

In the Constitutional Court of Columbia

Case File Numbers: D-6122, D-6123, D-6124

Brief of the Family Research Council As Amicus Curiae, Supporting Existing Laws

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Interest of Amicus Curiae

The Family Research Council (FRC) is a non-profit, research and educational organization dedicated to articulating and advancing a family-centered philosophy of public life. In addition to providing policy research and analysis for the legislative, executive, and judicial branches of the national government, FRC works to inform the news media, the academic community, business leaders, and the general public about family issues. FRC publishes and disseminates resource material, legal memoranda, and public policy studies. FRC has participated in numerous amicus curiae briefs in the United States Supreme Court and in other national and state courts.

Summary of Argument

It is often asserted that abortion should be permitted for pregnancies resulting from rape or incest, often referred to collectively as "hard cases." FRC closely examined these arguments, and extensively interviewed women who had received abortions in such circumstances. Our research demonstrated that abortion in such circumstances serves only to compound the problems the woman must live with. We summarized our research in a publication entitled, "The 'Hard Cases' of Abortion," written by Julie Makimaa and Kathy Hoffmaster. In this brief, we provide an extended excerpt from that publication to assist the Columbia Constitutional Court in its deliberations.

I. THE TRAUMA OF RAPE AND THE TRAUMA OF ABORTION

Rape is a very emotional and powerful word – just hearing it can conjure thoughts of despair, vulnerability, and fear. Rape victims have overwhelming feelings of anger, depression, and guilt. They feel dirty and violated and can have flashbacks, nightmares, and insomnia. After being sexually assaulted, many show a lack of interest in friends and family and become isolated. Some even

contemplate suicide.¹

Interestingly, the effects of abortion are very similar to the effects of rape. In a study published in 1992, psychotherapists Anne C. Speckhard and Vincent M. Rue wrote,

While abortion may indeed function as a stress reliever by eliminating an unwanted pregnancy, other evidence suggests that it may also simultaneously or subsequently be experienced by some individuals as a psychological stressor, capable of causing posttraumatic stress disorder (PTSD).²

Among the reported reactions of women who have had abortions are depression, loss of self-esteem, self-destructive behavior, sleep disorders, sterility, increased risk of breast cancer, miscarriages, lower self-esteem, suicidal impulses, feelings of helplessness, anger, memory loss, chronic problems with relationships, anxiety attacks, and guilt and remorse.³ Even the Alan Guttmacher Institute, Planned Parenthood's research organization, estimates that as many as 91 percent of all women who have had abortions may suffer from physical and psychological "post-procedural trauma."⁴ Considering that the effects of abortion are very similar to the effects of rape, is abortion a healthy solution for the pregnant rape victim?

The following is the true story of a woman, "Pat," who wishes to remain anonymous. Pat was contacted through a survey conducted by Fortress International, a survivors group for women who are victims of rape and incest.

Finally I was off to college, my first time away from home. It felt so good to be out on my own. A girlfriend invited me to a party, [and] although I didn't know her very well, I wanted to make new friends and agreed to go.

We left the party early and stopped at a local bar. Two guys at the bar invited us to join them for a drink. I thought it was strange that the glasses were already on the table before we even sat down. The drink was terribly strong and after a couple sips I refused any more, but within a few minutes I began to feel extremely light-headed and sleepy.

One of the young men asked if he could take me home. I accepted because I was feeling scared and disorientated [sic]. I could hardly walk and was having difficulty talking.

¹ "Rape Recovery Help and Information Page — Post Traumatic Stress Disorder (PTSD)," www.geocities.com/HotSprings/2402/ptsd.html (information taken from a booklet about PTSD put out by Blount Memorial Hospital in Maryville, Tenn.).

² Anne C. Speckhard and Vincent M. Rue, "Postabortion Syndrome: An Emerging Public Health Concern," *Journal of Social Issues* 48, Issue 3 (1992): 96.

³ Elliot Institute, "Women at Risk of Post-Abortion Trauma" (Springfield, Ill.: Springfield Right to Life, 1990), p. 5.

⁴ "Planned Parenthood admits abortion may damage 9 out of 10 women who undergo procedure," Press Release, *New Dimensions* (newsletter of Arkansas Right to Life), distributed with the September/October 1991 issue.

But instead of taking me home, he took me to an old broken-down house near the campus. There he raped me twice. I prayed throughout the rape, picturing my family and boyfriend, and pleaded with God for my life. I was relieved when he was finally through with me. I was in and out of consciousness all night and finally woke up as he was getting up.

I couldn't believe what had happened to me. He acted as if I was a willing participant in what had happened, that everything was perfectly normal. In the morning he released me in front of the store where I worked.

