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KILLING GEORGE TILLER (Part 1)

by Gregg L. Cunningham

On Sunday, May 31, 2009, we received a poignant note from a twenty-three-year-old woman who regretted her abortion. Referring to our display of abortion photos, she said: “It’s a real eye-opener – I wish I’d seen this website five years ago.” We were too late to save her baby but just in time to save the niece or nephew of a thirty-four-year-old woman from whom we heard on May 28 in Utica, NY. She said of our abortion pictures: “I never believed in ... [abortion]. My sister saw this [our abortion photos] and changed her mind.” The writer thanked us and added: “She was only going to have ... [an abortion because] she has two and could not really afford another child. Thank you so much.”

The Left Condemns The Middle

Praise God! But on May 31, 2009, our relief at having saved this precious life was clouded by the tragic murder of late-term abortionist George Tiller. In a strange way, the Tiller killing immediately thrust our Center For Bio-Ethical Reform (CBR) into the middle of a very weird controversy. The loony Left condemned us for causing “Dr.” Tiller’s death and the off-their-rocker Right rebuked us for condemning it. From the Left, the Associated Press (AP) reported a story headlined “Abortion foes worry,” June 1, 2009, which quotes Stephanie Poggi, executive director of the National Network of Abortion Funds (which helped fund abortions committed by Mr. Tiller). She alleges that “Anyone in the anti-abortion movement who has called ... abortion a holocaust ... helps create the conditions where something like this can happen.” Ah, that would be us. After ten years of displaying our Genocide Awareness Project (which involve huge abortion photos arrayed beside Holocaust photos and photos of victims of other widely recognized forms of genocide) for millions of students on hundreds of college campuses, CBR has arguably done more to establish the concept of abortion as a holocaust than any organization in the world. I question the notion, however, that that makes us accessories to murder.

The Right Condemns The Middle

From the other side of this creepy conflict, we received an email message from a “Rev.” Donald Spitz, who is associated with a shadowy group of unstable misfits who have misnamed themselves the “Army of God.” Thank-

fully few in number, they murder abortionists and/or egg-on and venerate potential and actual murderers of abortionists. In response to our condemnation of “Dr.” Tiller’s murder, “Rev.” Spitz chided us, by name, for “denouncing someone who defends” preborn children by killing an abortionist. We are left to wonder how a genuinely Christian ordination could ever be conferred upon a vigilante such as “Rev.” Spitz, who helps organize lynch mobs.

But not to be outdone by the heretical “Rev.” Spitz, a person named Michael Bray, who is also associated with the “Army of God,” sent us an email message which began by saying: “We grieve for the perverted sympathy CBR displays for the wicked decedent.” He added: “We condemn CBR ([Mark] Harrington [who directs CBR Midwest] and [Gregg] Cunningham) for its condemnation of those who think biblically” Mr. Bray has served time in prison in connection with the bombing of abortion clinics. He apparently believes that our Savior is glorified by murdering abortionists.

Perhaps the most bizarre associate of the “Army of God,” however, is a person named Neal Horsley. Mr. Horsley recently attempted to justify the killing of abortionists in the HBO documentary titled “Soldiers in the Army of God.” He has also hosted the “Army of God” website and created on his own website a perpetual adoration page which glorifies the predations of murderer Paul Hill (ChristianGallery.com). His connection with the group is noted by Wikipedia.com, which also lists “Dr.” Tiller’s alleged killer, Scott Roeder, as an associate. The “Army of God” website chronicles Mr. Horsley’s affiliation with the group up until the time of their falling-out over Mr. Horsley’s insistence on burning American flags during a post-humous tribute to Mr. Hill. The guardian.co.uk website, on June 5, 2009, in a story headlined “On the front line in the U.S. abortion war,” quotes Mr. Horsley as saying of Mr. Roeder, “He’s committed justifiable homicide in the same way that I would let him walk if he defends his own life.”

We first became aware of Mr. Horsley when he disputed our policy of declining to make our abortion photos available for use by any person who refuses to condemn abortion-related violence or who associates with persons who refuse to condemn abortion-related violence. He responded by pirating our pictures. When we threatened him with

a lawsuit (see “New Threats From The Center For Bio-Ethical Reform” on his website) he stopped using the photos but denounced me, by name, as “treasonous.”

Mr. Horsley explains on his website that he will not sign our anti-violence statement because doing so would violate a campaign pledge he has made as a perennial nuisance candidate for the Office of Governor of the State of Georgia. He says it is his intention, upon taking office, to first outlaw abortion in Georgia and then to order his state militia (The Georgia National Guard, a deputized posse?) to take up arms against the Federal Marshals and FBI Agents who would be dispatched to enforce federal abortion laws. He is an unapologetic secessionist who wants to refight the Civil War. I am not making this up. It seems to us that provoking another “War Between the States” might arguably violate our anti-violence policy. He says he wants to shoot abortionists but he believes the best way to kill them is to empanel a Nuremburg-style tribunal with which to convict them of crimes against humanity and only then would he execute them. Since the penalty for “treason” is also death, perhaps he intends a similar fate for “treasonous” traitors such as I.

I pray for these delusional souls but I only grant them public attention to make the point that the press shamelessly exploits their imbecility to discredit the real pro-life movement. Reporters do the same thing with the certifiably insane Westboro (KS) Baptist Church, which protests at funerals to taunt the families of deceased homosexuals. They also show up at military funerals to argue that the deaths of GIs killed in combat is God’s judgment on the military for tolerating homosexual members. News organizations cover these apostates as though they were a mega-church, instead of ten or so people, most of whom are related to their “pastor.” I also blame this anti-abortion violence on the ghoulish news media which virtually invented Paul Hill, who was no one from nowhere until ratings hounds like Phil Donohue put him on television so many times that Mr. Hill apparently became embarrassed to advocate the murder of abortionists without doing anything about it.

