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On the Killing of Angels.
On the issues surrounding illegal and lawful abortion.
On the disregard for legal personhood.

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Theses of the Doctoral Dissertation (PhD)

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I. Main Topics of the Study and Research Methods Used

This doctoral dissertation focuses on the legal regulation of abortion, as well as on the fundamental question underlying it: how the law approaches the beginning of human life and the legal status of the fetus. The issue of abortion is by no means new, and most of the arguments for and against it are well known. The former emphasizes the right to self-determination and points especially pregnancies resulting from sexual assault, whereas the latter emphasizes the right to life and the protection of the developing human being.

This dissertation examines certain provisions of the current Hungarian legal system and their interrelationships. A key focus is the detailed analysis of the criminal offense of illegal abortion.

The primary objective is to examine how the various elements of the current legislation form a coherent system and what legal consequences may consistently be derived from them. The dissertation also highlights where inconsistencies can be observed—whether between individual provisions or within a given provision.

Separate chapters are devoted to specific methods of interpretation, while the dissertation draws on other methods in its analysis of certain branches of law. In the former, contextual interpretation and judicial interpretation are presented. With regard to the interpretation of specific branches of law—within the framework of constitutional law and international law—the relevant issues are examined based on teleological and substantive interpretation, as well as from the perspectives of international conventions, general legal principles, and Community law (European Union law).

This study employs both descriptive and comparative methods. The former is primarily intended to trace the historical development of legal thought regarding the fetus and abortion—viewed from a historical perspective spanning from antiquity to the present day—and also presents the teachings of various religions as part of a horizontal comparison. The latter method is intended to present foreign legislation, along with the potential for its integration into the Hungarian legal system.

II. The Main Structural Components of the Dissertation

The dissertation is organized into three levels: part, chapter, and subsection.

The individual parts are as follows:

I. The Interpretation and History of the Most Fundamental Rights

II. Current Legal Framework

III. International Outlook

IV. Epilogue

Finally, I have included the part titled “Abbreviations, References” here without a number.

The first part introduces the right to life and human dignity. The primary aim here was to illustrate the content of these most fundamental rights through historical examples (Babylon, Israel, Greece, Rome, Christianity). Without an examination of these two rights, it would be impossible to raise moral questions concerning the personhood of the fetus. The chapter entitled “The Legal Status of the Unborn” examines situations in which the unborn child is exposed to circumstances that go beyond general vulnerability, including, for example, fetal disabilities, artificial insemination, and the development of artificial wombs. Self-determination, bodily integrity, and the right to family planning and reproductive health are most frequently invoked in discussions regarding the justification of abortion as a medical procedure. The first chapter concludes with acts of taking life regulated by law, namely: the death penalty, euthanasia, abortion, and, as a recent phenomenon, “after-birth abortion.” The second chapter of this part examines the development of Hungarian law, which the author presents in two subsections: one based on the Csemegi Code and the other on the communist era.

The second part is intended to present domestic law and its specific characteristics. Given the close connection between these issues, this part also describes the interpretive methods intended to support the author’s position. The first chapter of this part is devoted to methods of interpretation. Contextual interpretation defines the place of the fetus and the relevant legislation within the legal system, while judicial interpretation serves to clarify specific concepts (for example, in the case of offenses committed on a commercial basis). The following chapter presents the issues of constitutional law: the first and second decisions of the Constitutional Court, as well as their impact on the Fundamental Law enacted in 2011 and its provisions regarding the fetus. Teleological and substantive interpretation are closely linked to the legislation at the apex of the internal legal hierarchy. The former seeks to define the norm under examination by reference to the social purpose of the law and its objectively ascertainable aims. The latter, however, seeks to interpret the law not according to its literal wording but considering a fundamental, non-legal value recognized by society. In the present case, the examination of consistency with the Fundamental Law constitutes the interpretation itself. The dissertation presents this approach to legal interpretation as a requirement for the proper functioning of the justice system. The subsequent chapter follows directly from this, the

essence of which is that laws are created by people, and groups of people are willing to agree on a common goal. The validity of the goal, however, does not depend on who supports it or how many people do so. This is precisely why it is necessary to heed the guidance of individuals whose intellectual and professional contributions distinguish them from their peers and, after careful consideration, to enhance what is good and minimize what is less so. This is the purpose of presenting the concurring opinions, the views of the individuals with whom the author most closely agrees, namely Antal Ádám, Tamás Lábady, and János Zlinszky. If we examine the work of these authors within the framework of the Constitutional Court, it becomes clear that behind the theoretical considerations they have defined lies a higher-order guiding principle that may never be fully comprehended, but whose fundamental correctness can nevertheless be recognized. This is precisely why it is worthwhile examining the past, to sometimes take a step back and learn from it, as discussed in the following subsection. As a final subsection, we must discuss the missed opportunity and what was achieved.