I was in shock. I felt sickened and humiliated by what had happened. Dazed, I walked home to shower over and over. I told no one what had happened to me. Since I had voluntarily gone to the party and taken a drink, I felt the rape was my fault. I had decided to keep my ugly secret to myself, but eventually I could no longer hide my pain.

One of my friends suggested I go to Planned Parenthood for a pregnancy test and counseling. It was so impersonal and humiliating. When they confirmed my pregnancy, I began to sob uncontrollably and told them I had been raped. The counselors asked me how I would raise a baby alone and what I would do if the baby had handicaps that might result from the drug the rapist had given me.

I felt totally alone and helpless, and then the counselors became very sympathetic and offered to make arrangements to take care of this problem for me. An abortion would allow me to go on with my life. I wouldn't have to tell anyone, I could marry my boyfriend, and things would be normal again.

Fear and pain caused me to cry during the procedure. It was nearly as humiliating as the rape itself; the doctor never even looked at me, and the nurses were courteous, but distant and coldly professional.

After the abortion, I cried for days. I suffered from horrible nightmares. When something triggered the flashbacks, it was as if I was back on the table going through the abortion again.

I couldn't bear the sight of pregnant women or babies. I would feel overcome with grief and pain and dreamed about dead babies. Unable to maintain a job or function, I called my parents and moved back home.

My mother asked me never to talk about the rape again and my father called me a 'slut' and 'whore.' He said that I 'asked for it' and deserved what I got. Devastated by their reaction, I moved in with another girlfriend.

In my experience, abortion only compounded the trauma and pain I was already experiencing. I was an innocent victim of the horrible crime, but in choosing to abort, to kill, the innocent child growing within me, I lowered myself to the level of the rapist. I too committed a crime against a defenseless baby who had done nothing wrong.

A criminal may have fathered the child but I was the mother, and I killed a part of myself when I had the abortion. I would definitely discourage a woman from having an abortion. While it may seem to be the quickest and easiest solution to a painful, humiliating 'problem,' it is a band-aid approach with horrible ramifications of its own.

*For me, the effects of abortion are much more far-reaching than the effects of the rape in my life.*⁵

II. THE PREGNANT RAPE VICTIM'S ATTITUDE TOWARD HER BABY

[The doctor] was very clear that by no means should I go through with the pregnancy. She said that if I did, there would be chances of my not living a normal life because the flashbacks from my terrible experience [of being raped] would continue. Finally a joint decision was made by the doctor, my parents and me and an abortion was performed.

Barbara Hernandez,
rape victim⁶

Many pregnant rape victims are rushed into deciding whether to abort or keep their baby. Hurt, confused, and anxious to end their nightmare, they are often persuaded to abort the child. Sexual assault counselor Dr. Sandra Mahkorn quoted physician Glenn R. Hunt in an article from *American Family Physician*: "We advise all rape victims that if they miss their next regular period by more than one week, they should return for menstrual extraction or suction curettage."⁷ With this in mind, it is important to study the pregnant rape victim's attitude toward her baby and whether it is likely to change as the pregnancy progresses.

In the late 1970s, Mahkorn performed two well-researched and noteworthy studies of women who had become pregnant as the result of sexual assault. For one of these studies, Mahkorn sent questionnaires to counseling and social welfare agencies that assist women in problem pregnancies, asking them about contacts with pregnant sexual assault victims. Mahkorn found that a majority of women pregnant as a result of rape felt their attitude toward the child improve consistently throughout the pregnancy. While some attitudes remained consistently positive or consistently negative, none changed from a positive attitude to a negative attitude. In fact, 7 out of 16 of these women's attitudes changed from negative to positive.⁸ As Kay Zibolsky, a rape victim who decided to have her baby, explained, "I started looking forward to the baby coming; I really did." Mahkorn writes, "[Kay] believes that 'the baby itself is a healing to the victim.'"⁹

Dr. David Reardon, an experienced researcher on the aftermath of abortion, and Julie Makimaa, co-author of this publication and a woman who was conceived in rape, surveyed women pregnant by assault and children conceived in rape or incest. Of a sample size of 192 women, 56 had had abortions. Six of these women did not provide any information as to how they felt about their abortions. Of the remaining 50, only one rape victim reported no regrets about her decision to

⁵ Give Us Love, Not Abortions: The Voices of Sexual Assault Victims and Their Children, David C. Reardon and Julie Makimaa, ed. (1992), pp. 23-27.

⁶ Barbara Hernandez, "Rape Justifies Abortion," *Abortion: Opposing Viewpoints* (San Diego: Greenhaven Press, 1997), p. 133.

