

the HUMAN LIFE REVIEW



SPRING 2003

Featured in this issue:

Stephen Vincent on Scheidler's Supreme Victory

William Murchison on Cloning & Religion?

Maureen L. Condic on Defining Life

Rita L. Marker on Patience & Plastic Bags

Unspeakable Conversations: A Symposium

Nat Hentoff • George McKenna • David S. Oderberg

Mark Pickup • Wesley J. Smith • Jo McGowan

and Harriet McBryde Johnson

Also in this issue:

Ned Rice • Cathleen A. Cleaver • Nelson Lund • Kathryn Jean Lopez

Lawrence B. Lindsey • William L. Saunders

Published by:

The Human Life Foundation, Inc.

New York, New York

ABOUT THIS ISSUE . . .

. . . readers of this journal have followed the progress of the Australian philosopher Peter Singer for years. Last February, the vast readership of the *New York Times Magazine* got a bracing introduction to the Ivy League infanticide champion in a cover story titled “Unspeakable Conversations or How I Spent One Day as a Token Cripple at Princeton University” by Harriet McBryde Johnson. We thought it would make for a provocative symposium and, as you’ll see, our distinguished participants haven’t let us down. Many thanks to Ms. Johnson and to the *New York Times* for giving us permission to reprint her riveting tale. (Those who’ve joined us since the appearance of our Fall 1998 symposium, *Infanticide Chic II: Professor Singer Goes to Princeton*, can receive a copy by calling our office at 212 685-5210 or by emailing us at humanlifereview@mindspring.com.)

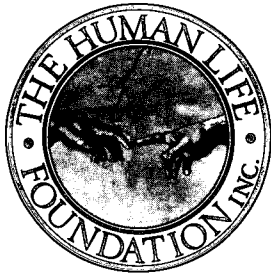
Long-time contributor Bill Murchison returns to our pages with a timely article, “Cloning, Stem Cells, and Religion?” He also has news: Last fall, after years of writing for the *Dallas Morning News*, Bill became the Radford Distinguished Professor of Journalism at Baylor University in Texas—nice to know there are a few universities where profilers can still apply. Bill’s syndicated column, by the way, continues to run and can be accessed, along with columns by virtually every other important conservative commentator, at the invaluable website, *Townhall.com*.

Another favorite website is National Review Online (nationalreview.com), headed up by the tireless Kathryn Jean Lopez. Thanks to NRO for permission to reprint columns by Ned Rice and Nelson Lund. Lopez herself has a column in this issue, one she wrote for the *National Catholic Register* (ncregister.com). Thanks to our friends over there for allowing us to bring you that and another *Register* column by Cathleen Cleaver.

Our thanks also go the Family Research Council (frc.org) from whose recent publication, *Building a Culture of Life: 30 Years after Roe v. Wade*, we’ve reprinted “Cloning in Light of the Nuremberg Code” by William L. Saunders. And to *First Things* (firstthings.com), where Maureen L. Condit’s “Life: Defining the Beginning by the End,” first appeared. Finally, *gracias* to the *Weekly Standard* (weeklystandard.com), this time for a column by Lawrence Lindsey.

October 17 is the fifth anniversary of the death of our founding editor, J.P. McFadden, who first wrote about Peter Singer in these pages in 1983. The Human Life Foundation will hold a fundraising dinner on that day to help assure the survival of the *Review*, which Jim considered his most important legacy. Details are on page 93. We hope some of you may be able to join us.

ANNE CONLON
MANAGING EDITOR



the HUMAN LIFE REVIEW

Spring 2003

Vol. XXIX, No. 2

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Published by THE HUMAN LIFE FOUNDATION, INC.
Editorial Office, 215 Lexington Avenue, 4th
Floor, New York, N.Y. 10016. The editors will
consider all manuscripts submitted, but assume
no responsibility for unsolicited material. Edi-
torial and subscription inquiries, and requests
for reprint permission should be sent directly
to our editorial office. Subscription price: \$25
per year; Canada and foreign \$30 (U.S. cur-
rency). ISSN 0097-9783.

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New York, N.Y. Printed in the U.S.A.

