

**Declaration on the Inalienable Rights of the Preborn:
The Grave Injustice of Abortion
By Fr. Robert J. Spitzer, S.J., Ph.D., August 2024**

Though the Dobbs decision has turned the legality of abortion back to the States, there is still much to be done to protect the inalienable rights of the preborn. Many in our country are in denial of these inalienable rights, reminiscent of the Supreme Court that unanimously denied the inalienable rights of African Americans in *Dred Scott v. Sanford* (1857). Note the similarity in the rationale for abortion and slavery—the reduction of substantially equal human beings to “a subordinate and inferior class of beings.”¹ This distorted rationale led the Supreme Court in *Dred Scott* to conclude “[negros have] no rights or privileges but such as those who hold the power and the Government might choose to grant them.”² States promoting abortion effectively say the same thing about the rights of the preborn. Shall we continue to compound our country’s millions of atrocities and injustices perpetrated against African Americans and the preborn by the same unjustified denial of inalienable rights? Consider the following rationale and vote according to your conscience.

1. Science has established that a new unique substantially whole human being exists at fertilization (the inception of a single-celled zygote).
2. *Every* substantially whole human being *inherently* (by nature) possesses the inalienable rights of life, liberty, and the pursuit of happiness. Therefore, no governmental authority can take them away from any class of human beings or innocent individual human being.
3. Thus, the sanctioning of abortion by states within the U.S. is tantamount to allowing the wholesale killing of innocent unique substantially whole human beings, which is a violation of their inalienable right to life and a grave and permanent injustice. As such, it is ethically and morally objectionable, and must be rejected and rectified by people of conscience in the same way the abolitionist movement rectified the injustice of *Dred Scott v. Sanford*.

Let’s examine the premises in the above argument individually:

I. Science has established that a new unique substantially whole human being exists at fertilization (the inception of a single-celled zygote).

- A. A supermajority of international and U.S. biologists affirm that a new unique human being comes into existence at **fertilization**³:
- An international survey of 5,577 biologists indicates that almost every biologist (96% - 5,354) affirm fertilization as the origin of a new unique human being.
 - A U.S. survey of 2,794 biologists indicates that over two-thirds of U.S. biologists (68% - 1,900) affirm the same origin of human life—fertilization.

B. The genome of a single-celled zygote contains virtually all of the instructions to produce and continually develop a unique human being throughout the course of his/her lifetime.⁴

C. A single-celled zygote is the source and unity of every cell that will constitute a human being over the course of a lifetime. As such, the single-celled zygote (with its unique human genome) at fertilization is a **substantially whole** human being. Nothing will be added to it throughout the course of a lifetime that will make it “human” or “more human.” Though it will grow, experience cellular production and differentiation, and develop accidental characteristics over the course of a lifetime, these developments will not add to its human nature (which is complete at fertilization).⁵

D. Thus, according to the vast majority of biologists (and the scientific analysis of the human genome and zygote), a new unique substantially whole human being exists at the moment of fertilization (a single-celled zygote).

II. Every substantially whole human being *inherently* (by nature) possesses the inalienable rights of life, liberty, and the pursuit of happiness. Therefore, no governmental authority can take these rights away from a class of human beings or an innocent individual human being.

A. An inalienable natural right is one that is necessary for a human being to be or act human. For example, life and self-governance (liberty) is necessary for a human being to be human or act in a human way—so these are inalienable natural rights. However, owning a cell phone, getting an abortion, or owning slaves is not necessary to be human or to act in a human way—and so these are *not* inalienable natural rights.

B. To deprive people of their inalienable natural rights—to deprive them of what is necessary to be human or act in a human way—is *always* a grave injustice. Since the purpose of the law is to protect and promote justice, an unjust law is a contradiction, and therefore, is “no law at all.”⁶ Therefore, no governmental authority can violate, or sanction the violation, of any inalienable natural right of any substantially whole human being without committing grave injustice and undermining its legitimacy.

C. Furthermore, it is beyond the jurisdiction of any governmental authority to give inalienable natural rights to anyone because they are possessed by *every* substantially whole human being by nature. Since no governmental authority gives inalienable natural rights to anyone, no governmental authority can remove them from any class of substantially whole human beings or any individual innocent human being. As such, governmental authority and the law are subservient to inalienable natural rights—not vice versa.⁷

D. *Every* substantially whole human being is a “person” (deserving of protection under the law), because every substantially whole human being has inalienable rights by nature (see above, “A” and “B”), and governmental authority and the law are subservient to those inalienable rights and bound to protect them (see above “B” and “C”). Therefore, any so-called distinction between “substantially whole human being” and “person deserving of protection under the law” is false and pernicious. This false distinction has been used to justify the African slave trade, American slavery (as in *Dred Scott v. Sanford*), slavery of the Indians in the New World, genocide of Jewish people, gypsies, and the disabled, as well as every form of racial, ethnic, and religious bias and prejudice. As might be expected, it was used in *Roe v. Wade* to justify abortion.