⁷ Sandra Kathleen Mahkorn, "Pregnancy and Sexual Assault," *The Psychological Aspects of Abortion*, David Mall and Walter F. Watts, M.D., ed. (Washington, D.C.: University Publications of America, Inc., 1979), p. 65.

⁸ *Ibid.*, p. 64.

⁹ Mary Meehan, "Rape and Abortion: Don't Forget Robin," *Human Life Review* XVI, Issue 1 (Winter 1990): 58.

abort. Forty-four women (88 percent of those expressing an opinion about their abortions) explicitly regretted their abortions and said that abortion had been the wrong solution to their pregnancies. Eleven of the 14 incest victims who had had abortions explicitly stated that abortion was not a good solution and they would not recommend it to others. Among the 44 victims of rape who aborted, 30 expressed an opinion as to whether they felt abortion was an appropriate solution to offer women who became pregnant from rape. Of these, 28 (93 percent) said that abortion had not been a good solution to their problems and stated they would not recommend it to others in their situation. (In fact, it is notable that 19 of the 44 rape victims who aborted (43 percent) indicated that they had felt pressured or strongly directed by family or health care workers to choose an abortion. The desire to abort did not originate within themselves.)¹⁰

Of the 133 women who carried their babies to term, more than 80 percent explicitly expressed happiness that they had chosen to give birth to their child. None of the women stated that they did not want their child or wished that they had chosen abortion instead. Most had not considered abortion as an adequate solution for them or had turned down the suggestion to abort. Some went against tremendous pressure from family, friends, or medical personnel to take the “easy way out” and have an abortion.¹¹

The following story, of a woman named Kathy DeZeeuw, reveals how a woman’s feelings toward the child can become positive:

I was over six months along when my family discovered I was pregnant. The fear of my father’s reaction and shame over disobeying my parents caused me to hide the rape and pregnancy.

After skipping out of church, a girlfriend and I had gone to a local meeting place. I was very shy, but accepted a movie invitation from a guy whom I didn’t really know. At the movie I realized he had been drinking and had just been released from prison. This news was very frightening, but it was on the way back home that I would realize the horrible danger I was in.

Instead of going toward home, he drove to a remote area. After bashing my head against the window several times, he raped and then threw me from the car.

I felt dead inside. I knew I was at fault for what had happened. I shouldn’t have left the church, and because I wasn’t ‘dragged off the street,’ I thought it wasn’t rape.

I didn’t tell a single person what had happened to me, I just went home and became more introverted. I lived in constant fear, remembering the threats of my attacker and what he would do to me if anyone found out.

¹⁰ David C. Reardon, Julie Makimaa, and Amy Sobie, *Victims and Victors: Speaking Out about Their Pregnancies, Abortions, and Children Resulting from Sexual Assault* (Springfield, Ill.: Acorn Publishing, forthcoming), Chapter 2.

¹¹ *Ibid.*

I was fearful of being pregnant and having this person's child. As a result of the fear, I felt ending the life of 'his child' was the only solution.

I attempted to abort by swallowing a bottle of aspirin. I ate ant poison and jumped off haystacks, but nothing worked. When the child inside me moved for the first time, I was horrified. But I would come to recognize that I no longer wanted to abort the child.

When my parents discovered I was pregnant, it was decided that the baby would be placed for adoption, so I was sent out of state to a maternity home until after the delivery. While away from my family, I began to feel an attachment to the baby. It was no longer 'his child,' it was my child.

After 27 hours in labor, my son was born. Because he was to be placed for adoption, I was not allowed to hold my son, but could only see him from a distance through the nursery window. Even though I had tried to abort my child, now he was a part of me. My maternal feelings had grown so strong that I could not bear to be without him.

With the support of my family, I brought my son home with me. There were times when I would struggle with the memories of the assault, and looking back now, an adoptive home may have provided my son with a more stable upbringing, but I am not sorry that I kept and raised my son.

To me it is an affront every time I hear all the rhetoric from the pro-abortionists. I, having lived through rape, and having also 'conceived in rape,' feel personally insulted every time I hear that abortion should be legal because of rape and incest.

I feel like cases like mine are being used to further the abortion issue even though we are not being asked to tell our side of the 'rape' issue. My son is not a 'misfit,' nor has he in any way turned out to be like his biological father.