INTRODUCTION

THE YEAR 2003 MARKS the 30th anniversary of the shameful Supreme Court decision of *Roe v. Wade*; but it will also go down in history as the year the Supreme Court righted a great wrong. On February 26, the Court ruled 8-1 in favor of Joe Scheidler in *Scheidler v. NOW*, a case which had, as Stephen Vincent writes in our lead, “lasted 17 years and come to symbolize the struggle between the culture of life and the culture of death.”

Review readers are already well-versed in the famous case, in which the National Organization for Women tried, and initially succeeded (with a Chicago federal court conviction in 1998) in getting Scheidler and two other pro-life activists convicted for conspiracy under RICO, the Racketeer Influenced and Corrupt Organizations Act (they were slapped with the *treble* damages allowed under RICO). Our Summer 1998 symposium “The RICO Outrage: Are ‘Pro-Lifers’ Really Mafia Mobsters?” included a contribution from RICO’s author, Notre Dame law professor G. Robert Blakey, who said it was a “legal outrage” to use RICO as a “weapon of terror” against civil protest. In our Fall, 2000 issue, journalist Richard Goldkamp revisited the Chicago trial, exposing glaring inconsistencies between what was alleged in court (about the actions of the protestors) and what corresponded with the facts on record, discrepancies the media never bothered to explore. Goldkamp concluded that the case would probably go to the Supreme Court. “The defendants’ best hope,” he wrote, may “lie in one key point: Sharp doubts have been raised about RICO’s use in other cases.” He was right. Now Stephen Vincent has written a rousing article about the final chapter—Scheidler’s *victory*—which is a victory not only for all pro-life activists, but for activists of any stripe who could have been silenced under a manipulated interpretation of RICO (indeed, *amicus* briefs for the Supreme Court case made for some pretty disparate bedfellows, as you’ll read). Vincent’s piece has at its center the figure of a man whose larger-than-life personality (Joe’s “colorful, quotable, and irrepressible”) and unquenchable dedication to the unborn made him, in many ways, NOW’s worst nightmare.

The *Scheidler* decision is one more indication that “the liberal tower of ‘choice’ constructed in the Seventies is beginning to totter, as the support base ages and thins.” It is, as Vincent admits, “far too soon to sound the death knell of the abortion mindset.” However, it seems that abortion advocates are increasingly on the *defensive* these days: from NOW protesting too much that their loss in the RICO case wasn’t really a setback; to former Planned Parenthood president Faye Wattleton trying to explain why *her own poll* (she is now head of the Center for the Advancement of Women, a pro-choice advocacy

group that recently surveyed public opinion on abortion) found that *51 percent* of American women favor the government prohibiting abortion or limiting it to extreme cases; to NOW dealing with the public outcry over a revealing statement made by its New Jersey chapter head regarding the Laci and Conner Peterson homicide cases (for more on that story, see Kathryn Jean Lopez's column, *Appendix D*). No, the battles of the culture war are far from over, but at least the ground is shifting.

Yet, even as technological innovations such as the sonogram are leading people to see that *fetuses* are human lives and must be protected, the wonders of modern science have opened up new and dangerous frontiers. The issues of embryonic stem-cell research and cloning, issues that, advocates say, involve life that is expendable because it is so *small*, hold tremendous import for our future. Senior Editor William Murchison, who is currently teaching journalism at Baylor University, contributes a reflection inspired by one of his classes—"Cloning, Stem Cells, and Religion?" These matters have a "different feel," Murchison says, than the abortion and euthanasia wars, at least in the way they are overwhelmingly portrayed: "The look [is] of well-scrubbed laboratories, gleaming test tubes . . . the look of Science." And not just Science, but the promise (however theoretical) of wonderful cures to awful diseases—nothing less than the "Betterment of Humanity."

However, there is so much glare from well-scrubbed labs that a crucial fact is obscured—any "progress" that might be gained will come from experimenting on lives destroyed in the process (the type of horror denounced in the Nuremberg Code, see *Appendix F*). Murchison argues that the ethics of the matter "are urgent." But "more urgent still is the theology," because ethics may not be able to "hold the rampart forever against cloning." The here-and-now suffering caused by Alzheimer's and Parkinson's clouds the field of ethics, which already has "bio-ethicists" making assurances that embryos are only being destroyed for "a great good." But bring God into the equation, and the answers will be different. Murchison makes the salient point that, despite the low place theology has at the American table in the age of "pluralism," without "priests and preachers engaging God in the debate," abortion advocates "might long ago have triumphed." Instead, because of the persistence of those who insist on referencing the Creator, we are daring to hope that the tide may be turning.

