



GLC Weekly

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Harvard Law Journal Documents Unborn Babies are Constitutional Persons, Part 1

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This morning a friend forwarded an article to me that revealed the truth about how babies in the womb were viewed during the 1800s when abortion was prohibited by every state and the Fourteenth Amendment was adopted. This is knowledge that was unknown to or ignored by the 1973 *Roe* Supreme Court justices. The 2017 article may have affected the U.S. Supreme Court's 2022 *Dobbs* decision revoking *Roe v. Wade*. In a multi-part series, I'll share excerpts that reveal that British and Americans (at least until the mid-1900s) viewed babies in the womb as "persons" to be protected by law, and abortion as "child murder."



In 2017, Joshua Craddock, then a Harvard law student, wrote a Harvard Journal of Law & Public Policy (Volume 40, Issue 2) article titled: **"Protecting Prenatal Persons: Does the Fourteenth Amendment Prohibit Abortion"** (http://journals.law.harvard.edu/jlpp/wp-content/uploads/sites/90/2018/02/Craddock_FINAL.pdf).

Here are excerpts from the article:

"Introduction: During initial arguments for *Roe v. Wade*, the state of Texas argued that 'the fetus is a "person" within the language and meaning of the Fourteenth Amendment.' The Supreme Court rejected that conclusion. Nevertheless, it conceded that if prenatal 'personhood is established,' the case for a constitutional right to abortion 'collapses, for the fetus' right to life would then be guaranteed by the [Fourteenth] Amendment.'" . . .

"II. Interpreting 'Persons' in the Fourteenth Amendment (4 areas of proofs): . . .

"A. Text and Dictionary Usage . . .

(text of the Fourteenth Amendment): *'All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'*

“According to dictionaries of common and legal usage at the time of the Fourteenth Amendment’s adoption, the term ‘person’ was largely interchangeable with ‘human being’ or ‘man.’ . . . No dictionary of the era referenced birth or the status of being born in its definition of ‘person,’ ‘man,’ or ‘human being.’ . . .

“In his discourse on ‘The Rights of Persons,’ Blackstone wrote that ‘[n]atural persons are such as the God of nature formed us.’ Thus, for Blackstone, there was ‘no distinction . . . between biological human life and legal personhood. . . . Blackstone declared that ‘[l]ife is . . . a right inherent by nature in every individual; and it begins in contemplation of law as soon as the infant is able to stir in the mother’s womb.’ Mention of the preborn child’s stirring was intended to protect prenatal life as soon as it could be discerned, not to exclude human life from protection prior to that point. The principle of Blackstone’s rule was that ‘where life can be shown to exist, legal personhood exists.’”

Jacobson comments: Thus, in both the dictionaries and laws during the 1800s, the baby in the womb was recognized as a “person,” “human being,” and “man.” Further, where there was evidence of a living baby in the womb, the duty of government and law was to protect that life.

For those who do not know Sir William Blackstone, he was an English jurist who wrote the “Commentaries on the Laws of England.” The foundations for law in the American Colonies and early period of the United States were the Bible, Common Law, and Blackstone’s Commentaries.

PRAY that the LORD would restore a true understanding and deep valuing of each child, beginning in the womb, as a person, a human being, created in the image and likeness of God, of inestimable value, and worthy of protection by parents, family, the Church, medical professionals, government, and good laws.

For the LORD, the sacred gift of life, and remembrance of the babies,

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*The purpose of the Global Life Campaign is to **call and equip trustworthy disciples inspired by the Holy Spirit**, to be a catalyst movement to establish principles and practices in nations that align with the Word of God and respect human life.*