As a consequence of all this craziness, we have always believed that waiting until some lunatic has killed an abortionist and then rushing out to condemn the act is a reaction which represents too little, too late. We think we have an obligation to be pro-active and isolate and ostracize aspiring murderers before they act. We are also committed to anathematizing those who support these lethal aspirations as quickly as they become known to us. That is why we will have nothing to do with violence mongers and we are working to organize real pro-life organizations to quarantine them as well.

News Media Lies

But when “Dr.” Tiller was killed, we nonetheless took our usual ridiculous beating in the press. I caught a major British newspaper, guardian.co.uk, “Terror in the name of Jesus,” June 1, 2009, telling outrageous lies about anti-abortion violence in the U.S. In the same article in which she condemned the Tiller murder, a shrewish English feminist also accused the pro-life movement of having “poured petrol on a nurse and set fire to her.” The editors printed a retraction after I threatened them with a lawsuit but the incident proves once again that anti-abortion violence brings out the wackos on both sides. Five abortionists have tragically been killed since the U.S. Supreme Court decided *Roe v. Wade* but the harshness of the vilification to which we are subjected with each of these mercifully infrequent murders suggests that the actual number has been five hundred.

George Tiller And The Mullahs

Compare our excoriation with the media’s reaction to the murder of pro-reform Iranian protesters in Tehran. Fox-News.com, “Basij Militia Allegedly Use Axes, Daggers to Attack Iranian Protesters,” June 19, 2009, made Iranian pro-government thugs sound just like abortionists when they described attacks with “crude weapons.” The-Sun.co.uk, June 16, 2009, in a story headlined “Iran orders vote recount after riots,” quoted state-run Radio Payam as conceding that “... seven people were killed and several others wounded” Five American abortionists have been killed in thirty-six years, compared with seven Iranian protesters who have been killed in thirty-six hours. *The Wichita Eagle*, in a story titled “Murder brings shock, condemnation,” June 1, 2009, said: “It can be hoped that in dealing with the horror of Tiller’s murder, people [meaning us, not the abortionists] will pause to consider what the abortion wars have wrought, and whether there might be a better way.” Note that *The Wichita Eagle* never expressed “shock” or “condemnation” over “Dr.” Tiller’s killing of preborn children. But the *Los Angeles Times* reported on June 18 (“Iran treads lightly in a culture of martyrs) that “Both sides are exercising a measure of restraint.” Murdering five baby-killers is a “horror” but murdering seven reformers is “restraint.” The fact is that both are “horrors” but America has now joined Iran as a country with a “state-run press” (to borrow a phrase from Rush Limbaugh).

Pro-Lifers Go Off The Rails

Even normally sensible pro-lifers, however, were making incoherent statements in the wake of “Dr.” Tiller’s death. The website AlbertMohler.com featured an odd column by this Southern Baptist seminary president on June 1,

2009 stating that “Dr.” Tiller’s shooting “... presents the pro-life movement with a crucial moral test – will we condemn this murder in unqualified terms?” It may have escaped Dr. Mohler’s notice that none of the five abortionists who have been killed over the last several decades were murdered by anyone who was any part of any organization which could reasonably be described as “the pro-life movement.” Nor does he seem to be aware of the fact that from the very beginning of the abortion wars, pro-life organizations have universally and consistently condemned violence of every kind.

Abortionists Create Climate Conducive To Violence

A more important question may be whether the abortion industry has passed the “crucial moral test” of “condemning, in unqualified terms,” the nearly fatal attack on pro-life clinic counselor Ed Snell. Mr. Snell was trying to talk to a mother outside the Hillcrest Abortion Center in Harrisburg, PA, when the pregnant woman’s male companion knocked him to the ground. *World* magazine reports (“See no evil,” January 26, 2008) that Mr. Snell “... landed on his head and back, fracturing four vertebrae and sustaining a bleeding brain injury that soon had doctors fighting for his life.” The article reports a similar attack on clinic counselor Patte Smith in Orlando, FL. She too was knocked down by the male companion of a pregnant woman with whom Ms. Smith was trying to speak. The attacker then “kicked her in the ribs ...” How many abortionists have been criticized for failing to condemn these attacks, and countless others, all of which are covered up by major news organizations?

It is a scandal that so much of the pro-abortion violence which is threatened and committed against pro-life activists goes unreported. Since it doesn’t fit the narrative being peddled by pro-abortion news organizations, it just never happened. But it is happening. We have had two students smash their car into our campus abortion signs, almost running over one of our volunteers. We had a Montana man arrested in the act of pointing a gun at one of the pilots who was flying one of our aerial billboard tow planes. We have received phone threats (you can listen to some of them at www.abortionNO.org) telling us: “If I see that [abortion photo] truck coming by one more time, it’s not going to be running the next week.” Another said, “I think you all should die If I had an AK ... I would come to wherever you guys live and I would blow all your heads off.” Someone else said, “I wish I had a bomb [so I could] blow your plane up.”

And the list goes on: “We’re going to cut your tires and brake lines.” “Tell the pilot that he can expect a visit out at the airport the next time he comes in for a landing.” “If I see your truck again, I’m going to run it off the road and

hopefully kill the driver.” “I’m going to take a .50-caliber and shoot the pilot ...” “You people ought to be shot right in your f***in’ heads.” “You people ought to be gutted like fish.” “Get your plane out of the sky before it’s TAKEN out of the sky.” “You should be burned at the stake.” “If I had a gun strong enough to shoot your f***in’ plane down, I would.” Then, of course, there is the all-purpose threat, “I hope you all die.” Pro-life blogger Jill Stanek is currently under police protection for death threats of the sort which have also been made against pro-life activists such as Fr. Frank Pavone of Priests for Life (and our CBR board of directors). Had any of these acts of intimidation and violence endangered an abortionist, do you think the state-run media would have ignored them? I assure you, people would have been reading the stories as far away as Mongolia!