Professor Maureen Condic, who is a neurobiologist, wrote an article for *First Things* which we reprint as a remarkable follow-up to Murchison. Condic doesn't discuss theology, yet her exploration of the biological *facts* makes a marvelous case supporting the sanctity of life. She looks first at our definition of death: as she explains, there is "a broad social and legal consensus regarding when human life ends." Legally, "brain death" is the definition of death—once the brain ceases functioning, the bodily functions begin to break down. But this is not instantaneous—the heart may beat for a while, and "on a cellular

and molecular level, nothing changes” immediately. What *has* changed is the ability of the body’s parts to “function together as an integrated whole.” Condic underlines the importance of the distinction between *cell-life* and the life of an *organism*; this is precisely the important distinction to be made at the beginning of life as well. Embryos are organisms: not merely collections of human cells, but living creatures with all the properties that define any organism. “The embryo generates and organizes distinct tissues that function in a coordinated manner to maintain the continued growth and health of the developing body.” For Condic, it’s simple: “Linking human status to the nature of the developing embryo is neither subjective nor open to personal opinion.” She then goes on to skewer other arguments used to justify the destruction of embryos: for example, that to be human, you have to “look” human (and embryos look like a “ball of cells”). “Fundamentally, this argument asserts that human life is worthy of respect depending on appearance. . . . What level of malformation are we willing to accept before we revoke the right to continued existence?”

In our final regular article, we move to another kind of discussion about the end of life. Contributor Rita Marker, director of the International Anti-Euthanasia Task Force, recently “infiltrated” two major conferences of key activists in the movement to legalize euthanasia and assisted suicide. In her report for the *Review*, Marker begins by noting the general disappointment among pro-euthanasia activists that things have not moved faster since their victory in Oregon, and describes two very different approaches proposed for going forward. She introduces us to the gatherings’ main participants—their personalities, affiliated organizations, goals, and pet projects (like the appalling Exit Bag—Marker lets us in on the macabre marketing that’s been used to publicize that contraption). Despite the frustration evident in the movement, and the differing opinions about which is the best winning strategy, Marker warns us not to let our guard down—these activists are just as dangerous as ever. She ends with a case in point: a poignant story of a woman whose husband, unbeknownst to her, let some “Caring Friends” hasten him to an early death and rob her of any chance to stop him, let alone say goodbye.

The remainder of our article section is dedicated to a symposium, “Unspeakable Conversations.” The occasion was a cover story in the *New York Times Magazine* (February 16) which featured a photograph of a woman in a wheelchair (her body, albeit graceful, contorted) with this headline: “Should I Have Been Killed at Birth?: The case for my life.” The story title, “Unspeakable Conversations, Or, How I Spent One Day as a Token Cripple at Princeton University,” was written by Harriet McBryde Johnson, a lawyer and a disability-rights activist. In it, she tells of her debate (in March 2002) with Princeton’s resident death guru, Peter Singer. Professor Singer, of course, “sits” in an Endowed Chair from which he advocates not only abortion, but infanticide, euthanasia, suicide—even bestiality (as long as neither man nor beast gets

hurt).

I have to admit that at first I was greatly heartened that a remarkable pro-life argument (Johnson both embodies and presents one) had made it to the cover of the *Times Magazine*. Johnson makes a strong case for the rights and worth of the disabled, from her stance as an *atheist*—a valuable approach for *Times* readers, who are accustomed to seeing any pro-life argument linked with religion. But much of the article is taken up with her own inner dialogue about whether or not she *should* have agreed to a civil debate with a man who many think is nothing less than a monster. On further reflection, knowing the *Times'* usual agenda *re* abortion and euthanasia, I had to wonder about the editors' motivation: were they "killing two birds"—giving a nod to the rights of the disabled while at the same time slyly giving Singer another forum to come off as not such a bad guy? Because, to put it too simply, that seems to be what Johnson concludes. And this is a point of contention in several of the commentaries that follow.

