

The Right to Medical Care Within a Biblical Worldview: The Declaration of Independence and United States Constitution

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Ed's Note: The following was a presentation delivered in Pittsburgh at the conference on Health Care in Crisis: A Biblical Response, May 2, 1992. Dr. Titus is formerly Dean of the College of Law and Government at Regent University. He is now an attorney, specializing in constitutional litigation and strategy, and President of Forecast Foundation, an educational ministry dedicated to restoring America to her Biblical foundations. The presentation was transcribed, edited by the journal staff, and finally reviewed by Dr. Titus.

Any discussion of rights must begin with definitions. What is meant by "right" today is often different from what was meant by America's founders.

In Webster's Third International Dictionary, there are at least three categories of "right"-not a definition with several nuances, but three categories of definition. These categories of "right" cover much of the page. Rather than review the whole, here is the essence.

1) "Disposed to do what is just or good; being in accordance with what is right, good, or proper; agreeable to a standard or principle; fit." This definition applies when a teacher tells a student who answers correctly, "You are right! It is not what is generally meant when one speaks of "the right to medical care.

2) "Something to which someone has a just claim; something to which someone is entitled; a legally enforceable claim." This category- is what most people mean when they refer to not just the right to medical care, but to the right to have medical care without paying for it (at least not paying the full cost).

3) In light of this definition of right, the third category is quite interesting: "In accord with a standard of justice and duty"!

The second category connotes that one can define his own entitlements-those entities to which he has a right. The third definition, however, denotes that one's right

depends upon its accordance with a standard outside one's own claim-an externally defined standard of justice and duty.

The difficulty in the United States today is that there is no general acknowledgement of a source outside of man himself to define what is just and what is right. In law schools, generally, there is no acknowledgement that God has spoken and that He provides the standard of justice and rightness. Individual professors may believe God's Word is the standard, but there rarely is an institutional statement to that effect. Thus, lawyers and judges today generally do not believe in any objective standard of any kind that defines justice and right. Man seems able within himself to establish his own standard.

This posture contrasts with law governing the physical world. In physics, teachers acknowledge the Law of Gravity as something that man has not contrived. The Law of Gravity is just there. We have to discover it, define it, and conform our conduct to it. It is doubtful that any American physicist would say, "The Law of Gravity binds you only if you want to be bound by it."

No teacher would concede that the person who did not believe in gravity could safely jump off the top of a budding and avoid injury or death. However, few in law school today would concede that laws govern sexual behavior, for example, are binding on man whether he wants to believe them or not. There is a huge, reason-

defying assumption that man can reconfigure or reshape the law that governs human behavior to conform to whatever are his basic desires.

So, this conflict between the second definition of "right," that is, something to which you are entitled by your own definition of entitlement, is very different from the third definition of an external standard by which is determined what is right and wrong.

Without God, the third definition is not possible. Chief Justice Marshall wrote, "We are a government of laws and not of men." If there is no God, this declaration is either a cruel or a foolish statement. How can there be a government of laws and not of men, if men are the inventors of law? If God exists, however, the statement is true and presents us with laws to which we must conform.

Illustrations of the second definition of "right," as evoked by people across the country, are legion. Name any entitlement. In Washington, D.C., our legislators think that budget items cannot be changed because they are "givens," e.g., Social Security, Medicare, and Medicaid. People have a "right" to this whole array of entitlements, so they cannot be touched. Budget reductions must come from somewhere else.

By this second definition of "right," people believe that they have a right to other people's money to live, to eat, to drink, to be fed, to be clothed, to be housed, and of course -to be provided with medical care. This right extends further to require the employer to provide medical care. In legal terms, this process is called "taking" as opposed to "giving"

"Taking" requires individuals to pay a disproportionate share of the cost of civil government. That's the reason that the Constitution forbids taking property without just compensation of the owner. A good example would be the munitions industry. During wartime, if they were not reimbursed, they would pay a disproportionate share of the war effort. Under the Constitution, munitions manufacturers would not be required to pay more than the ordinary taxpayer does. Their goods (property) could not be seized without just compensation. Today, people claim that they have a right to force their

employer to provide a certain minimum, as well as the right of taxpayers to provide similarly.

This modern definition conforms to the second definition, which is actually a self-contained definition of entitlement. But, that was not our forefathers' understanding of rights. The Declaration of independence says, "We consider these truths to be self-evident, that all men are created equal and endowed by their Creator with certain inalienable rights, and among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men.' They chose that language very carefully.