Killing Treatable Babies

Adding insult to injury, CNN.com/crime, in a story titled “Man charged with murder in Kansas doctor’s death,” June 2, 2009, quotes Warren Hern, another notorious late-term abortionist, who said: “Most of ... [Mr. Tiller’s] patients were grappling with pregnancies that were ‘fatally or catastrophically complicated by medical problems’ ...” That statement is a lie and Warren Hern is a liar. This is the same Warren Hern, by the way, who has described preborn children as “parasites” and pregnancy as “disease” (*Abortion Practice*, Alphenglo Graphics, 1990).

FRC.org recently posted an essay written by Mary L. Davenport, M.D., titled “Is Late-Term Abortion Ever Necessary?” Here are some useful quotes:

Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, shocked the general public in 1997 when he admitted that the vast majority of partial-birth abortions were performed on healthy mothers and babies. Contrary to the assertion of abortion rights supporters that late-term abortion is performed for serious reasons, surveys of late-term abortion patients confirm that the vast majority occur because of delay in diagnosis of pregnancy. They are done for similar reasons as early abortions: relationship problems, young or old maternal age, education or financial concerns.

Although most late-term abortions are elective, it is claimed that serious maternal health problems require abortions. Intentional abortion for maternal health, particularly after viability, is one of the great deceptions used to justify all abortion. The very fact that the baby of an ill mother is viable raises the question of why, indeed, it is necessary to perform an abortion to end the pregnancy. With any serious maternal health problem, termination of pregnancy can be accomplished by inducing labor or performing a cesarean section, *saving both mother and baby*. If a mother needs radiation or chemotherapy for cancer, the mother’s treatment can be postponed until

viability, or regimens can be selected that will be better tolerated by the unborn baby. In modern neonatal intensive care units 90% of babies at 28 weeks survive, as do a significant percentage of those at earlier gestations.

Saving The Mother Doesn't Require Killing The Baby

University of Southern California, has written an eloquent article describing how women are told they need abortions for their own health, when this is patently untrue. A major reason for unnecessary abortion referrals is ignorance, to put it bluntly, especially on the part of physicians in medical specialties inexperienced in treating women with high-risk pregnancies.

An unfortunate reality is that the legal burden for the physician is severe if all possible risks of continuing the pregnancy are not communicated to the patient. In the U.S., multi-million dollar court judgments for "wrongful life" are allowed if the patients assert that they would have had an abortion had they known a particular problem might have ensued. It is impossible to foresee and enumerate each and every possible complication. But if abortion is recommended, even with minimal or no justification, there is no legal penalty. Many women are thus not advised of all the possibilities for treatment and referred for abortion unnecessarily.

For fatal birth defects, abortion is sometimes presented as the only option. But a better alternative is perinatal hospice. This involves continuing the pregnancy until labor begins and giving birth normally, in a setting of comfort and support until natural death occurs. It is similar to what is done for families with terminally ill children and adults.

Concerning the health of "Dr." Tiller's abortion victims (both mothers and children), I once wrote an article for *National Review* magazine (November 10, 1997) in which I explained that, contrary to sob-story propaganda with which he tried to rehabilitate his image, the majority of his late-term abortions were performed on healthy mothers to kill healthy babies. I noted that in an August 26, 1991 edition of *The Kansas City Star*:

[Tiller spokesperson Peggy] ...Jarman admitted that 'about three-fourths of Tiller's late-term patients are teen-agers who have denied to themselves or their families that they were pregnant until it was too late to hide it.' Since his website lists the average age of the mothers on whom he performs his fetal abnormality abortions as 29 years, there can't be much overlap between this older group and the late-term teen-age mothers Jarman describes as aborting assumedly 'healthy' babies. This admission raises the possibility that Tiller could be killing as many as three healthy late-term babies, of healthy mothers, for each [late-term] 'disabled' child he aborts.

Most Late-Term Abortions Performed On Healthy Mothers Of Healthy Babies

The accuracy of my analysis was still being confirmed as recently as June 10, 2009, when the Enid, Oklahoma,

News & Eagle reported a story headlined "Local woman formerly worked for slain Kansas abortion doctor." This former Tiller employee is Luhra Tivis and she reveals that: "'I was seeing eight- and nine-month pregnant women come in,' she said, 'and out of those two dozen a week, only about 2 percent had medical deformities. I thought I was pro-choice back then, but week after week I kept seeing these women coming in with healthy babies and I saw all the records. I didn't think that was right.'" The article adds that "She recalled one day seeing Tiller come from the surgery room carrying a cardboard box. He asked her to open a door for him and she saw his crematorium. 'I realized that box was full of dead babies.'" On average, the late-term babies he killed were so far along in pregnancy that they could have survived outside the womb, had he induced labor without first killing them.

But, trying to change the subject, Warren Hern again blamed us for "Dr." Tiller's murder in CNN.com/crime, "Man charged with murder ...," June 2, 2009: "This is the result of 35 years of anti-abortion harassment and terrorism and hate speech and rhetoric and harsh names" But what "harsh name" is too strident to fairly describe people who torture virtual newborns to death? Quoting *National Review*:

Tiller also matter-of-factly observes that the average age of the more than 1,000 late-term babies he had killed [by 1997] is 27 weeks (or the seventh month of pregnancy). A recent call to the neonatal intensive care unit at Via Christi Hospital in Wichita revealed the presence of premies born at 24 and 25 weeks' gestation – nearly a month younger than the average age of the disabled babies Tiller routinely kills. Hospitals frequently and successfully treat children born with some of the same disorders for which Tiller is killing them. In fact, *The New York Times*, May 16, 1997, citing the National Center for Health Care Statistics, reports that approximately 15% of babies born at 22 weeks will survive, 25% at 23 weeks, 42% at 24 weeks and 57% at 25 weeks.