We sent Johnson's article to six distinguished *Review* contributors, and invited their responses, starting with the question, *Should* Johnson have debated Singer? Nat Hentoff, who needs no introduction to *Review* readers, was a natural first choice. As he writes, Singer is actually "More Dangerous than a Monster," because he's *tenured*. Hentoff winces at Johnson's praise for Singer's manners and intellect. Still, he believes Johnson made the right choice, as her article was "A chance for millions of readers to see, not in the abstract, but a living, immediate refutation of Singer's lethal and influential utilitarian doctrine that certain lives are not worth living." Following Hentoff is Professor George McKenna who "passionately" disagrees. He asks: "So what *do* you do with people who preach child murder? . . . you deal with him by protests, posters, petitions, picket lines, civil disobedience, pointed questions shouted across a room. . . . You don't have a civil debate with him. . . . Harriet McBryde Johnson, for reasons that do not seem clear even to her, decided to sleep with the enemy."

Professor David Oderberg first commends Johnson for bravery and dignity; but then he insists that one must nonetheless look at what Singer *really* advocates, not what he says in polite conversation. And he proceeds to lay out the damning evidence of Singer's official record, which he knows all too well. For example, while "readers of Miss Johnson's article might get the impression" that Singer never advocates killing as an obligation, in fact, he believes in a utilitarian *duty to kill*, especially in the case of a disabled infant, like the one Miss Johnson once was. Mark Pickup, a disability rights activist himself, wrote a response which focuses mostly on his dismay at Johnson's profession of atheism, which he thinks blinds her to Singer's evil. He sees no real ammunition against Singer's deadly worldview without reliance on the principles at the core of the Judaeo-Christian tradition. (A position Hentoff, also an atheist, might dispute.)

Oft-time contributor and powerful anti-euthanasia advocate Wesley Smith writes next, asking the reader to face some painful facts. Rather than a debate with Singer prompting dangerous exposure to his ideas, *his* ideas are the ones already *out there*—he is *already* seen as legitimate (“Good grief—he wrote the essay on ethics for the *Encyclopedia Britannica!*”). *We* are the ones now who have a hard time getting our voices heard. So, however distasteful it is, engaging in a debate with a figure like Singer guarantees a wider audience for our opposing view, although Smith agrees that the *Times* published Johnson’s article because it “can be construed as defending” Singer.

We began with Johnson’s story, in her own voice, giving intimate details about her life as a person with disabilities; we end by meeting another disabled person (whom *Review* readers have met before, most recently in “Just for Being,” Spring/Summer 2000), 13-year-old Moy Moy, who lives in India. Moy Moy cannot speak for herself; her mother, Jo McGowan, however, speaks loud and clear about the beauty and the wonder of her child. Singer doesn’t know Moy Moy, McGowan writes, but what he *ought* to know about her is that in her young life she has already created a “mini-Empire” of love, compassion, and previously unimagined good around her. A sharp contrast, I’d say, to the evil empire Singer’s Princeton chair rests on. But McGowan doesn’t rail against Singer; instead, in her beautifully original approach, she asks him to consider something he may not have . . . but I won’t tell you what it is, it’s a delight to read it for yourself. It’s the kind of argument about nature, like Condic’s about biology, in which what shines through is the *lack* of conflict with a theologically-mandated respect for the sanctity of life. How I wish McGowan’s words could have the massive audience of the *NY Times*.

* * * * *

I have no room here to introduce our appendices, but they are an exceptionally good series of columns (and an article) which give additional news and clear insights about current events involving “our” issues (including a column about the United Nations and international adoption you might find surprising). But I’d like to close by highlighting another victory we’ll remember 2003 for: both the Senate (in March) and the House (in June) passed the Partial-Birth Abortion Ban. We look forward to the day when President Bush will sign it into law (it is now “in committee” to smooth out any conflicts in the two versions), and we insist on hoping to report more protection for, and awareness of, the rights of the unborn in our next issue. Once more, we thank Nick Downes for his gift of the relief of a good chuckle now and then. Until next time . . .

MARIA MCFADDEN
EDITOR

Scheidler's Supreme Victory

Stephen Vincent

“Pro-life action news: Mark Wednesday, Feb. 26, in red letters because it is one big red letter day for the pro-life movement. We were having a slice of cherry pie for breakfast when we got word that the U.S. Supreme Court had ruled 8 to 1 that we are not racketeers.”