The rape still affects me today in only one way: That is, I'm so very blessed and proud of my son.¹²

While the majority of rape victims' attitudes toward their babies become positive, the fact remains that these women still have to deal with many painful emotions from the sexual assault. They were violently assaulted by their attackers and then left to deal with the horror of this event. Studies indicate that the painful emotions relating to the rape may be of greater importance than the feelings connected to the pregnancy and child. In Reardon and Makimaa's study, 21 percent of the rape victims, rather than expressing their feelings about the pregnancy, focused their testimonies on the trauma of sexual abuse and what they did to find healing.¹³ In Mahkorn's study,

Fifty percent of the responses to the question relating to the special needs of pregnant sexual assault victims dealt with

¹² Kathy DeZeeuw, used with permission.

¹³ Reardon, op. cit.

*the importance of addressing feelings or issues related to the rape experience. ... Perhaps too often the pregnancy receives the most attention and the anger, guilt, fear, and lower self-esteem related to the assault fail to be addressed.*¹⁴

III. OTHER PEOPLE'S RESPONSES AFFECT THE RAPE VICTIM

So far, we have learned that much of the pregnant woman's trauma from her sexual assault remains very strong; that the further trauma of an abortion only compounds this original trauma; and that her attitude towards her baby is likely to become positive as her pregnancy progresses. This indicates that we need to affirm her positive feelings toward her child and help her deal with the trauma of the sexual assault. Unfortunately, this is not the usual response to rape victims...

Psychiatrist Dr. Bennett Rosner writes, "The most damaging results of a rape can be the covert or sometimes even overt rejection and accusing attitudes which are often seen on the part of family and friends."¹⁵ The main complaint of the women in Mahkorn's study was how other people treated them. Mahkorn explains that there are three common reactions from family and friends that increase the victim's feelings of guilt and shame: anger; attempts to avoid or hide the event; and the attitude that the woman is somehow "tainted" or "dirtied." She writes, "Opinions, attitudes, and beliefs of others about the rape and pregnancy were reasons most commonly mentioned by respondents as conditions or situations which 'make it most difficult for a woman who is pregnant as a result of sexual assault to continue her pregnancy.'"¹⁶

Joan Kemp, a rape crisis center counselor and a woman who has had an abortion, says,

In every case of abortion after incest with which I am familiar, the abortion was arranged by the perpetrator or his wife, with the purpose of concealing the incest. In one case a young woman had seven abortions before she was fourteen, and the incest continued.¹⁷

"Doris" shared her experiences in a letter to Julie Makimaa in hopes that other victims of incest will be spared the pain of abortion. Her story demonstrates the powerful effect the family's reaction has upon the pregnant incest victim:

On the outside I was a normal 15-year-old, enjoying shopping with my friends, listening to music and going to the movies, but inside something was terribly wrong.

At the hospital I learned that in addition to being very sick with the flu, I was pregnant. I felt ashamed and dirty, and

¹⁴ Mahkorn, op. cit., p. 68.

¹⁵ Ibid., p. 66.

¹⁶ Ibid., pp. 66-67.

¹⁷ Joan Kemp, "Abortion: The Second Rape," Sisterlife, Winter 1990, p. 5.

terrified about explaining the horrible things that my father had done to me.

*The doctor asked me what I planned to do. I told him I wanted to have my baby. Despite the pain of knowing who the father of my baby was, I had seen *The Silent Scream* in high school and knew I could never harm the baby. ...*

When my father heard that I was pregnant, he flew into a rage, demanding an abortion. The doctor refused because it was against my wishes, but my father was able to find another doctor who didn't care about how I felt.

It took three nurses to hold and strap me down on the table. They tried to sedate me, but I kept screaming that I didn't want an abortion. Eventually, I was placed under general anesthetic and my baby was killed.

I was told that my parents knew what was best for me, but I knew that their only concern was hiding our family secret. After the abortion, the abuse continued. The evidence was gone and I was left with a broken heart.

It would be two more years before I would escape my abusive father. I wish I could have done more to save the life of my daughter. In my mind, it didn't matter how she was conceived; she was an innocent victim, just as I was.

I know that the abortion wasn't my fault, but I can't help feeling the pain of losing my child. I wish I could have done more to fight for her life. I will never forget her.¹⁸

IV. THE CHILDREN OF RAPE AND INCEST

The “rapist’s baby.” The “hated” or “evil seed.” A child conceived in rape is often labeled as the rapist’s child rather than the rape victim’s child. People are afraid that the child will inherit some sort of “evil gene.” But there is no medical research to substantiate this myth. As psychologist Elizabeth Carll, Ph.D., a trauma and stress expert, says,

There is no such thing as an evil seed. There is an awful lot of rape and domestic violence in the world, so if it were true that anyone born because of them was bound to carry on that type of behavior, well, we might as well give up right now.¹⁹

Yet the “evil heredity” myth still exists. By linking the unborn baby with the violator, society vilifies the offspring and deems abortion justifiable.