In direct contradiction to "Dr." Hern's lie that most of "Dr." Tiller's abortion victims suffered "fatal" or "catastrophic" gestational anomalies, it is significant to note that even among the babies which were afflicted with developmental defects, a high percentage of "Dr." Tiller's late-term abortions actually killed babies with treatable conditions. Although I was writing eleven years ago, I was able to report that:

He ['Dr.' Tiller] also lists disorders which he says are among the conditions which justify killing these children. Several of these maladies are non-fatal and some may be only mildly disabling. He names 'encephalocele,' for instance, which *The Merck Manual* says 'can be repaired and the prognosis is good for many of these patients.' He also cites 'hydrocephalus,' concerning which

the text, *Diseases of the Newborn*, Schaffer & Avery, Saunders, 6th Ed., 1991, says that with few exceptions '... every infant with neonatal hydrocephalus should be treated surgically ... [and] 86% of infants survived following their shunt placement. Of these infants, 46% were reported normal on follow-up.'

Still carrying posthumous water for the late abortionist, the guardian.co.uk June 1, 2009 story ("For years anti-abortionists tried") tells a sympathetic tale of "Dr." Tiller killing a preborn baby with hydrocephalus (again, a treatable condition) when "No doctor on the entire east coast of the U.S. would accept her...." Given the fact that the condition wasn't discovered until 22 weeks' gestation, this child could have easily been 23 or 24 weeks – old enough to survive outside the womb -- by the time "Dr." Tiller got his hands on it. But the family had decided that that condition "wasn't the life we wanted for our child." So they hired "Dr." Tiller to kill their baby.

"Dr." Tiller also killed for Down Syndrome. In my earlier article, I noted that "According to *World* magazine, January 18, 1997, the [then] current population of Americans with Down Syndrome is more than 250,000. People with this condition generally score in the 'mild to moderate' range of mental retardation. Most can learn to read, hold jobs and live independently." He killed for spina bifida as well. Of this condition, *The Merck Manual* says that "with proper care, many children will do well." An article appearing in *The New England Journal of Medicine*, 312:1589, 1985, said of these "many children" that, following surgery, "72% were ambulatory and 79% had normal intellectual capacity." But even if none of these children had much of a chance of living "normal" lives, where did we ever get the idea that their parents have the right to kill them? I can barely understand a decision to give them away for adoption.

On July 26, 2009, "An Abortion Battle, Fought To The Death," *The New York Times*, we see just how dishonestly "Dr." Tiller qualified his patients. It is clear the he would kill any baby, at any stage of pregnancy, for any reason or no reason at all:

One expert, Paul McHugh, a professor of psychiatry at Johns Hopkins, then discussed the [Tiller patient] files – though not identities – in a videotaped interview arranged by anti-abortion activists that quickly made its way to Mr. O'Reilly and others in the news media.

Nonetheless, Dr. McHugh's interview raised the question of whether Dr. Tiller had used readily treatable mental health maladies as a pretext to justify late-term abortions.

According to Dr. McHugh, the files he saw contained diagnoses like adjustment disorder, anxiety and depression, that to his eyes were not 'substantial and irreversible.' He also claimed that some women offered 'trivial'

reasons for wanting an abortion, like a desire to play sports. 'I can only tell you,' he said in his taped interview, 'that from these records, anybody could have gotten an abortion if they wanted one.'

Illogical Distinctions

As if to emphasize the "open season" which has been declared on newborns, News.UK.msn.com reported on June 10, 2009 a macabre story headlined "Woman killed three of her babies." The lead sentence read: "A French woman who gave birth in secret three times killed each of her children because she felt they would be too expensive to bring up, a court has heard." This lethal automaton "told psychologists she felt connected with her first two pregnancies" But she added: "That was not the case with her third, fourth and fifth pregnancies" She will now spend years in prison and/or mental institutions. But how is she any more guilty than "Dr." Tiller? She could have achieved the same lethal result and done so with impunity by simply paying "Dr." Tiller to kill her babies as near-newborns.

Sainthood For Sick, Sick Sinner

Then, of course, began the cloying attempts to canonize this man, whom abortion advocates are transforming into a latter-day St. George. The *Los Angeles Times* reported a story headlined "Hundreds attend..." June 6, 2009, which quoted Maria Flentje, a Tiller "patient escort" (someone who herds mothers from the parking lot to the clinic door) who attended his memorial service. She called him a "compassionate, caring, Christian man" She added that he was "the best of Wichita and the best of Kansas." The fact that he provoked so little serious opposition from his Kansas neighbors suggests that the rectitude of pious Midwesterners isn't what it once was. Almost the entire business community of Wichita, for decades, provided him with the goods and services without which he couldn't have run his slaughterhouse with such brutal efficiency. Plumbers fixed his pipes, carpenters remodeled his clinic, electricians wired his crematorium. Bankers took his deposits and stockbrokers managed his profits. They all took his money and pretended it was green instead of red.

At the British newspaper website guardian.co.uk ("For years anti-abortionists tried," June 1, 2009) an unnamed mourner was quoted as saying: "The picture the anti-abortionists show is always of a perfect, beautiful baby, but that is not what he was dealing with. He did what he did out of love." In the same story, "Dr." Tiller's "pastor," the "Rev." Lowell Michelson, said: "He endured so much. He was committed to women's health" The article ends by quoting "Dr." Tiller's description of himself as "a healthcare provider." "Dr." Tiller also revealed that

his daughter once asked him who would “stand up for women with unexpected and badly damaged babies” if he didn’t. Train up a child in the way she should NOT go and she will NOT depart from it.