With these words, Joseph M. Scheidler announced victory over the National Organization for Women and other pro-abortion forces in a case that had lasted 17 years and come to symbolize the struggle between the culture of life and the culture of death. Hanging in the balance was nothing less than the good name of the pro-life movement. Scheidler and his Pro-Life Action League are now using the victory to infuse new energy into the movement against abortion.

The decision, written by Chief Justice William H. Rehnquist, not only vindicates the peaceful protests of pro-lifers who pray, counsel, or picket outside clinics. It also protects social protestors and civil-rights activists of all stripes from crippling lawsuits brought under the Racketeer Influenced and Corrupt Organizations (RICO) act. Recognizing the threat the case posed to practitioners of all sorts of civil disobedience, a number of organizations that are far from being pro-life filed amicus briefs on Scheidler's side. The day after the decision, a *Chicago Tribune* editorial described it as a victory for free speech.

Conscious of its image as a champion of free speech and civil rights, NOW long ago posted a Q & A about the case on its website to appease liberal supporters. The lead (leading) question says it all: “Are Scheidler's protests like those of the Civil Rights movement . . . or the Ku Klux Klan?”

With such rhetoric hurled at him, Scheidler was proud to state after the Court's decision: “It's nice to know the First Amendment is still in force, even for pro-lifers in this country.”

A Man for Many Seasons

Colorful, quotable, and irrepressible, Joe is known among his supporters as the grandfather of the pro-life movement. Yet to NOW and other pro-abortion forces he is not a grandfather but a godfather mobster in the mold of fellow Chicagoan Al Capone. NOW brought civil charges of extortion under RICO—and used images of Scheidler sporting his signature black hat

Stephen Vincent writes from Wallingford, Connecticut.

and bullhorn to back up the portrayal of him as an anti-choice gangster. NOW also presented spurious testimony to associate Scheidler with every act of violence ever committed against an abortion clinic or an abortionist. (This journal has covered the case extensively, with a forum on the use of RICO in Summer 1998 and a study of the questionable testimony in Fall 2000.)

Scheidler never let his opponents stop him, although every aspect of his personal and professional life was placed under a microscope and he was threatened with bankruptcy. His suburban Chicago house was placed in escrow to enable him to post a \$440,000 bond while appealing a lower-court judgment. Throughout the legal ordeal that began in 1986 he was active at the clinics, counseling, praying, and persuading women to turn away from abortion. He even played with the mobster image, continuing to wear his black hat and introducing himself at rallies as a “racketeer for life.” In November 2002—with oral arguments before the Supreme Court scheduled for December, a time when most appellants would shy away from controversial actions—Scheidler was making waves in the media and abortion capital of New York, helping to launch a campaign in which pro-lifers hold up posters of aborted babies in high-traffic areas. It was more than simply (and literally) an in-your-face tactic. Scheidler wanted to dramatize his belief that the charges against him amounted to a phantom case that could not be taken seriously.

“The case didn’t slow us down,” he reflected a few days after his Supreme victory. “I would say that it pepped us up. We didn’t know how much time we had before we would be shut down by the courts. We always knew, though, whether it’s by us or someone else, the battle goes on because it’s right.”

“The biggest problem,” he continued, “was hiring people for our [Pro-Life Action League] operations because we couldn’t guarantee that we’d still be in business the following year. They tried to make me out as the man running all these pro-life operations nationwide. It was very flattering, but it just wasn’t true.”

In a victory letter to friends and supporters addressed to “Dear Fellow Former-Racketeers,” he stated, “As much as I have enjoyed being known as a ‘racketeer,’ I am now happy to have been vindicated.”

One of his regular action news updates (phone hot-line messages that he’s been composing since 1974) put the Court’s decision in perspective: “Abortion will end one day just as surely as the day came when slavery was outlawed . . . Pro-life attorneys think this Supreme Court victory will open new action against other unconstitutional restrictions on pro-life activities.

The court must recognize that it is unconstitutional to have special laws against people who disagree with abortion.” He cited as examples the federal Freedom of Access to Clinic Entrances (FACE) Act passed during the Clinton years, and the “bubble zones” imposed by local governments that keep even people who are only praying away from clinic doors.