Rights are God-created, not man-invented. Man's purpose in any civil society is to secure what God has given to all mankind-not to redefine or restructure them. Unfortunately, the civil rights movement connotes that rights are defined by the civil government, instead of recognizing that rights are defined and given by God and secured by the civil government. Thus, it is incumbent upon us to discover those "certain inalienable rights" of "life, liberty, and the pursuit of happiness" in the Declaration of Independence.

Return to the Scriptures

The definition of "right" itself must be given by God, or else we make the same mistake as the secularists, starting with ourselves. In Revelation 22:14, your right to the Tree of Life depends upon your obedience to God. Consistent with this truth, the Virginia Constitution says that the definition and free exercise of religion is the duty that we owe our Creator. The Greek word is *exousia*, which is often translated "authority." Indeed, in Matthew 28:18 Jesus claims "all authority.' But, how did He get that authority - that *right* ?

Philippians 2:8 tells us that He was obedient and humbled Himself to the point of death on the cross. So, *Christ was given the right and the power to rule Heaven because of His obedience to God!*

So, our *duty* to God is what defines our *right*. The source of our rights is God Himself, the definer of those rights is God, and obedience is the key to possession of

those rights. For example, the key to the "right to liberty" is obedience. Christians often make a mistake here. They say, "Yes, I believe in free will. Adam and Eve exercised free will." Actually, they did not. They exercised their will, but it was not free. Their "free will" put them in bondage.

When discussions turn to free will, we ought instead to look to Christ's example in the wilderness. At every point where He was tempted, He obeyed God, the Word of God, the plan of God, and the will of God. That is true liberty!

As Christians, we must think differently from the world (Romans 12:2) about rights-and liberty. Otherwise, we fall into a fantasy of our own to imagine what a right is. Whatever the right is---a right to health care, to some sexual practice, to any claim-we must look to the Biblical definition of "right."

Back to the Declaration of Independence

With this foundation, the Declaration of Independence gives us the framework to analyze any rights question or issue. Relative to medical care, the three categories of "life, liberty, and the pursuit of happiness" are key. The right to medical care relates to length of life, quality of life, and every other aspect of life. Think about this connection-one that is crucial to the abortion debate. *If there is a right to medical care, what is the argument on behalf of the unborn child but a right to life?*

God has given us life, not death. Death is not a right. We don't have a right to die. (Note the application! Editor) We have a right to live. It is a duty owed to God. We are acknowledging that God is the giver of life, the taker of life, the author of life, the finisher of life, the alpha of life, and the omega of life. Man's duty (and right) is to live unto God for the period that God has ordained him to live. A physician responding to the call of God serves God by protecting and improving that life, not by terminating it.

Thus, the right to medical care is lifegiving and life-sustaining. In the Beginning, God breathed the breath of life into Adam's nostrils (Genesis 2:7). God did not stop

with Adam. He told Job that the breath of God has made him (Job 33:4). Throughout the generations, God is breathing life into every human being. The Psalmist asks God to show him the number of his days. By contrast today, someone goes to the physician to ask how many days that he has to live. Who knows better: God or the physician? Only by the Holy Spirit does the physician know.

Moses asked God, "Teach us to number our days" (Psalm 90:12). Our very life exists only in our relationship with our Heavenly Father: the beginning of life, the end of life, and everything in between. Thus, medical care must be designed to promote and protect that life. A claim on any other basis is illegitimate.

One of my favorite Scriptures on abortion is Ecclesiastes 11:5. It says that if you do not know the path of the wind or how the body is formed in the womb, then you cannot understand the work of God, the Maker of all things. It is sheer arrogance for man to think that he can discover when life begins. The only way that he can know when life begins is if God reveals it to him. It is only because of God's revelation in the Scripture that we have any idea when life begins. Psalm 139:13-16 reminds us powerfully of this incredible revelation! We dare not attribute to ourselves anything other than what God has revealed to us on that matter!

Still, defective children and pregnancy by incest are often claimed as exceptions to this protection of unborn life. "These are emotionally charged issues, after all." Well, God speaks to them as well. John 9:1-3 recounts the man born blind. Jesus' disciples asked, "Who sinned, this man or his parents?" Jesus answered, "Neither this man nor his parents sinned, but that the works of God should be revealed in him."