Moving on within the second part, the law on the protection of fetal life is discussed, and the author has broken down its interpretation into three subsections. These address medical reasons, the existence of which—even if they are of such severity—could endanger not only the fetus but also the mother's life. The following subsection discusses requests that override the absence of medical indications, and this analysis concludes with a presentation of the "Heartbeat" regulation, which represents a slight shift toward the protection of life; although its application is currently mandatory, the woman concerned may still decide to terminate her pregnancy. The chapter titled "Criminal Law" comprises most of the subsections in the dissertation. It highlights the consistency of the specific statutory elements regarding illegal abortion, as, while there are minimal differences in wording compared to the old Criminal Code, there are absolutely no differences in substance. The chapter on criminal law continues with an analysis of illegal abortion:

a) protected legal interest;
b) objective criteria: object of the offense, passive subject, nature of the offense, result, stages;
c) subjective criteria: the subject of the crime, culpability, aggravated cases, concurrence of offenses, and distinction from other offenses.
d) Finally, to conclude this chapter, related offenses are presented, with special regard to Chapter XVI of the Criminal Code.

The chapter on international law presents the conventions that are intended to define children's rights and provide guidelines that member states are at least willing to follow on a

voluntary basis. These are the standards that could define the rights of the fetus and their protection at the international level. However, this has not yet occurred because most member states disagree within such organizations on fundamental issues, such as when human life begins (conception or birth). Specifically, the following conventions were presented: the 1989 New York Convention on the Rights of the Child, the Charter of Fundamental Rights of the European Union, and their impact on the domestic legal system.

Civil law grants the fetus certain rights even before birth (for example, with regard to inheritance law and the appointment of a guardian); however, under current regulations, the fetus is not considered a legal person in the full sense of the term. Legal capacity is acquired at live birth, although it is extended retroactively to the moment of conception. The Civil Code does not seek to provide a general answer to the question of whether a fetus should be considered a human being.

The third part presents the current legal frameworks of various countries with the aim of drawing inspiration—even if this does not imply a complete adoption—for legal issues and problems found in Hungarian law. When discussing European regulations, we must address the European Union itself, as well as the legal positions of individual member states on the matter. Although the EU is striving to have the member states adopt general regulations on this issue—which the Charter of Fundamental Rights is intended to govern in the future, European trends as a whole are not equivalent to the Union's position. This is because the EU's position would primarily seek to transpose French regulations to a level above that of the member states. In contrast, Malta and Poland, for example, serve as examples of the "pro-life" category. The former has the strictest regulations within the Union on this issue. The Netherlands forms one of the subsections of this dissertation's analysis due to its stance on euthanasia and the organization known as Women on Waves. The next chapter aims to present the Islamic perspective. Here, the state and the church are not separated but regulate the issue in "symbiosis": legal norms regarding abortion are determined based on religious precepts. This represents a middle ground between the conservative states of Europe and the more liberal views of the United States (primarily Alaska, Colorado, Maryland, Michigan, Minnesota, New Jersey, New Mexico, Oregon, Vermont, and the District of Columbia). Finally, this part presents the latter federal system based on the subsections on Roe v. Wade and Planned Parenthood v. Casey.

The epilogue seeks to briefly summarize the answers to the questions posed and to formulate proposals de lege ferenda.

I have sought to substantiate my claims with the quality and quantity of the sources used in this dissertation. In the interest of completeness, I have also presented the counterarguments.

III. Conclusions Drawn from the Main Topics of the Study

The rights inherent to human beings by virtue of their very nature—such as the right to legal personality, to human life and dignity, to self-determination, to integrity, to start a family, and to reproduction—can be derived from this historical context. There are no situations—or at least only exceptionally rare ones—in which it is even conceivable to discuss the acceptability of terminating a human life. Thus, from the mere fact that someone is human, countless rights can be derived, which, however, vary in scope, strength, and enforcement. If, however, the law does not recognize someone as a human being, then at best that person is entitled to only a fraction of the rights inherent in human existence. By this I mean both fetuses and embryos within the relevant group.