The Hand of God

A former Benedictine, who left religious life before final vows because “I wasn’t cut out for obedience,” Scheidler attributes victory ultimately to God. “I saw and experienced directly the power of concerted and persistent prayer,” he said. “I knew without a doubt that God has His hand in this victory.”

Thomas Brejcha, lead counsel for Scheidler’s side, also assessed the outcome in very unlaywerlike terms. “We got not a single vote in the [Chicago] Court of Appeals, and we get an 8-1 decision from the Supreme Court,” he marveled. “It’s a remarkable, a miraculous turnaround.”

The case was full of ironic twists. Anyone familiar with the pro-life movement knows that far from having centralized control and powerful bosses, pro-life groups are often hampered by their inability to unite. Yet NOW, in a sense, produced what it condemned. It raised Scheidler to the status of head man in legal proceedings and persuaded other pro-lifers to rally around him. As Joe goes, so goes the movement, many began to think.

Not all, to be sure. In 1999 federal appeals judge David Coar slapped Scheidler and the other defendants, Andrew Scholberg and Timothy Murphy, with a nationwide injunction. With the loose wording of this injunction, anyone working with Scheidler or adopting the methods outlined in his book *Closed: 99 Ways to Stop Abortion* could have been touched by it. Many pro-lifers shied away for fear of later being collared as cooperators in Scheidler’s “network.”

But enough others came to Scheidler’s side, including brave donors who helped him pay his mounting legal fees. Pro-life leaders who had stood by him from the start were quick to applaud his victory. “This litigation was clearly an attempt by NOW to eliminate pro-life voices from the public square,” said Dennis M. Burke, staff counsel for Americans United for Life, also based in Chicago. Judie Brown of American Life League called Scheidler a good friend “who has fought valiantly for years.”

“This decision is a tremendous victory for those who engage in social protests,” said Jay Sekulow, chief counsel of the American Center for Law and Justice, which filed a brief for Operation Rescue. (A related case, *Operation Rescue v. NOW*, was included in the decision although Operation Rescue has effectively been out of business for years.) “The ruling clearly

shuts the door on using RICO against the pro-life movement.”

“Abortion is not just a legal procedure. To groups like NOW it is a sacred ritual,” said Father Frank Pavone of Priests for Life. “Their efforts have hit the brick wall of our nation’s sacred right of protest. Long live that right!”

Francis Cardinal George of Chicago, who led a prayer vigil with Scheidler’s group outside a Planned Parenthood facility shortly after the decision, stated, “If the courts had been used to stop organized sit-ins at lunch counters in the Sixties, there would have been no civil rights movement.”

Columnist John Leo pointed out that the American Civil Liberties Union had opposed the passage of RICO from the start, but “they didn’t fight it when it was used against pro-lifers.”

Editorials in conservative and liberal papers alike applauded the decision. The *Wall Street Journal* said it upholds ‘the right of all Americans, left or right, to protest under the First Amendment.’ The *Chicago Tribune* stated: “No matter where they stand individually on the divisive issue of abortion, all Americans should applaud.”

There were 74 amicus briefs filed by groups ranging from labor organizations to “tree-hugging” environmentalists to nuclear weapons protestors to the Seamless Garment Network. Also joining were high-profile Catholics more commonly associated with other issues: Maryknoll Father Roy Bourgeois, founder of the School of the Americas Watch; death penalty activist Sister Helen Prejean; Jesuit Father Daniel Berrigan; and Martin Sheen, known to millions as the President on *The West Wing*.

Craig M. Bradley, who wrote the brief for PETA, summed the issue up nicely: Scheidler & Company “wanted to shut the abortion clinics down. They didn’t want to take them over. Just like PETA protestors might want to shut down an animal-rendering plant, not take it over.”

The High Court agreed.

“Obtaining” a Decision

In the end, the 17-year case that made two trips to the Supreme Court was shockingly simple. To violate RICO one must commit a series of specified acts or conspire to commit these acts. Scheidler and his colleagues admitted that they had broken the law—though only laws against trespassing and related minor offenses, which don’t qualify under RICO—and that they did so in concert with others with the express intent of shutting down abortion clinics. NOW claimed that by depriving or attempting to deprive clinics of their right to do business, Scheidler et al. were engaged in extortion, one of the criminal acts specified by RICO.