E. There is a natural hierarchy of human rights, which is determined by necessity. Any right that is *necessary* for the possibility of another right must be higher than that other right. For example, the right to life is necessary for the very possibility of the right to liberty, because if you are dead, your right to liberty is a moot point. Similarly, the right to liberty is necessary for the very possibility of the right to own property because your right to own property is a moot point if someone else gets to own you—they own your property too. Thus, in a conflict of rights, the preborn human beings’ right to life is higher than a mother’s right to self-governance (liberty) over her own body, and also that an African American’s right to self-governance (liberty) is higher than a white person’s right to own property. It is incumbent upon every governmental authority to uphold this hierarchy of rights so that grave injustice will not be inflicted on those with higher rights claims in order to accommodate those with lower ones.

Conclusion

According to the best scientific analysis, every preborn human being—from a single-celled zygote to a full-term fetus—is a unique substantially whole human being. The avoidance of grave injustice entails the recognition that every substantially whole human being possesses by nature the inalienable rights of life, liberty, and the pursuit of happiness. Furthermore, every governmental authority (and those participating in it) is responsible to uphold the higher rights claims over the lower rights claims of conflicting parties. This means that the one million children aborted every year⁸ have experienced the most heinous injustice possible at the hands of negligent and complicit governmental authorities. Future generations will experience the same grave injustices unless conscientious citizens courageously stand up for the inalienable natural rights of the preborn just as the abolitionist movement stood up for the inalienable natural rights of African Americans against unjust slavery. It is incumbent upon us before God to share these facts with our neighbors and the culture, and vote for policymakers who will redress and rectify this most grievous injustice to millions of innocents. As we approach the

next election, let us defend fundamental justice, inalienable rights, and the preborn by voting for candidates who likewise cherish these rights—and help others to do the same.

¹ Dred Scott v. Sanford, [1] 60 U.S. (How. 19) 393 (1857).

² Ibid.

³ Lynn D. Dowd 2020 “Brief of Biologist as Amici Curiae in Support of Neither Party: Thomas E. Dobbs, State Health Officer of The Mississippi Department of Health *et al, petitioners* v. Jackson Women’s Health Organization *et al, respondents*” Submitted to The United States Court of Appeals for the Fifth Court as well as United States Supreme Court https://www.supremecourt.gov/DocketPDF/19/19-1392/185254/20210729125335060_19-1392%20Dobbs%20v.%20JWHO%20Amicus%20Brief%20of%20American%20Center%20for%20Law%20and%20Justice%20and%20Bioethics%20Defense%20Fund.pdf

⁴ Junca and Santos “The beginning of life of a new human being from the scientific biological perspective and its bioethical implications” *Journal of Biological Research* 44, no.2 (2011) https://scielo.conicyt.cl/scielo.php?script=sci_arttext&pid=S0716-97602011000200013#:~:text=The%20zygote%20contains%20a%20new,an%20original%20cell%2C%20the%20zygote.

⁵ Nicanor Austriaco, “The moral case or ANT-derived pluripotent stem cell lines,” *National Catholic Bioethics Quarterly* 6 (2006): 517-537, https://www.pdnet.org/ncbq/content/ncbq_2006_0006_0003_0517_0537

⁶ Augustine, *On Free Choice of the Will*, Book 1, Section V; Edmund Burke, *Second Speech on Conciliation*, 1775; Henry David Thoreau, *On the Duty of Civil Disobedience* (London: The Simple Life Press 1903) p 39; Mahatma Gandhi, *Young India*, January 5, 1922; Martin Luther King, *Letter from a Birmingham Jail*, April 16, 1963.

⁷ See Thomas Jefferson “Declaration of Independence,” Preamble

See also, John Locke *Second Treatise on Government*, Chapter 1

See also, United Nations “Universal Declaration of Human Rights,” Preamble

⁸ Selena Simmons-Duffin “Despite bans in some states, more than a million abortions were provided in 2023” *NPR/Guttmacher Institute* <https://www.npr.org/sections/health-shots/2024/03/19/1238293143/abortion-data-how-many-us-2023>