Viewing both the mother and child as victims is fundamental to a genuinely compassionate response. Society needs to support women in crisis pregnancies and protect the unborn from the violence of abortion. As Mahkorn writes:

¹⁸ “Doris,” used with permission.

¹⁹ Quoted by Jennifer Braunschweiger in “My Father Is a Rapist,” *Glamour*, August 1999, p. 232.

Many, because of the ugliness and brutality of the rape, fail to recognize the humanity and uniqueness of the unborn child. By condoning such attitudes we are telling the pregnant rape victim that the life she carries is repulsive. No wonder abortion – a violent act – may seem like the only solution. Violence is thus justified as the most ‘effective’ and ‘efficient’ solution.²⁰

The most effective way to empathize with the children conceived in rape and incest is to learn from them firsthand. Faith Daniels, a former NBC talk show host, was interviewed in the August 1993 issue of People magazine, discussing her conception from rape and its effect on her life. Ms. Daniels commented,

I have come from a terrible event, but I am not a bad person. ... It really doesn't matter how you were conceived. Only what you become. ... [My conception] isn't something that's a cross to carry or that I dwell on. Date rape is truly an awful thing. But if a child is the result, and is placed in a loving home, there should be no stigma.²¹

In an article titled “My Father Was a Rapist,” the August 1999 issue of Glamour magazine featured personal stories of several women conceived in rape. Most of the women interviewed said they felt “more or less ambivalent about their rapist fathers.”²² Among these women was Julie Makimaa. The story of her birth mother, Lee Ezell, has already been told in these pages. Here, Julie picks up the story:

I grew up in a loving Christian home and never felt shame over being adopted. I was treated with the same love my brothers received and was told that I was a ‘special little girl’ also loved by my birth mother.

Like all adoptees, I wondered about the circumstances surrounding my conception: if I looked like my biological mother or father; had I ever unsuspectingly passed them on the street; and were there any health problems I should be aware of?

With the support of my mom and dad, I began the search for my birth mother shortly after being married. Although they were frightened about whom I might find and how I would react, they made a decision to support me.

While at home with our six-month-old daughter I received the telephone call from my birth mother. I was overwhelmed with joy, excitement, and fear all at the same time. How did she feel about me finding her? Would this be our first and last conversation? Would she like me?

She asked me about my parents, where I grew up, and why I wanted to find her. She told me that she always thought

²⁰ Mahkorn, op. cit., p. 67.

²¹ Susan Schindehette, “A Victory of Faith,” People, March 8, 1993, pp. 47-48.

²² Braunschweiger, op. cit., p. 233.

about me on my birthday and holidays. I asked her about my birth father, told her that she was a grandmother, and shared about being raised in a Christian home.

She was a Christian! That was the best news of all. Somewhere in my mind I felt like God needed me to be His messenger to my birth mother, but He had answered my prayers long before I had ever prayed them.

We made reunion plans during our first telephone conversation. Eight weeks later, the door opened to reveal a woman who looked incredibly like me. We were speechless as we shared those first unbelievable moments together. We would celebrate my 21st birthday, with one candle on the cake in honor of our first birthday together.

My husband, Bob, was the first to speak: 'Lee, I want to thank you for not aborting Julie. I don't know what my life would be like without her and my daughter, Casey.' He had no idea how important his statement was.

Later that evening I would learn the terrible circumstances that surrounded my conception. We cried together as Lee recounted her rape and told me her reaction to learning she was pregnant.

After returning home, there were many questions to answer. How did this affect my life? Did I inherit some 'evil gene'? Did I carry some hidden defect that would later manifest itself physically or mentally? Was my life less valuable because I was conceived in violence?

I cringed when friends asked me about my reunion and I had to tell them, 'I was the result of a rape.' Their painful reaction to hearing the news made me wish I could hide from the truth. I was angry at my birth father and wanted to 'make him pay' for the pain he caused Lee.

Suddenly the issue of the 'hard cases' was directly related to me, and I was forced to examine my beliefs about my right to life. I was pro-life but had never worked through how I felt about abortion in cases of rape and incest.

I would have to face the question of allowing abortions for rape and incest victims, knowing that if I approved, I would be admitting that my own birth mother should have had 'the right' to abort me. This was a position I could not accept.

I turned to the Scriptures to find the meaning of my life. The words of Psalm 139:13-16, which 20 years earlier [had] convinced my birth mother that I was not an 'accident,' led me to realize my incredible value and unique purpose.

Although my birth father was a criminal, I do not feel compelled to suffer for his actions. It was not my fault. More important than how I began, is what I become. Value is not determined by our conception, status in life, or our 'wantedness.' I am valuable because I am created in God's image, and He establishes our unalienable right to life.