The court stated, “But even when their acts of interference and disruption

achieved their ultimate goal of ‘shutting down’ a clinic that performed abortions, such acts did not constitute extortion because petitioners did not ‘obtain’ respondents’ property. [They] may have deprived or sought to deprive respondents of their alleged property right of exclusive control of their business assets, but they did not acquire any such property. Petitioners neither pursued nor received ‘something of value from’ respondents that they could exercise, transfer or sell.”

The court concluded that Scheidler’s tactics more nearly constituted *coercion*, a lesser crime not covered by RICO. “If the distinction between extortion and coercion, which we find controls these cases, is to be abandoned, such a significant expansion of the law’s coverage must come from Congress, and not from the courts.”

The implications of the case, of course, go beyond semantic distinctions. Although Scheidler was barred from raising a First Amendment defense and NOW tried to narrow the case to anti-abortion activism alone, Scheidler’s legal team succeeded in portraying pro-life protestors as being in the mainstream of civil disobedience. During oral arguments, some justices raised the First Amendment themselves, wondering aloud whether the right to free expression would not be violated by a wide application of RICO. “When we heard these statements in defense of our position, we were thinking that maybe we could win this thing,” Scheidler recalls.

Justices Ruth Bader Ginsburg and Steven Breyer joined the majority with their own concurring opinion. They noted the chilling effect that NOW’s application of RICO could have on all social protest, while at the same time keeping their pro-abortion credentials in order. “In the Freedom of Access to Clinic Entrances Act of 1994 . . . Congress crafted a statutory response that homes in on the problem of criminal activity at health care facilities. . . . Thus the principal effect of a decision against petitioners here would have been on other cases pursued under RICO.” In other words, since we can get pro-lifers on FACE, why risk weakening PETA?

NOW attacked this position in its rants after the decision. “We will work to ensure that the [FACE act] is enforced. But that is not enough,” read a press release. “FACE is too limited and doesn’t reach the organizers of the violence . . . We are looking at every avenue available to us to protect women, doctors and clinic staff from these ideological terrorists.”

Mood Swing

In 1994 the Supreme Court allowed the proceedings against Scheidler to continue by ruling 9-0 that he did not need to have an economic motive to be accused under RICO. Why did the court now rule 8-1 in his favor? The

technical explanation is that a slightly different legal point was under consideration; the larger implication is that the mood of the court and the nation has shifted slightly toward life. "America, I believe, is on the brink of a new appreciation for the value of human life, especially unborn human life," Scheidler said. "We are on the cutting edge of a subtle but very clear shift in our attitudes."

Characteristically, Scheidler's victory celebration in June was not only for pro-life advocates but for all Americans. Joe is a patriot who loves his country and the freedoms proclaimed and protected by the Constitution. There were U.S. flags as well as prayers at his rally to "Bring America Back to Life."

Alongside Scheidler's populism, NOW and its sister organizations come off as angry and anti-American. The National Abortion and Reproductive Rights League showed a certain Brave New World arrogance in changing its name to NARAL Pro-Choice America. With polls showing increasing numbers of citizens opposing abortion on demand, and more young people coming out against killing unborn babies at any stage, NARAL thinks that by proclaiming America to be "pro-choice" it can make it so.

Yet the liberal tower of "choice" constructed in the Seventies is beginning to totter, as the support base ages and thins. Try as they may to refashion themselves according to the findings of Madison Avenue focus groups, the fact is that the pro-abortion forces are increasingly outsiders whose language and tactics do not resonate with most Americans. A NOW leader's argument against bringing double murder charges to include Laci Peterson's unborn baby is a perfect example of how NOW-style rhetoric has confounded common sense and left pro-abortion forces talking mostly among themselves.