The central problem is that, although the Fundamental Law grants protection to the fetus from the moment of conception, the Act on the Protection of Fetal Life allows for the performance of an intervention even upon request: *"Termination of pregnancy, unless justified by medical reasons, may be performed upon the written request of the pregnant woman."*[1] Even in the best-case scenario, the legal capacity of a fetus can only be considered conditional.

A further criticism of the legislation is that there is no fundamental difference between the current Criminal Code[2] and its predecessor.[3] All of this is difficult to accept because countless studies have already proven that the fetus is alive. The fetus is conscious during the procedure. It tries to avoid the inevitable—being aborted.[4]

Legal personality, legal capacity, and the right to life and human dignity are three interrelated but distinct categories. Confusing these concepts can lead to dogmatic conclusions suggesting that the protection afforded by an existing being not yet recognized by law as a full legal person is necessarily weaker or derived solely from the mother's interests. In contrast, this dissertation advocates a value-based approach that treats fetal life as human life deserving of legal protection sui generis. This line of reasoning is supplemented by subsections addressing the legal personhood of the fetus, artificial insemination, the issue of surrogate

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[1] A magzati élet védelméről szóló 1992. évi LXXIX. törvény
[2] A Büntető Törvénykönyvről szóló 2012. évi C. törvény
[3] A Büntető Törvénykönyvről szóló 1978. évi IV. törvény
[4] Bernard N. NATHANSON: Silent Scream. 1984. Rövid film. http://tinyurl.com/2y5uzzn4

motherhood, and the situation of fetuses with disabilities. Another serious and erroneous conclusion is that human dignity is a quality that an individual acquires through some achievement, or that the state may grant or revoke at its discretion through the use of the concept of legal capacity. The legal protection of the human person cannot be derived solely from when the state recognizes a given being as a legal person.

Based on the research and the sources used therein, it appears justified to develop a regulatory approach that treats the protection of fetal life as its starting point, while also providing an appropriate legal response to the pregnant woman's serious life- and health-threatening situation, as well as to the specific circumstances surrounding the pregnancy. However, abortion solely on request should not be permitted under such a regulatory framework. The issues surrounding lawful and illegal abortion can and should be debated, but the focus must shift from the severe predicament and the possibility of unrestricted access to the pregnant woman's vulnerability, as well as to crimes against sexual integrity and sexual morality. It must be examined on a case-by-case basis which fundamental rights conflict with one another and when intervention is justified. For this very reason, this dissertation does not assume that all abortion situations are identical. Legal regulations must distinguish between cases based on the above, which is also significant from the perspectives of proportionality and legal certainty. The regulations must ensure that the woman concerned receives adequate information, medical and psychological support, and a realistic understanding of the alternatives available to her. Support for continuing the pregnancy and the establishment of legal limits on abortion are complementary, not mutually exclusive, measures.

Based on examples from other countries, it may be useful for lawmakers to study the solutions applied in other states, but there is no justification for mechanically adopting them. Hungarian legislation must establish a coherent system within its own constitutional, criminal law, and social context, since there is no single model for regulating abortion that can be applied uniformly to all states. These differences may stem from constitutional systems, criminal law traditions, health regulations, religious and cultural backgrounds, and social values alike. Furthermore, this is not possible because there are few relevant international documents on specific topics, and even those that do exist fail to answer a very important question: When does human life begin?

Advances in medical science and reproductive technologies have raised new questions regarding the legal protection of fetal life. Due to advances in artificial insemination, surrogacy, genetic diagnostics, genetic engineering, and the development of artificial wombs, the conceptual foundations of legal protection cannot and should not be based solely on the natural

form of pregnancy. The conditional rule of legal capacity should not automatically lead to the denial of the legal value of the fetus. A distinction can be made between the biological continuity of human life and the boundaries established by law. The developmental process between conception and birth is continuous in a biological sense, whereas the law constructs boundaries at several points. The rule of legal capacity therefore cannot be equated with the determination of the biological beginning of human life. Hungarian law applies a concept of legal capacity that is retroactive to the time of conception and tied to live birth, the primary function of which is to conditionally ensure the acquisition of rights; however, this does not necessarily imply that the law may treat the fetus as a value-neutral object. The resolution of these issues, including the formulation of the relevant definitions, must in any event be based on scientific evidence. The legal significance of conception, pregnancy, childbirth, and live birth may differ from their biological definitions, but these differences do not justify the creation of multiple, mutually independent concepts of human life.