On June 1, 2009, another British newspaper website, telegraph.co.uk, carried a story headlined “Abortion doctor killing: Wichita grieves for a ‘kind and gentle man.’” On that same day, Slate.com posed a headline question which asked “What Made George Tiller So Special?” Their answer? “He did the abortion procedures that other doctors couldn’t or wouldn’t do.” What were those procedures? The article describes “Dr.” Tiller’s “mastery in performing the D&E procedure on larger fetuses.” A D&E abortion tears the arms and legs off fetuses who are far too large to be suctioned out of the womb. The writer also describes his “expertise” in performing “labor induction” abortions on nearly full-term babies who are killed by administering a “feticidal agent.” “Feticide” rhymes with “pesticide” and the concept is the same. The article closes by explaining that doctors referred late-term abortions to “Dr.” Tiller because they “feared prosecution” if they did them themselves. “Dr.” Tiller was, indeed, prosecuted in connection with the killing of late-term babies but he was never in danger of being jailed.

And “Dr.” Tiller was anything but “gentle.” The July 25, 2009, *New York Times* article cited earlier (“... Fought to the Death”) called the abortionist a “Shrewd and resourceful” man known as a “warrior.” He is quoted as declaring that “‘If a stake has to be driven through the heart of the anti-abortion movement,’ he said, ‘I want to have my hand on the hammer.’” The article reports a police report that “Tiller floored his accelerator” and hit a demonstrator preventing the abortionist’s car from entering the clinic parking lot. He would taunt demonstrators and told one that it was “Too bad your mother’s abortion failed.” His website boasted that “he had more experience with late-term abortions ‘than anyone else currently practicing in the Western Hemisphere.’” To its credit, the *Times* concedes that at least 2,800 of his abortions were performed on viable babies who had “survivable” abnormalities and that many were “perfectly healthy.” As noted above, the actual number was much higher.

No Abortion Can Ever Be Unlawful Under Current Law

Kansas law “bans” abortions on babies capable of survival outside the womb, unless the mother will otherwise die or suffer “substantial and irreversible” injury to “a major bodily function.” But Kansas law doesn’t matter much (nor does the abortion law of any state) because the Supremacy Clause of the U.S. Constitution ensures that all state law is trumped by any relevant federal law. The federal law which controls all abortions is the U.S. Su-

preme Court case of *Doe v. Bolton* (the lesser-known companion to *Roe v. Wade*, decided by the Court the same day), which held that abortion could never be banned if the pregnancy sought to be terminated imperiled the pregnant woman’s “health.”

In that case, “Justice” Harry Blackmun, who made “Dr.” Tiller’s savagery possible, perpetrated an insidious fraud on the American people. He cleverly but dishonestly defined this “health” exception to include “all factors – physical, emotional, psychological, familial and the woman’s age – relevant to the wellbeing of the patient.” What do the terms “emotional” and “psychological” mean? Anything any abortionist wants them to mean (wink, nod, wink). This enables the abortion industry to seem reasonable and even compassionate when its shills argue in defense of abortions “required” to protect a woman’s “health” (who could possibly be against protecting the “health” of a pregnant mother?). At the same time, they are taking advantage of a “health” exception so broadly defined that it bars the banning of any abortion. By definition, any woman who wants an abortion will be adversely affected, either “emotionally” or “psychologically,” if she doesn’t get one. So presto, every mother who will be distressed if she is denied her abortion qualifies for “Justice” Blackmun’s magic “health” exception!

Add to that, Sandra Day O’Connor’s majority opinion in *Planned Parenthood v. Casey* (no abortion restriction may “unreasonably burden” a woman’s right to kill her baby) and you can see why outlawing abortion without reversing *Roe*, *Doe* and *Casey* is essentially impossible. And even if those cases were reversed, control of abortion law would almost certainly merely revert to the states, where abortion would remain legal in those many states which would refuse to ban it. So without a Human Life Amendment to confer rights of personhood on pre-born children through the U.S. Constitution, babies whose mothers will be willing to cross state lines to kill them will effectively be dead.

Kill Rate High But Not Remarkable

Colleen Raezier, of NewsBusters.com (“Media: Tiller a Martyr,” June 2, 2009) says: “By his count, Tiller performed 60,000 abortions.” Jill Stanek has an audio clip with this boast in his own words. That would mean that the overwhelming majority of his abortions killed healthy, first-trimester babies who had been inconveniently conceived by healthy mothers. Lefty bloggers have expressed skepticism concerning the immensity of that number but former abortionist Bernard Nathanson (once a Jewish atheist but now a pro-life Catholic) admits to doing some 75,000 abortions (“Ex-abortionist recalls Tiller,” *Washington Times*, June 11, 2009). In the same

article, Dr. Nathanson also says he trained “Dr.” Tiller to perform abortions in 1970. That would mean that “Dr.” Tiller killed babies for approximately 40 years. So “Dr.” Tiller’s claimed kill-rate, though shocking, does appear to be achievable.

Who’s To Blame For Violence?

USNews.com, “Tiller Murder Knocks . . .,” June 1, 2009, quotes Chris Krozen, of the abortion industry front group Catholics United (by which name they profane the name of the Church) expressing fear that “this murder is a by-product of increasingly hateful and intolerant language on the part of some militant opponents of abortion.” Mr. Krozen, I hate baby-killing and I am intolerant of baby-killers but that doesn’t mean that I am responsible for their murder and you know it. But the abortion industry’s relentless anti-life rhetoric has created a climate of hate for unwanted preborn babies which has produced the greatest blood-bath in human history.

A June 11, 2009 story by Kathleen Gilbert, LifeSiteNews.com, titled “How George Tiller Drove his Own Employee to Join Operation Rescue,” also quotes Ms. Tivis, the former employee of “Dr.” Tiller, describing a letter which “Dr.” Tiller received from an angry patient who described her third-trimester abortion as “the most horrible experience of my life.” In a hellish scene straight out of *Dante’s Inferno*, the former patient went on to detail the nightmarish basement room to which women were sent to deliver their babies after “Dr.” Tiller had poisoned them in their mothers’ wombs. “She said that women were crying and screaming and there was blood everywhere – blood running down their legs and it was just horrible.”

