meet the Press' Transcript for August 24, 2008." Accessed April 27, 2020. http://www.nbcnews.com/id/26377338/ns/meet_the_press/t/meet-press-transcript-august/#.XqdvvJNJHGJ.
- Michael Ott. "Pope Innocent XI." In *The Catholic Encyclopedia*. Vol. 8. New York: Robert Appleton Company, 1910. <https://www.newadvent.org/cathen/08021a.htm>.
- Milavec, Aaron. *The Didache: Text, Translation, Analysis, and Commentary*. Liturgical Press, 2016.
- Monk, Molly. "The History of Catholic Teaching on Abortion Isn't as Clear Cut as You Think." The Outline. Accessed April 27, 2020. <https://theoutline.com/post/8536/catholic-history-abortion-brigid>.
- Müller, Wolfgang P. *The Criminalization of Abortion in the West: Its Origins in Medieval Law*. Cornell University Press, 2012.
- National Conference of Catholic Bishops Committee on Doctrine. "Ethical and Religious Directives for Catholic Health Care Services." United States Conference of Catholic, Bishops, 2001.
- Needham, Joseph. *A History of Embryology*. CUP Archive, 1959.
- Noonan, John. "Abortion and the Catholic Church: A Summary History." *Nat. LF* 12 (1967): 85.
- O'Brien, Jon. "The Catholic Case for Abortion Rights," September 22, 2015. <https://time.com/4045227/the-catholic-case-for-abortion-rights/>.
- O'Kane, Michael. "St. Raymond of Peñafort." In *The Catholic Encyclopedia*. New York: Robert Appleton Company, 1911. <https://www.newadvent.org/cathen/12671c.htm>.
- Patsioti, Joanna G. "Aristotelian Perspectives on Social Ethics." In *The Paideia Archive: Twentieth World Congress of Philosophy*, 44:167–174, 1998.

- Paul F. deLadurantaye. "From Humanae Vitae to Donum Vitae: Symmetry and Consistency in Catholic Biomedical Teaching." *The Linacre Quarterly* 66, no. 1 (February 1, 1999): 7–20. <https://doi.org/10.1080/20508549.1999.11877525>.
- Peter Landau. "Gratian and the Decretum Gratiani." In *The History of Medieval Canon Law in the Classical Period, 1140-1234*, 22–54. Catholic University of America Press, 2008. <http://www.jstor.org/stable/j.ctt2853s5.6>.
- Pope Innocent XI. "A Decree Made at Rome, The Second of March 1679 Condemning Some Opinions of the Jesuits and Other Casuists," 1679. http://eebo.chadwyck.com.ezproxy.baylor.edu/search/full_rec?SOURCE=pgimages.cfg&ACTION=ByID&ID=V94678&discovery_service=primo.
- Pope John Paul II. *Evangelium Vitae*. Rome, 1995. http://www.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae.html.
- "Pope Likens Abortion to 'hiring a Hitman' at Anti-Abortion Conference - CNN." Accessed April 27, 2020. <https://www.cnn.com/2019/05/26/europe/pope-francis-abortion-hitman-rome-intl/index.html>.
- Pope Pius XI. *Casti Connubii: Encyclical of Pope Pius XI on Christian Marriage to the Venerable Brethren, Patriarchs, Primate, Archbishops, Bishops, and Other Local Ordinaries Enjoying Peace and Communion with the Apostolic See*. Vatican City, 1930. http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_31121930_casti-connubii_en.html.
- Pope Pius XII. "To the Italian Medical-Biological Union," November 12, 1944. https://www.vatican.va/content/pius-xii/it/speeches/1944/documents/hf_p-xii_spe_19441112_unione-medico-biologica.html.
- "Pope Speaks to U.S. Bishops about pro-Life Issues, Transgender Ideology | National Catholic Reporter." Accessed April 27, 2020. <https://www.ncronline.org/news/vatican/pope-speaks-us-bishops-about-pro-life-issues-transgender-ideology>.
- Posner, Menachem. "A Summary of the Book of Exodus." Chabad. Accessed April 27, 2020. https://www.chabad.org/parshah/article_cdo/aid/2116636/jewish/A-Summary-of-the-Book-of-Exodus.htm.
- Poston, Larry, and Lindsey Disney. "The Breath of Life: Christian Perspectives on Conception and Ensoulment," 2010.
- Pioreschi, Plinio. "Contraception and Abortion in the Greco-Roman World." *Vesalius I*, no. 2 (1995): 77–87.