The relationship between a pregnant woman's right to self-determination and the protection of fetal life cannot be described solely as a simple conflict between two fundamental rights of identical structure. The unique circumstances of pregnancy require a nuanced legal approach. Above all, the right to life and human dignity must be considered, along with the legal personality of the individual. Of course, self-determination, as well as reproductive rights and other fundamental rights relevant to this matter, can and must be factored in. However, this can only be achieved by ensuring that the essence of the fundamental rights at issue is not compromised, and that all other considerations may play a role, but only in a subsidiary capacity—in any future legislation to be enacted. However, the task of the legislature cannot be merely to seek to resolve a current conflict. It must support the development of a conceptual and normative system capable of responding coherently to new life situations that may arise in the future.

Several recent developments deserve particular attention, including the French constitutional amendment, the overturning of Roe v. Wade in the United States, the implementation of the decision in Dobbs v. Jackson, and the reactions of several North American states. We must also discuss the European Union's reactions to these developments. To avoid the appearance of one-sidedness, the perspectives of the Eastern world (primarily Islamic and Jewish teachings) were also presented. This was done for two reasons:

1) If we wish to develop a consistent, comprehensive, and clear understanding of any legal issue, it is essential to familiarize ourselves with the legal practices of as many countries as possible, whether we are drafting new legislation or writing a doctoral dissertation.

2) Foreign influences do not shape legal thinking exclusively. Whether the topic is ethics, sociology, religion, culture, or everyday conversation, it is difficult—if not impossible—to ignore the issue of abortion.

It is difficult to find a community in which this set of issues does not serve as a dividing line in some form and is not one of the key themes in its stance toward other communities (conservative versus liberal ideologies, the origin of human legal personality/legal capacity, the relationship between state and church). However, none of these positions can be presented without at least a basic understanding of the past and the present. For this very reason, I have sought to present not only the laws of currently existing states but also those of several historically significant states that no longer exist or exist in a different form today. The purpose of presenting these states was to reveal the patterns of evaluation that also appeared in subsequent legal developments.

As a student at Pázmány Péter Catholic University for nearly a decade, I have sought—driven by both external and internal motivations—to shed light on the legal system of Hungary, situated at the intersection of Western and Eastern legal traditions. The research was not directed exclusively at analyzing the current criminal law provisions, even though it includes a comprehensive analysis of illegal abortion (which encompasses a presentation of the protected legal interest, the objective aspect, and the subjective aspect). Remaining within the realm of criminal law, the dissertation focused on Chapter XVI of the Criminal Code: Crimes Against the Order of Medical Interventions and Research, as well as acts outside this chapter that are related to and encompass abortion. Due to the rapid advancement of technology, many people seek to push the boundaries of what human decision-making should be permitted to determine, and they are willing to do everything in their power to secure their own lives or quality of life—or that of others—at the expense of others.

Given the nature of the issue, it became necessary to examine it from the perspectives of constitutional law, civil law, and international law. In the first case, the relationship between the Fundamental Law and other legal statutes is discussed; in the second branch of law, the concept of legal capacity and the legal personality of the fetus are addressed. Finally, I examined the legal practices of the previously mentioned countries and compared them with those of Hungary. I approached these issues critically while maintaining due sensitivity to their complexity, while also presenting the material from a partly critical perspective, with special emphasis on our current body of law. I endeavored to present my historical analysis—from the decrees of King Coloman the Bookish to the political transitioning detail, but without digressing. I devoted special attention to Christianity as both a state-forming and state-shaping

factor. Nor could I omit an examination of German (Habsburg) and, later, Soviet influence. The purpose of the chapters devoted to this was not a self-serving enumeration of legal-historical data, but rather to demonstrate that the legal assessment of the fetus and abortion is not a category with a historically constant meaning.

To justify the necessity of the historical part, if I had to answer in a single sentence, I would choose the following quote from George Santayana: "Those who cannot remember the past are condemned to repeat it."