Many people today believe that a defective child will live a terrible life, but we are all born defective! We are all born with a fallen nature. That spiritual defect is far more serious than any physical defect! With any abortion "exceptions" for defective children, we transform God's standard to fit our own perception of quality of life. As to suffering and pain, God commands us to endure it patiently. If we do so, He is pleased (I Peter 2:20-25)- But to the human mind, no one should

suffer.

Then, there is the matter of pregnancy by incest. Surely, some say, "That child should not be born." Yet, in Jesus' genealogy (Matthew 1), there is an incestuous link in one generation. Judah impregnated Tamar, his daughter-in-law who had disguised herself as a prostitute (Genesis 38:14-30). Twins were born: Perez and Zerah. Perez is included in Jesus' genealogy. God has a purpose and plan for every life! No matter what man sees, God sees far beyond him.

Without some sense of the nature of life, we will not have a correct understanding of the right to life and the right to medical care. God has defined the framework, not so-called "experts" or politicians. There is a clear duty of the civil magistrate with regard to the protection of life. The civil ruler wields the sword against the evil doer (Romans 13:4). That's the ruler's primary responsibility! He rewards good and punishes evil.

The primary purpose of the civil order is to protect innocent life that bears the image of God (Genesis 9:6). Prior to God's Covenant with Noah (Genesis 9:117), no human authority had any right to impose any penalty upon any sin. However, God states that "whoever sheds man's blood, by man his blood shall be shed." Underlying the right to life is this Noahic Covenant. If the civil government does not enforce this covenant, then it loses its right to rule.

According to Scripture, Israel lost its place as a nation because it did not protect the innocent blood of the children. The law of the land operated to vomit out the people, just as God warned in Leviticus 18. God built this protective principle into the land itself. When Cain killed Abel, it was the blood of Abel that cried out of the ground. That was the testimony that God heard and by which He convicted Cain. The law that protects human life does not depend upon a state legislature passing a statute.

People say that the U.S. Supreme Court legalized abortion. That is impossible. The Court cannot legalize what God has made illegal. Man cannot -make straight what God has made crooked, as the writer of Ecclesiastes has stated. Man may rebel and not enforce

God's law, but he cannot change God's laws.

The right to medical care must begin with God's definitions and His principles governing life, not some sociological or economic assessment with regard to some nebulous quality of life.

The Principle of Liberty

The liberty principle in the context of the right to medical care concerns the relationship between the family, the physician, and the state. God created the family; He also created the authority of the family (Genesis 1:26-28). The first duty given to the family is to be fruitful and multiply. That right extends to the nurture of the children conceived within that union.

In Genesis 2, God said that it was not good for man to be alone, so He made him a helpmeet. From Adam's "knowing" Eve, she conceived, and children were born. In fact, her name, "Eve," meant "the mother of all living" (Genesis 3:20). But, it is not just the mother who is responsible. Fathers have a duty to bring their children up in the nurture and admonition of the Lord (Ephesians 6:4).

Reflecting back to Cain's killing Abel, Cain deserved to die because he killed his brother. But God said that any man who destroyed Cain, God would avenge sevenfold. At that time, the only human institution that had any authority was the family, and the father had no duty (and thus no right) to impose death upon an erring child. His duty was to bring his children up in the nurture and admonition of the Lord.

When all nations were to descend from the families of Noah, then civil authority was created and the death penalty was instituted. Only the civil magistrate, not the father in a family, was given the authority of the death penalty. The father's mission was still the nurture of the child.

This principle is absolutely crucial to understanding the relationship of the physician, the family, and the state. "Honor your father and your mother that it may go well with you and that you may enjoy long life on the earth" (the first commandment with a promise). God does not

say, "Honor your physician..." or "Honor the civil magistrate..." Why? Because it is the father and the mother who have the duty to nurture the child and raise him up in the Lord. If the child does so, then he will live long on the earth and things will go well with him.

A personal story will illustrate. Once, when we had our child in a Christian school, the principal insisted upon our giving him a physician's statement that our child should not participate in physical education activities. Our child had been sick, and we just did not think that he should participate. We did not think that we had a duty to furnish the principal with such a statement because *our duty was to determine whether this child should be engaged in physical activities*, as part of our duty to nurture and raise him up in the admonition of the Lord.