- Reeve, William, and Jeremy Collier. *The Apology of Tertullian*. Vol. 31. Griffith Farran Okeden & Welsh, 1889.
- Reid, Charles J. “Children and the Right to Life in the Canon Law and the Magisterium of the Catholic Church: 1878 to the Present.” SSRN Scholarly Paper. Rochester, NY: Social Science Research Network, September 19, 2007. <https://papers.ssrn.com/abstract=1015402>.
- Reiman, Jeffrey H. *Abortion and the Ways We Value Human Life*. Rowman & Littlefield, 1999.
- Roberts, Reverend Alexander. *The Ante-Nicene Fathers: The Writings of the Fathers Down to A. D. 325 Volume III Latin Christianity*. Cosimo, Inc., 2007.
- Rosner, Fred. “The Jewish Attitude Toward Abortion.” *Tradition: A Journal of Orthodox Jewish Thought* 10, no. 2 (1968): 48–71.
- Ryan, Melinda. “Through the Oculi of Pliny the Elder: A Gendered Representation of Roman Women as Patients and Healers.” PhD Thesis, Macquarie University, Faculty of Arts, Department of Ancient History, 2016.
- Saint Thomas Aquinas. *Saint Thomas Aquinas Collection [22 Books]*. Aeterna Press, n.d.
- . *Summa Theologica Part II (“Secunda Secundae”) (Annotated Edition)*. Jazzybee Verlag, 2012.
- Schaff, Philip, and Henry Wace, eds. “Council of Ancyra (A.D. 314).” In *Nicene and Post-Nicene Fathers*, Vol. 14. 2. Buffalo, NY: Christian Literature Publishing, 1990. <https://www.newadvent.org/fathers/3802.htm>.
- Schiff, Daniel. *Abortion in Judaism*. Cambridge, UK: Cambridge University, 2002.
- Sider, Ronald J. *The Early Church on Killing: A Comprehensive Sourcebook on War, Abortion, and Capital Punishment*. Baker Books, 2012.
- Siegfried, Fancis. “Creationism.” In *The Catholic Encyclopedia*. Vol. 4. New York: Robert Appleton Company, 1908. <https://www.newadvent.org/cathen/04475a.htm>.
- Sisk, Gregory C., and Charles J. Reid Jr. “Abortion, Bishops, Eucharist, and Politicians: A Question of Communion.” *Cath. Law*. 43 (2004): 255.
- Sprinkle, Joe M. “The Interpretation of Exodus 21: 22-25 (Lex Talionis) and Abortion.” *Westminster Theological Journal* 55 (1993): 233–53.
- Steel, Carlos. *Aristotle’s Animals in the Middle Ages and Renaissance*. Leuven University Press, 1999.

“The Development of the Canon of the New Testament - Epistle of Barnabas.” Accessed April 27, 2020. http://www.ntcanon.org/Epistle_of_Barnabas.shtml.

“The Didache.” Legacy Icons, 2013.

The Editors of Encyclopedia Britannica. “Blessed Innocent XI.” Encyclopedia Britannica, August 8, 2019. <https://www.britannica.com/biography/Blessed-Innocent-XI>.

———. “Council of Elvira,” July 20, 1998. <https://www.britannica.com/event/Council-of-Elvira>.

———. “Hebraic Law,” July 20, 1998. <https://www.britannica.com/topic/Hebraic-law>.

———. “Hylomorphism.” Encyclopedia Britannica, March 15, 2016. <https://www.britannica.com/topic/hylomorphism>.

———. “Logos.” Encyclopedia Britannica, May 21, 2012. <https://www.britannica.com/topic/logos>.

———. “Patria Potestas.” Encyclopedia Britannica, March 30, 2016. <https://www.britannica.com/topic/patria-potestas>.

———. “Roe v. Wade.” Encyclopedia Britannica, December 16, 2019. <https://www.britannica.com/event/Roe-v-Wade>.

———. “Saint Augustine,” Encyclopedia Britannica, February 19, 2020. <https://www.britannica.com/biography/Saint-Augustine>.

———. “Saint Clement of Alexandria,” Encyclopedia Britannica, January 3, 2020. <https://www.britannica.com/biography/Saint-Clement-of-Alexandria>.

———. “St. Jerome,” Encyclopedia Britannica, January 2, 2020. <https://www.britannica.com/biography/Saint-Jerome>.

“The Oral Law -Talmud & Mishna.” Accessed April 27, 2020. <https://www.jewishvirtuallibrary.org/the-oral-law-talmud-and-mishna>.

“The Pentateuch.” Accessed April 27, 2020. http://www.usccb.org/bible/scripture.cfm?src=_intros/pentateuch-intro.htm.

Early Christian Writings. “The Works of Philo.” Accessed April 27, 2020. <http://www.earlychristianwritings.com/yonge/book29.html>.

- Thomas Campbell. "Asceticism." In *The Catholic Encyclopedia*. Vol. 1. New York: Robert Appleton Company, 1907. <https://www.newadvent.org/cathen/01767c.htm>.
- Tutino, Stefania. *Uncertainty in Post-Reformation Catholicism: A History of Probabilism*. Oxford University Press, 2017.
- United States Conference of Catholic Bishops. "The Distinction Between Direct Abortion and Legitimate Medical Procedures." United States Conference of Catholic Bishops, June 23, 2010.
- Way, Agnes, and Roy Deferrari. "188 (1) . To Amphilochius, Concerning the Canons (1-16)." In *The Fathers of the Church*, 28:4–24. Catholic University of America Press, 1955. <https://doi.org/10.2307/j.ctt32b0bp.6>.
- Fremantle, W.H., G. Lewis, and W.G. Martley, trans. "Letter 121." Accessed April 27, 2020. <https://www.newadvent.org/fathers/3001121.htm>.
- Verhey, Allen. *Reading the Bible in the Strange World of Medicine*. Grand Rapids, MI: W.B. Eerdmans Publ., 2003.
- Wiel, Constant van de. *History of Canon Law*. Peeters Publishers, 1991.
- Wilhelm, Joseph. "General Councils." In *The Catholic Encyclopedia*. Vol. 4. New York: Robert Appleton Company, 1908. <https://www.newadvent.org/cathen/04423f.htm>.
- William Fanning. "Irregularity." In *The Catholic Encyclopedia*. Vol. 8, 1910. <https://www.newadvent.org/cathen/08170a.htm>.
- Winroth, Anders. *The Making of Gratian's Decretum*. Cambridge University Press, 2000.
- Witte, John, Gary S. Hauk, and Rafael Domingo, eds. "Thomas Sanchez." In *Christianity and Family Law: An Introduction*. Cambridge University Press, 2017.
- Zubin Mistry. *Abortion in the Early Middle Ages, C. 500-900*. Boydell & Brewer, 2015.