IV. The Use of Research Findings to Date and Further Opportunities for Their Application

Since autumn 2024, I have been regularly substituting for several instructors at the Department of Substantive, Procedural, and Enforcement Criminal Law at the Faculty of Law and Political Science of Pázmány Péter Catholic University, in both substantive and procedural law. As part of my duties, I have taught practical seminars, supervised the writing of term papers, and participated in grading them. This past November, my presentation, entitled "Aretanázia," received a joint first-place award at the conference on Palliative Medicine and Hospice Care, which was held in the Pope John Paul II Auditorium at the Faculty of Law and Political Science of Pázmány Péter Catholic University.

In the fall of 2025, I took over teaching Katalin Horváth's classes following the termination of her contract. My contract for that semester covered one Criminal Law 1 class and one Criminal Law 3 class. In July of that same year, I participated as secretary at the departmental defense of Dr. Krisztina Petra Gula's PhD dissertation, entitled "Punishment Without Crime: The Involuntary Treatment of Mentally Ill Offenders in Criminal Law," chaired by Dr. Viktor Bérces.

Starting in the spring semester of 2026, I taught an elective course. The course title was: „The Child as a Value to be Protected in Criminal Law". This course was originally taught by Dr. Bernadett Csapucha. In February of this year, at the request of the Deák Ferenc Institute for Continuing Education, I gave a lecture under a contract of engagement *entitled "Is birth a miracle or a formula?"*[5] Twice that same month (on the 16th and the 20th), I held final exam prep sessions for graduating students.

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[5] The presentation is available online on the video-sharing platform called YouTube with the following subject line *„Életvédelem, reprodukciós eljárások és az MI"* at the following contact information: https://tinyurl.com/2yxf777y

I believe that teaching is currently the best way to make the most of my research findings and the countless opportunities they have provided. I have published regularly both within my field of research and beyond it. In the future, I would like to continue this work, not only on the topic of abortion but also in other areas relevant to criminal law. I have participated in several conferences both as an attendee and as a presenter. I would like to make my dissertation publicly available in some form so that graduate students researching this topic or future faculty members at our university can incorporate the sources, knowledge, and conclusions I have gathered into their own work.

I am currently preparing for the publication of two papers for which I have received a commitment in the form of a letter of acceptance, but which have not yet been published (and therefore are not yet recorded in the MTMT):

- Aretanázia. Vég a kezdet elött?
- Egy keresztény civilizáció életképe, avagy hogyan lehet viszonyulni egy kereszténység alkotta társadalomban az élethez való joghoz.

In addition, this semester I submitted the paperwork to have an elective course approved that aligns with my research topic. The proposed title of the course is: *"The Legal Status of Fetuses, with Particular Reference to Criminal Law as It Applies to Them."*

V. My Published Works

A kiskorúak elleni bűncselekmények. Büntetőjog Szemle, 2025/2. 9–13.

A magzatelhajtás és a legalapvetőbb jogok kapcsolata. In: Molnár Dániel – Molnár Dóra – Nagy Adrián Szilárd (szerk.): XXVII. Tavaszi Szél Konferencia 2024: Tanulmánykötet I. [Spring Wind Conference 2024]. Budapest, Doktoranduszok Országos Szövetsége (DOSZ), 2024. 107–117.

A magzatelhajtás és a legalapvetőbb jogok kapcsolata. In: Hajdú Péter (szerk.): XXVII. Tavaszi Szél Konferencia 2024 - Absztrakt kötet. Budapest, Doktoranduszok Országos Szövetsége (DOSZ) 2024. 88.

A minden magzatot megillető szent és sérthetetlen jogokról. In: Tahyné Kovács Ágnes (szerk.) ‘Iuvenes ad tutelam mundi creati’: Fiatalok a teremtett világ védelméért (A GENEZIS kiválósági diákműhely 2025. évi tanulmányai). Budapest, Pázmány Press, 2025. 11–25.

Hiba az ági öröklésben. In: Kurunczi Gábor – Pogácsás Anett – Varga Ádám (szerk.): ‘Doce ac disce meliora’ : Válogatott tanulmányok joghallgatók tollából. Budapest, Pázmány Press, 2024. 137–151.

Magzatok és büntetőjog. Studia Iuris. Jogtudományi Tanulmányok/Journal of legal studies. 2025/4. 74–91.

Teremtésvédelmi kérdések az emberi létről, különösen annak kezdetéről. Magyar Szemle, 2024/11-12. 80–91.

Interpreting the Protection of Life in the Context of the Criminal Offence of Abortion.