Today my anger is gone. I have processed the fact that my father was a criminal who violated everything a father should be. The only motivation that I would ever have for finding him would be out of the hope that he would

recognize the tremendous pain he caused my birth mother and ask for her forgiveness.

*Learning the truth about my conception caused me to appreciate – in a greater way – the sacrifices of my birth mother, the loving home in which I was raised, and the incredible opportunity that life provides. In the years that followed our joyful reunion, Lee and I would have many invitations to share our story. Lee wrote her book *The Missing Piece* to encourage other women facing assault pregnancies. In 1989, I founded an organization to reach out to women and children affected by assault pregnancies. Dr. David Reardon and I co-authored *Victims to Victors*. Using the combined experiences of 264 women and children, this book provides a definitive response to the argument for abortion in assault pregnancies.*

Together, Lee and I have discovered that the pain of the past is replaced with the joy of the present. When I look at myself in the mirror, I recognize the tremendous amount of love in my life: a heavenly Father who planned my steps; a birth mother who demonstrated how to trust God while walking the divine path; a loving adoptive family that taught me Who God was; and a husband and children with whom to share my life. I, my children, and future generations have been given the gift of life because one woman courageously chose life.

Today, debate over whether to allow abortions in cases of rape is a personal issue of life and death. The circumstances of my conception are unfortunate, but they do not eliminate my God-given right to life. By the grace of God and personal sacrifice of my birth mother, I am the ‘good thing’ that resulted from her tragic assault.²³

Julie’s sentiments are seconded by Pam Stenzel, a child conceived in rape and founder of Straight Talk, a national abstinence organization: “I am angry at all men who would abuse women in that way. But specifically toward him? I can’t feel that.” Patrick DeZeeuw, whose mother, Kathy’s, story appears earlier in this publication, testifies, “As a child of rape, I have a unique outlook on abortion. If abortion had been legal when I was conceived, I would not be alive. I’d never had a chance to love and give of myself to others.”²⁴

V. THE POLITICS OF ABORTION

Until the 1960s, almost all states banned abortion except when necessary to save the life of the mother. Then advocates of legal abortion began putting exceptions in several state laws.²⁵ In the 1973 case of *Roe v. Wade*, the United States Supreme Court granted women the “fundamental right” to have an abortion.²⁶ *Roe v. Wade* repealed all state laws prohibiting abortion.²⁷ Its companion case, *Doe v. Bolton*, extended the “right” to abortion to all nine months of pregnancy if

²³ *Ibid.*

²⁴ Quoted by Sharon Bennett in “Raped and Pregnant: Three Women Tell Their Stories,” *Americans against Abortion* magazine, published by Last Days Ministries.

²⁵ Meehan, “Facing the Hard Cases,” *op. cit.*, p. 19.

²⁶ “Roe + Doe = Abortion on Demand,” American Life League, Inc., 1996, www.all.org/resource/ab10.htm.

²⁷ “Roe v. Wade and Doe v. Bolton,” Pro-life Action League, www.prolifeaction.org/Roe%20and%20Doe.htm.

the mother's "health" is at stake. Yet, because health was defined as everything from physical well-being to psychological and financial well-being, abortion became an unrestrained practice.²⁸

It is essential to recognize that the abortion industry has used the hard cases to further its cause. This is exemplified in *Roe v. Wade* itself. Norma McCorvey, known in the case by the alias "Jane Roe," writes in her autobiography that in order to gain sympathy, she claimed in her affidavit that she had become pregnant as a result of gang rape. She says that her lawyer, Sarah Weddington, knew the rape story was a lie long before she argued the case in 1971:

The affidavit did not happen the way I said it did, pure and simple. I lied! Sarah Weddington and Linda Coffee needed an extreme case to make their client look pitiable. Rape seemed to be the ticket. What made rape even worse? A gang rape! It all started out as a little lie. I said what I needed to say. But my little lie grew and grew and became more horrible with each telling. ... It was good for the cause! It read well in the newspapers. ... The lie became the truth these past twenty-five years. ...