We had a real conflict. We were perfectly willing to provide a physician's statement if there was some question as to whether or not we were doing what was right. The physician's primary duty was to help us determine the proper course for the child's well-being. *The option of medical care rests primarily with the family.* One option may be intercessory prayer without medical attention. We have certainly made that choice on some occasions, and we likely made some mistakes. But as likely, we made mistakes in taking our children to the physician when we should have only prayed for them.

The liberty claim is that medical choice is first of all a family choice, because of the duty of nurture and admonition. The duty of the child is to honor the father and the mother, *with the promise of health and long life.* (Note the "medical" benefit here -Ed.)

Medicine, then, is a helping and serving profession. It stands along side and helps the family with counseling, education, basic medical care, diagnostic testing, prevention, and prescription of medications, etc.

The medical profession also plays a key role as the mediator between the family and the state. The medical profession provides to the state the expertise that the state needs to protect life within the family from some who might pervert their duty to their children. The state

has a duty to protect children from decisions by parents that would harm or destroy the children.

I am troubled by child abuse statutes because they are ill-defined. It is not that child abuse does not exist, but that these laws are confusing. The old-fashioned statutes that defined battery, assault, and murder were preferable. Now, definitions of child abuse are open-ended and encroach more upon the duty of the parent than to protect the child from true abuse by his parents. The state does have a role in protecting children where actions of battery, assault, and murder are concerned.

The state also has a role in the area of communicable diseases. Since people engage in activities that expose others to serious diseases, the authority to quarantine would be one possible action. I am amazed how we treat AIDS in America. The one with AIDS is protected more than the one who is threatened with AIDS.'

The Pursuit of Happiness

At the heart of the pursuit of happiness is the family. Not only did God command the family to multiply and replenish the earth, but to subdue it and exercise authority over it. When God saw that Adam needed a helpmeet, God did not create the United States Congress! Today, congressmen would have you believe that they are the helpmeet to the man to help him provide for his family. No, God created Eve. God *did not even create the church to help Adam!* He created Eve. It was a family free-enterprise system.

In our *laissez-faire*, capitalistic thinking, we have the notion that free enterprise is an individual affair. Thus, we have the individual vs. the state when God created the family to exercise this right.

A physician, then, is to help the family exercise dominion over the family's property, creative opportunities, and how they will spend their money. It is *not the role of the state to decide how families will spend their money.* Therefore, the state should not decide whether the family should spend its money for one kind of medical care vs. another (e.g., allopathic vs. alternative medicine).

For the state to take away money from one family in order to support medical decisions by another family is contrary to that dominion authority, because the duty of the state is to foster and protect the family. *Indeed, the state is substituting for the family because it does not think the family can make right choices.*

Again, Romans 13:4 does not say that the civil magistrate is to do good, but he is to reward good and punish evil. In effect, today's government says to the family, "You don't do good, so we will do good for you. We know better than you whether you ought to pay a certain wage or work a certain number of hours."

One of the most difficult tasks that we had with our children was getting them into the workplace. We had to have a juvenile judge's permission to let our children work before the age of 14. What did that judge know about my children? Nothing! Yet, I had to have his permission for my child to work for someone else.

Today, kids usually don't do any work, other than domestic, until the age of 18, unless a parent is self-employed. Or, they are employed illegally (which most employers will not do because of severe governmental sanctions). The state has usurped the authority of the family instead of fostering and protecting that authority.

Happiness, Welfare, and the Poor

Welfare, as the responsibility of the government, violates the law of love which governs our duty to the poor. You find this law in the Old and the New Testaments. "Pure and undefiled religion ...is...to visit orphans and widows in their trouble" (James 1:27). James does not say that this duty is that of the civil magistrate. His declaration is a summary of all the duties that God sets forth in rather specific terms in the Old Testament.

Two principles concerning love are absolutely critical. 1) Love must be voluntary. The nature of a tax-supported welfare system is involuntary. One has no choice whether to pay or not to pay his taxes.

"For God so loved the world that He sent His only begotten Son." God did not force His Son to come. He

came voluntarily-the ultimate act of God's love.

2) Love must be unconditional. Christ did not say, "Let's see, God. I will sacrifice myself on the condition that You will guarantee me at least one soul." No, He would have gone to earth even if there were no souls to save. He went unconditionally. "While we were yet sinners, Christ died for us" (Romans 5:8). In Medicaid, Medicare, or any other tax-supported medical system, there are conditions. Therefore, any system that is supported by tax money would violate the law of love.