But was it also hell for the babies? “Dr.” Tiller described on his website (which I reviewed before it was taken down) the process by which he would, with benefit of ultrasound guidance, plunge a long needle into the beating heart of a late-term baby to induce a heart attack with a drug called digoxin.

Despite an abundance of incontrovertible evidence exposing this medical monster, the *Los Angeles Times*, “Abortion fatigue . . .,” June 10, 2009, quotes “Dr.” Tiller’s lawyer, Dan Monnat, complaining that “... when you consider the hate language heaped upon Dr. Tiller by commentators and anti-choice zealots – calling him a murderer and an operator of death camps and responsible for the massacre of thousands of babies – then I think you have to ask whether that constitutes ... liability.” Does 60,000 slaughtered babies qualify as a massacre?

In 2007, in two Supreme Court cases named *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood*, Justice Anthony Kennedy, writing for the majority, essentially

ruled that partial-birth abortions (intact D&E) were so gruesome that they could be conditionally banned. The ban under review prohibited the killing of a baby if any part of its body above the navel had first been delivered outside the birth canal. This restriction effectively prevented doctors from puncturing the skull of a living baby to collapse the cranium by suctioning out its brain (which permits easier passage of the head through the cervical opening). Justice Kennedy’s “reasoning,” if it can be called that, was that the partial-birth abortion procedure could be prohibited from being performed on a living baby, but it was fine to perform it on a dead baby. By this, he meant that if it were deemed necessary for the mother’s wellbeing, a partial-birth abortion could still be performed but only if the baby were first killed by a heart attack, induced by injecting the baby’s heart with poison, while still completely inside the uterus. In that way, by the time the baby was pulled far enough outside the birth canal to permit its brain to be sucked out, it would already be dead.

Justice Kennedy explicitly ruled that: “If the intact D&E procedure is truly necessary in some circumstances, it appears likely an injection that *kills* the fetus is an alternative under the Act that allows the doctor to perform the procedure” [emphasis added]. But is a heart attack really more merciful than having your brains sucked out? Boston.com, August 10, 2007, in an article titled “Shots assist in aborting fetuses,” with a subhead which read “Lethal injections offer legal shield,” reported that these lethal-injection abortions are now being done to protect abortionists from criminal liability (it is, theoretically, not legal to kill a baby outside the womb) in abortions after 18 to 20 weeks’ gestation. The article further explained that “Medical staff inject either the heart drug digoxin or potassium chloride, a potentially poisonous salt also used in state [death penalty] executions.” According to the authorities quoted in the story, both chemicals have “long [been] used in late-term abortions . . .”

The Wichita Eagle, “Murder brings shock . . .,” June 1, 2009, termed “sad” the “extreme name-calling directed by some toward Tiller.” But what name would be too “extreme” to fairly describe what “Dr.” Tiller did to these children?

Torture

Digoxin was “Dr.” Tiller’s preferred toxin (as in “choose your poison”) but both chemicals are used to induce fatal heart attacks. MayoClinic.com says “classic symptoms” of a heart attack can be recognized when “someone clutches their chest and writhes in excruciating pain.” That is why condemned capital offenders are given anesthesia before being injected with the heart-stopping drug. Newscientist.com, “Execution by injection far from painless,” April 14, 2005, reports a study conducted by re-

searchers from Florida and Virginia which says: “Without adequate anesthesia ... the person being executed would experience ... a severe burning sensation, massive muscle cramping and cardiac arrest.” WashingtonPost.com, “Lethal Injections Called Flawed,” April 15, 2005, said the same study found that blood samples taken from executed inmates suggested that some 40% of condemned prisoners “might be so inadequately sedated that they are awake enough to suffer agonizingly painful deaths”

It should be borne in mind that these inmates are receiving direct intravenous injections of anesthesia and it still might not be enough to spare them what amounts to torture. Late-term babies get no direct administration of anesthesia before their heart attacks are induced and their mothers are receiving only a local anesthetic, according to Warren Hern, at Dr.Hern.com.

Dr. Norig Ellison, M.D., then President of the American Society of Anesthesiologists (ASA), testified before the Senate Judiciary Committee in 1995 on the issue of how much, if any, anesthesia reaches the baby indirectly, through his mother, in a late-term abortion. He said: “The fact is that when general anesthesia is administered to the mother, only a portion reaches the fetus – the amount varying depending on the type of anesthesia; anesthesia administered regionally does not reach the fetus.” He added that “... [S]ome general analgesic medicines given to the mother will reach the fetus and *perhaps* provide *some* pain relief” [emphasis added]. The key qualifiers here are that “*some*” painkillers will “*perhaps*” reach the baby and provide “*some*” pain relief. As if to emphasize that uncertainty, late-term abortionist Warren Hern says in his book, *Abortion Practice*, that general anesthesia “is rarely indicated in early vacuum aspiration abortion and is seldom indicated thereafter [by which he means in later-term abortions]. Lifeissues.net cites a Guttmacher survey which found that only 21.8% of U.S. abortions were performed under general anesthesia.

In fact, *The New York Times*, “Doctors Say It’s Just One Way,” March 21, 1997, interviewed an anonymous but apparently typical doctor who performs intact D&E abortions on women to whom he administers only “a local anesthetic and a sedative” before he does the following: “You go in and fish out a foot and pull the fetus into a breech position.” Then he says: “You turn it so that the backside is up, pull down on its hips and rotate. When you get to the shoulder blade, it’s easy to sweep the arms down. Then, most of the time you have to crush or fenestrate [open] the skull so that it can come out.”

Despite the sickening reality of “Dr.” Tiller’s racket, USA Today.com, “... Other side’s words led to Tiller death,” June 2, 2009, quotes “Rev.” Carlton W. Veazey,

president of the Religious Coalition for Reproductive Choice, as complaining that “Pro-life groups have created this climate [conducive to murder] through language and attacking those of us who are pro-choice for being killers.” He adds “... they demonize ... the pro-choice movement.” “Demonize”? How is torturing virtual newborn babies to death not demonic?