Sarah knew the truth, the real truth, long before she ever went to the Supreme Court in 1971. Yes, the stated reason for my abortion is based upon a lie, a great lie. So the entire abortion industry is based on a lie.²⁹

Charles E. Rice, professor of law at Notre Dame Law School, says that, politically, rape and incest are the most appealing arguments for abortion.³⁰ The pro-abortion movement has secured the "woman's right to choose" by stigmatizing assault victims and their children. The "exceptions" argument has undermined the sanctity of life philosophy, and now abortion activists find the argument for abortion on demand much easier.³¹

In her book *The Scarlet Lady: Confessions of a Successful Abortioneer*, Carol Everett describes the tactics she used at Texas abortion clinics:

I put on my PR hat and became creative. Early in the clinic, I noticed that many girls said they were raped, but they had not reported the 'rape' to police or gone to a hospital. I had an idea how we could build our business to another level. In one of our weekly meetings I said, Many of the women come in complaining they were raped, but they have neither reported it to the police nor gone to the hospital. I think we can get a lot of publicity if we have a press conference announcing that we will do abortions free for rape victims if they report it to the police and go to the hospital. You know the percentage of conception in an actual

²⁸ Roy Maynard, "First Roe, now Doe: The legal façade crumbles," *World*, March 29, 1997, www.worldmag.com/world/issue/03-29-97/national_1.asp, p. 2.

²⁹ Norma McCorvey, *Won by Love* (Nashville: Thomas Nelson Publishers, 1997), p. 241.

³⁰ Charles E. Rice, *No Exception: A Pro-life Imperative* (Notre Dame: Tyholland Press, 1990), p. 76.

³¹ Meehan, "Facing the Hard Cases," *op. cit.*, p. 19.

rape is very low, and with the conditions attached, I don't think we'll do many free abortions. But we will get a lot of free publicity! ...

We got prime time news coverage at 6:00 P.M. and 10:00 P.M. Also, several newspapers and radio stations picked it up. I personally called on all of the 'do-gooder' organizations in town and let them know. Lots of good free publicity!

...

*We never did one free abortion on a rape victim.*³²

Modern medical science proves that life begins at conception. We know that the moment the ovum is fertilized by the penetration of the sperm, the 23 pairs of chromosomes are complete; the zygote has a specific genotype that is distinct from both parents; and the child's sex, size, shape, skin color, hair color, eye color, temperament, and intelligence are already determined. Between the time the human being begins as a single fertilized cell to the time it becomes an adult (from fusion to maturity), 45 generations of cell division occur, 41 of which occur before birth.³³ Realizing the significance of the fact that life begins at conception, the First International Conference on Abortion, meeting in 1967 in Washington, D.C., declared, "We can find no point in time between the union of sperm and egg and the birth of an infant at which point we can say that this is not a human life."³⁴

Dr. Jerome Lejeune, one of the world's foremost authorities in genetics and discoverer of the cause of Down's Syndrome, testified in the Municipal Court at Morris County, New Jersey, on April 13, 1991:

'Each of us has a very unique beginning, which is at the moment that all the information necessary and sufficient to be that particular human being, which we will call later Peter or Margaret, depending on its own genetic make-up, when this whole necessary and sufficient information is gathered. And we now know from experience both in animals and now in human beings, that this moment is exactly the moment at which the head of the sperm having penetrated inside the ovum, then the information carried by the father encounter[s] in the same recipient cell, the information carried or transmitted by the mother; so that suddenly a new constitution is spelled out. ...

*Now we know, and I think there's no disagreement among biologists everywhere in this world, that after fecundation no new information goes in. Everything is there ... just at the moment after the entry of the sperm, or it is not enough and it will fail. Either the whole information for the human being is there and the human being can develop and organize, or it is not there and no human being will develop at all.*³⁵

To understand the dangerous precipice on which the abortion debate is balancing, one needs only to read the works of J. Budziszewski, associate professor in the departments of government and philosophy at the University of Texas at Austin. Budziszewski explains the philosophies of

³² Carol Everett with Jack Shaw, *The Scarlet Lady: Confessions of a Successful Abortioneer* (Brentwood, Tenn.: Wolgemuth & Hyatt Publishers, Inc., 1991), pp. 134-135.

³³ John Stott, *Decisive Issues Facing Christians Today* (Grand Rapids, Mich.: Fleming H. Revell, 1990), p. 318.

³⁴ *Ibid.* pg. 311-315.

³⁵ Elana Muller Garcia, "A Symphony of Two Hearts," *The Human Life Review* XVIII, No. 2 (Spring 1992): 32.

“personhood” and “deliberative rationality”: According to the “personhood” theory, one is more or less human according to whether he is more or less a person; according to “deliberative rationality,” he is a person according to whether he is able to act with mature and thoughtful purpose. If one adopts this theory, Budziszewski writes, “Unborn babies turn out to be killable because they cannot act maturely; they are less than fully persons, and so less than fully human.” They must be killed when the interests of those who are more fully human require it. But many children, teenagers, and adults are also immature or physically or mentally limited in their ability to function in society. “Then aren’t they also less than fully persons – and if less than fully persons, less than fully humans? Clearly so, hence they too must yield to the interests of the more fully human; all that remains is to sort us all out.”³⁶

Examples of this type of thinking are evidenced in the following statements:

The emergency problem of segregation and sterilization must be faced immediately. Every feeble-minded girl or woman of the hereditary type, especially of the moron class, should be segregated during the reproductive period. Otherwise, she is almost certain to bear imbecile children, who in turn are just as certain to breed other defectives.