In the Old Testament, God required duties to the poor. The farmer had to leave his field open for gleaning. Interest was not to be charged for loans to the poor. People were required to reach out to the poor who needed something that another had in abundance. *But, in no instance did God require a humanly enforced sanction if a person neglected that duty. It was, and is, a duty owed exclusively to God,* because it is enforceable by reason and conviction and not by force and violence.

These principles of life, liberty, and the pursuit of happiness must be honored in the discussion of the right to medical care. If they are not, then "rights" is not the issue, because the claim is inconsistent with the standards that God has given us to determine what is and is not just.

1. Herbert W. Titus, "Winning the War Against AIDS: Our Nation's Response" vs. a Biblical Response, in Franklin E. Payne, *What Every Christian Should Know About the AIDS Epidemic*, (Augusta, Georgia, Covenant Books, 1991), pp. 168 180.

Question-and-Answer Session

Question: Is there a conflict between the role of a Christian physician as a priest to serve God and his duty to the state?

Answer: The jurisdictional authorities are separate, but there is an interrelationship between the several jurisdictions. For example, if the church is not interrelating with the state, then the church is not doing its job. That is why God says to pray for those who rule

over us (I Timothy 2). The same is required of the physician. He does not choose being a physician as a profession because of licensure standards set by that state. Nonetheless, to neglect his civic duty as a physician is to neglect the duty of a physician that God has ordained him to be. So, there is an interrelationship, but not a jurisdictional encroachment.

Question: What is the role of the state to allow Christian Science parents to "only" pray for the medical needs of their children and neglect care by physicians?

Answer: It's a question of intention.

That is, what is the intent of the parents? In some cases, their claim may be so bizarre that it could be questioned whether the parents' intent is justified. Indeed, prayer is oftentimes what God leads us into with regard to the health of our children. We have to be very careful how the state interferes with that responsibility.

However, if a parent decides to put his child on an altar to slit his throat, claiming that he will be raised from the dead, then there is no doubt that the parent is breaching his duty to honor the life of his child.

Free exercise of religion is not limited to Christians, but only a true Christian would be absolutely in harmony with a truly lawful civil society. Many people in the name of religion are out of step with the law of God and, therefore, out of step with the civil society that God has ordained. Because we are finite and fallen, we will sometimes be mistaken about the limits on the powers of civil rulers. We make an accommodation in a gray area to avoid making mistakes on one side of the line or the other.

Actual decisions depend upon determination of relevant law that governs and the factual assessment of what has happened. There are always difficult cases of application. Those difficulties do not mean that the principle is wrong, but that the application of the principle is difficult. That's where the struggle comes.

Question: What is to prevent a liberal from interpreting the "right to life" in the Declaration of Independence as including a right to medical care that the poor cannot

afford

Answer: The only response is to challenge what is meant in his definitions of life, liberty, and the pursuit of happiness, and how the government is to secure those rights. Some people do take the Declaration and conclude something quite different than what I have said in this talk. One's conclusion depends upon one's worldview. We have been fighting conflicting world views throughout the ages because different people have different presuppositions.

We have to reclaim Madison, Jefferson, and others for our side. Then, we must ask our opponents whom they have on their side to prove that they have the more persuasive reading of the language than we have. It is difficult task. We must know our history and must have done our investigative homework to prevail.

Question: How do you answer the claim that the Declaration and Constitution have to be interpreted relative to the greater knowledge that we have today rather than the knowledge of yesteryear?

Answer: We must ask, "What is the nature of the Constitution?" Briefly, the Constitution was based upon the Biblical concept of covenant. What makes the Constitution a constitution is four perpetuity principles along with three contract principles that are unchanging. If a constitution changes with changing times, it is not a constitution, because it no longer binds each generation to certain enduring principles. Even in my law classes, several sessions are required to show the connection historically and the principles Biblically.

One perpetuity principle is that it is binding on future generations. We see that in the New Testament when Christ made a new covenant, that bound and benefited not only the generation of his day, but all future generations as well. The Preamble of the Constitution "secures the blessings of liberty for ourselves and our posterity." From this continuity, one professor has stated that the Constitution could not possibly be construed to authorize abortion because that act takes away a blessing of liberty from one's posterity.

The nature of the Constitution is inescapably a battle of

worldviews; that is, a theological argument, because all law ultimately rests upon the premise of who is the ultimate author of law- God or man.

Note

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