Were “Dr.” Tiller’s victims old enough to feel pain? As I noted in an earlier letter, an April 5, 2006 British Broadcasting Corporation story (news.BBC.co.uk) reported the results of a study conducted on pain and neonates. Using brain scan technology, University College London researchers concluded that prematurely born infants experience true “feelings of pain rather than simply displaying reflex reactions.” Those are prematurely born babies of the same age as many of the preborn babies which “Dr.” Tiller was torturing to death, without giving them any pain medication at all. Common sense should tell us that when a 23-week prematurely *born* baby is feeling pain in the neonatal intensive care unit of a hospital, a 23-week *unborn* baby is feeling pain in “Dr.” Tiller’s abortion clinic.

Sentience

In fact, a review published in the September 1999 issue of the *British Journal of Obstetrics and Gynaecology* reported that “Given the anatomical evidence, it is possible that the fetus can feel pain from 20 weeks and is caused distress by interventions from as early as 15 or 16 weeks.” The Centers for Disease Control report that about 1.4% of abortions occur at 21 weeks or later. That would mean approximately 18,000 abortions per year are committed on babies who almost certainly can feel pain.

Even more alarmingly, *The New York Times*, “The First Ache,” February 10, 2008, reported that Dr. Kanwaljeet Anand, who is not pro-life but who is Oxford- and Harvard-trained and who holds tenured chairs in pediatrics, anesthesiology, pharmacology and neurobiology at the University of Arkansas, says that “with gestational ages of 24 weeks, 23, 22 ... he noticed that even the most premature babies grimaced when pricked by a needle.”

Anand says he does not oppose abortion in all circumstances but says decisions should be made on a case-by-case basis.

New evidence, however, has persuaded him that fetuses can feel pain by 20 weeks’ gestation (that is, halfway through a full-term pregnancy) and possibly earlier. As Anand raised awareness about pain in infants, he is now bringing attention to what he calls ‘signals from the beginnings of pain.’

Nicholas Fisk is a fetal-medicine specialist and director of the University of Queensland Center for Clinical Research in Australia.

[His research] ... showed that fetuses as young as 18 weeks react to an invasive procedure with a spike in stress hormones and a shunting of blood flow toward the brain – a strategy, also seen in infants and adults, to protect a vital organ from threat. Then Fisk carried out a study that closely resembled Anand's pioneering research, using fetuses rather than newborns as his subjects. He selected 45 fetuses that required a potentially painful blood transfusion, giving one-third of them an injection of the potent painkiller fentanyl. As with Anand's experiments, the results were striking: in fetuses that received the analgesic, the production of stress hormones was halved, and the pattern of blood flow remained normal.

[Dr. Fisk] ... concludes, it's 'better to err on the safe side' and assume that the fetus can feel pain starting around 20 to 24 weeks.

Ray Paschall, an anesthesiologist at Vanderbilt Medical Center in Nashville, remembers one of the first times he provided anesthesia to the mother and minimally to the fetus in an open fetal operation, more than 10 years ago. When the surgeon lowered his scalpel to the 25-week-old fetus, Paschall saw the tiny figure recoil in what looked to him like pain. A few months later, he watched another fetus, this one 23 weeks old, flinch at the touch of the instrument. That was enough for Paschall. In consultation with the hospital's pediatric pain specialist, 'I tremendously upped the dose of anesthetic to make sure that wouldn't happen again,' he says. In the more than 200 operations he has assisted in since then, not a single fetus has drawn back from the knife. 'I don't care how primitive the reaction is, it's still a human reaction,' Paschall says. 'And I don't believe it's right. I don't want them to feel pain.'

Anand acknowledges that the cerebral cortex is not fully developed in the fetus until late in gestation. What is up and running, he points out, is a structure called the subplate zone, which some scientists believe may be capable of processing pain signals. A kind of holding station for developing nerve cells, which eventually melds into the mature brain, the subplate zone becomes operational at about 17 weeks. The fetus's undeveloped state, in other words, may not preclude it from feeling pain. In fact, its immature physiology may well make it more sensitive to pain, not less: the body's mechanisms for inhibiting pain and making it more bearable do not become active until after birth. The fetus is not a 'little adult,' Anand says, and we shouldn't expect it to look or act like one. Rather, it's a singular being with a life of the senses that is different, but no less real, than our own.

The same might be said of the five children who were captured on video by a Swedish neuroscientist named Bjorn Merker on a trip to Disney World a few years ago. The youngsters, ages 1 to 5, are shown smiling, laughing, fussing, crying; they appear alert and aware of what is going on around them. Yet each of these children was

born essentially without a cerebral cortex. The condition is called hydranencephaly [a condition for which "Dr." Tiller would have killed in a heartbeat, so to speak] in which the brain stem is preserved but the upper hemispheres are largely missing and replaced by fluid. This is not the same condition as "anencephaly" but it is sufficiently similar to be relevant to this discussion in that both are cephalic disorders in which much or all of the cerebral hemispheres of the brain are missing.

Merker (who has held positions at universities in Sweden and the United States but is currently unaffiliated) became interested in these children as the living embodiment of a scientific puzzle: where consciousness originates. He joined an online self-help group for the parents of children with hydranencephaly and read through thousands of e-mail messages, saving many that described incidents in which the children seemed to demonstrate awareness. In October 2004, he accompanied the five on the trip to Disney World, part of an annual get-together for families affected by the condition. Merker included his observations of these children in an article, published last year in the journal *Behavioral and Brain Sciences*, proposing that the brain stem is capable of supporting a preliminary kind of awareness on its own. 'The tacit consensus concerning the cerebral cortex as the "organ of consciousness,"' Merker wrote, may 'have been reached prematurely, and may in fact be seriously in error.'