Margaret Sanger,
founder of Planned Parenthood³⁷

*In our book, *Should the Baby Live?* my colleague Helga Kuhse and I suggested that a period of twenty-eight days after birth might be allowed before an infant is accepted as having the same right to life as others.*

Peter Singer,
Rethinking Life and Death³⁸

I’m not comfortable with any invasive research on chimps. I would ask, is there any other way? And I think there are other ways. I would say, What about getting the consent of relatives of people in vegetative states?

Peter Singer,
Psychology Today,
January/February 1999³⁹

V. SUMMARY: MYTHS ABOUT THE HARD CASES

Myth: A woman cannot bear the psychological trauma of carrying a “rapist’s child” to term.
Abortion is a compassionate response for women pregnant by rape or incest.

³⁶ J. Budziszewski, “The Revenge of Conscience,” *First Things* 84 (June/July 1998), www.firstthings.com/ftissues/ft9806/budziszewski.html.

³⁷ Margaret Sanger, *The Pivot of Civilization* (New York: Brentano’s, 1922), L.C. Call Number: HQ766.S33.

³⁸ Peter Singer, *Rethinking Life and Death* (St. Martin’s Press, 1996), quoted by Marie Tasy, “Excerpts from Professor Peter Singer’s Writings,” *New Jersey Right to Life*, November 29, 1999, p. 1.

³⁹ “Living and Dying: animal rights advocate Peter Singer,” *Psychology Today*, January 1999, quoted by Tasy, *ibid.*, p. 1.

Fact: Abortion is perceived to be a positive response for a woman in such a case because it “hides her shame,” “allows her to go on with her life as if the assault never happened,” and “has no lasting negative effects.” But abortion is just another violent act that only adds to the previous trauma of rape. Women pregnant by assault say their abortion was not the “easy” answer they were led to believe; in fact, some have described it as “medical rape.” The feelings of guilt, violation, anger and depression caused by the original assault were compounded by their guilt feelings about the abortion.

Myth: A woman pregnant from assault could never love the “rapist’s child.” The child will be a constant reminder of the violent assault. The child will always be unloved and unwanted by the mother and society.

Fact: There is no “magic cure” that will enable a woman to forget the tragedy she has suffered. But studies show that women report that their feelings toward the pregnancy and the child improve as the pregnancy progresses. Whether they place the child for adoption or choose to parent the child themselves, in the end most women actually experience healing, from viewing the child as a positive result of a painful event. The child conceived in rape is the mother’s child too. Children of assault can lead normal lives and experience as much family and parental love as any other child, whether raised by their birth mother or placed for adoption.

Myth: Children conceived in rape inherit an “evil gene” from their father; male children will most likely become criminals and rapists. Children conceived through incest will have severe deformities.

Fact: The first argument is biologically inaccurate and intended to weaken further the public’s commitment to equal protection for the children of sexual assault. Rape, incest, stealing, and lying are not traits that are genetically transferred from one generation to the next. As for the second argument, while there is an increased chance of abnormalities when pregnancies occur between genetically related individuals, many cases of incest do not involve genetically related individuals. (A large percentage of the time, the abuse is by a stepfather or stepbrother. In fact, cases of “consensual sex” when a girl is under age are counted as incest even when the individuals involved are not genetically related.) Moreover, even an increased chance of abnormality does not make it just to kill an innocent child. Every person is entitled to equal protection under the law, regardless of his or her physical or mental condition. It is also important to remember that many abortions in the case of incest are forced on pregnant victims, against their will, by the abuser or his wife desiring to cover up the assault.

VI. CONCLUSION

Only an uncompromising, no-exception approach, that refuses to support legal toleration of the

intentional killing of innocent human beings can offer the educational potential to restore reverence for the sanctity of life of every age and condition. If one holds the belief that life is valuable and every person has the right to life from the moment of conception, then how can he or she say that life is not precious if it was conceived during sexual assault? Children conceived in rape should not be punished for the rapists' crime. Mary Meehan writes, "Our commitment to equality would be radically compromised if we were to say that children's right to life depends on the circumstances of their conception."⁴⁰

For the reasons discussed, we urge this Court to uphold laws in Columbia that prohibit abortion.

Respectfully submitted,
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⁴⁰ Meehan, "Facing the Hard Cases," *op. cit.*