The possibility of consciousness without a cortex may also influence our opinion of what a fetus can feel. Like the subplate zone, the brain stem is active in the fetus far earlier than the cerebral cortex is, and if it can support consciousness, it can support the experience of pain.

'There may not be a single moment when consciousness, or the potential to experience pain, is turned on,' Nicholas Fisk wrote with Vivette Glover, a colleague at Imperial College, in a volume on early pain edited by Anand. 'It may come on gradually, like a dimmer switch.' It appears that this slow dawning begins in the womb and continues even after birth. So where do we draw the line? When does a release of stress hormones turn into a grimace of genuine pain?

On April 4, 2004, Sunny Anand took the stand in a courtroom in Lincoln, Neb., to testify as an expert witness in the case of *Carhart v. Ashcroft*. This was one of three federal trials held to determine the constitutionality of the ban on a procedure called intact dilation and extraction by doctors and partial-birth abortion by anti-abortion groups. Anand was asked whether a fetus would feel pain during such a procedure. 'If the fetus is beyond 20 weeks of gestation, I would assume that there will be pain caused to the fetus,' he said. 'And I believe it will be severe and excruciating pain.'

Obviously, not every "expert" agrees with such conservative assertions regarding fetal pain. Many argue that just

because a baby shows enormous behavioral and biochemical evidence of suffering, it might all be an illusion. But the National Right to Life Committee (NLRC) reports at nrlc.org/abortion/Fetal_Pain/NRLCrebuttalJAMA.html, that the lead author of the *Journal of the American Medical Association (JAMA)* article “Fetal Pain: A Systematic Multidisciplinary Review of the Evidence,” August 24, 2005, which dismisses the idea of fetal pain before 29 weeks, was a mere medical student whose real credential was that she was also a former lawyer for the National Abortion Rights Action League (NARAL). One of her co-authors also directed the largest abortion clinic in San Francisco.

But even “experts” with higher degrees of intellectual honesty have gotten fetal pain wrong again and again.

The New York Times article “The First Ache” also said that “Stuart Derbyshire, a psychologist at the University of Birmingham in Britain ... has declared that babies cannot feel pain until they are 1 year old.” The story adds that:

Infants undergoing major surgery [twenty-five years ago] were receiving only a paralytic to keep them still. [Dr. Sunny Anand’s] encounter with this practice occurred at John Radcliffe Hospital in Oxford, England, but it was common almost everywhere. Doctors were convinced that newborns’ nervous systems were too immature to sense pain, and that the dangers of anesthesia exceeded any potential benefits.

Perhaps most absurdly, *The New York Times* article “Doctors Say It’s Just One Way,” March 21, 1997, reports that “abortion rights advocates” used to argue that “anesthesia kills the fetus” until this contention “was roundly denounced by anesthesiologists.”

Returning to “The First Ache” article, “Mark Rosen was the anesthesiologist at the very first open fetal operation, performed in 1981, at the University of San Francisco Medical Center” But he is a fetal pain skeptic before 29 weeks. “When he was in medical school, he says he worked for a time at an abortion clinic in the morning and a fertility clinic in the afternoon – an experience which showed him ‘the amazing incongruities of life.’” The article says “Rosen sees no contradiction in his position, only a necessary complexity.” The term “complexity” is code for denying the existence of inconvenient moral absolutes (convenient moral absolutes are fine). It means that most morality is personal and subjective (so don’t judge me, man!). Pro-lifers argue that “complexity” might reasonably apply to close questions over which reasonable minds could differ but torturing babies to death is not a close question. What “complexity” means in the abortion context is that liberals live in a constantly evolving, alternate moral universe, entirely of their own

creation. They are angered that conservatives can’t see that vexing moral conundrums are neither truly vexatious nor are they true conundrums. Can’t we all just get along with the mythical notion that mutually exclusive propositions can co-exist in elegant harmony? It’s all good. Non sequiturs are no problem for moral relativists.

Perhaps the most striking paragraph in the “First Ache” article, however, relates more broadly to humanity and rights of personhood:

The capacity to feel pain has often been put forth as proof of a common humanity. Think of Shylock’s monologue in *The Merchant of Venice*: Are not Jews ‘hurt with the same weapons’ as Christians, he demands. ‘If you prick us, do we not bleed?’ Likewise, a presumed insensitivity to pain has been used to exclude some from humanity’s privileges and protections. Many 19th-century doctors believed blacks were indifferent to pain and performed surgery on them without even that era’s rudimentary anesthesia. Over time, the charmed circle of those considered alive to pain, and therefore fully human, has widened to include members of other religions and races, the poor, the criminal, the mentally ill – and, thanks to the work of Sunny Anand and others, the very young. Should the circle enlarge once more, to admit those not yet born? Should fetuses be added to what Martin Pernick, a historian of the use of anesthesia, has called ‘the great chain of feeling’?

Opressors believe that acknowledging the ability to sense pain, even at a rudimentary level, concedes far too much to those who argue that blacks or babies, or black babies, are not subhuman in any way. The truth, however, is that “Dr.” Tiller’s clinic was a torture chamber which made the Abu Ghraib prison seem humane by comparison.

And many who mock our anxiety over the suffering of aborted fetuses would applaud a research study noted at ScienceDaily.com, March 28, 2009, under the headline “Crabs Not Only Suffer Pain, But Retain Memory of It.” The article ends with this quote from a marine biologist who argues in defense of protecting crabs from culinary agony: “With vertebrates we are asked to err on the side of caution and I believe this is the approach to take with these crustaceans.”

– Gregg L. Cunningham, J.D., is executive director of the Center for Bio-Ethical Reform

NOTE: LDI routinely edits submissions for Special Reports. However, the author told us that this work had been edited by experts and requested that we not edit the material. Consequently, LDI did not edit this edition of Special Reports and all spelling, grammar, spacing, is as it was submitted.

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