It is far too soon to sound the death knell of the abortion mindset. Yet it may be time to define a new category of American malcontent that has yet to be recognized by the mainstream media. To go with the angry white male, we now have the angry white female. The poster girl, hands down, would be Fay Clayton, NOW's lead lawyer. She demonstrated her graciousness on "The O'Reilly Factor" after the decision. She attacked Scheidler and repeatedly cut off Bill O'Reilly, saying in a dozen different ways that the decision was really not a defeat, that NOW is really not finished, and that FACE gives abortion forces all the power they need to keep anti-choicers at bay. Huff and puff as she may, the Supreme Court decision speaks for itself. The name of the case itself symbolically marks a change in momentum. Though usually called by its original name, *NOW v. Scheidler*, the case heard by the Supreme Court was in fact the appellate version, *Scheidler v. NOW*. The tables have been turned on the pro-abortion movement. They've gone from bringing suit to defending.

Generating Life

The future looks bright. Against *Roe* and its progeny come Scheidler and his: seven children and (so far) 10 grandchildren. Two of his children, Eric, 36, and Annie, 26, work full-time for the Pro-Life Action League. And they are NOW's worst nightmare: educated, energetic, erudite and fully as determined as their dad. Eric, whose wife recently delivered their sixth child, handles communications and the web. Annie heads Generations for Life, which educates and mobilizes young people on abortion and a range of other issues, including chastity.

"Such a complete victory in answer to so many prayers is a tremendous encouragement to our peaceful pro-life activism," Eric Scheidler writes. "NOW's long effort to thwart our pro-life work has never stopped us from saving babies and helping women, but now we are prepared to redouble those efforts."



Cloning, Stem Cells, and Religion?

William Murchison

The topic was religious journalism—ins and outs, sins and doubts; basically, the stuff that century journalists may expect to encounter as they report and interpret the “faith quests” that modern society finds so engaging. Well, let’s see: lots of stuff goes on out there. There’s school prayer, church-state “separation,” faith-based initiatives, Jerry Falwell, the Islamic upsurge, religious pluralism, stem-cell research and cloning. Stop right there. Cloning and stem cells? Cloning, stem cells, and religion? Could that be described as a stretch of sorts—the importation of God into discussions of how to alleviate disease and suffering? Teacher’s call. My call, specifically, as the teacher. My university journalism class (“Religion and the Media”) stood in need of understanding, so far as I had the means of helping the students understand, the various religious implications involved in stem-cell research and cloning.

There was some logic here. We had talked already about abortion, and not just about religious leadership in the pro-life cause; rather, about the grounds for religious involvement in the matter. Those grounds seemed straightforward enough. The pagan culture that preceded Christianity had taken a low, or at best indifferent, view of human life as such. There was to be no equating noble lives and marginal or worthless ones. This essentially utilitarian view the Church had labored successfully to overthrow. Life was the gift of God, said the Church. All who tenanted the human body, and put their faith in God’s Only Begotten Son, Jesus Christ, would not perish. Everlasting life would be theirs. It was an extraordinary promise that rendered impossible and unthinkable such pagan norms and practices as tyranny and, in a still more painful and concrete sense, the exposing of “defective” infants on hillsides. The astonishing new teaching about life entered into Christianity’s fiber. From teaching flowed practice—the creation of alms houses, hospitals, and foundling homes; acts of private mercy, in forms as innumerable as the donors and the recipients; prayer and supplication for those in need, pain, or both. Ultimately the modern notion of democracy, coupled with that of human brotherhood, came to rest upon the Church’s affirmation of the moral equality of human lives. Brotherhood, democracy—these are not such notions as the world is likely to renounce. Violate, yes. Renounce, no.

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Among the violations: governmentally enforced tolerance of abortion. Yet here, too, the Christian community has weighed in powerfully. The pro-life cause—the cause of opposition to abortion (as well as euthanasia)—survives and flourishes on almost exclusively Christian principles. Secular proliferators of the Nat Hentoff stamp are rare phenomena. Not so pregnancy hotlines and adoption agencies run by churches, or rosaries and Rome collars at pro-life rallies and demonstrations. The religious connection with life questions is, on one plane, inevitable; on another, at least understandable to those unconvinced of such a connection. But then there was cloning, and there was stem-cell research. The matter—twin concerns, essentially—had a different feel. No, a different look—that was it. The look was of well-scrubbed laboratories, gleaming test tubes, and starched white jackets. We knew that look, surely—the look of Science. In these labs, amid these test tubes, something was going on for the betterment of mankind. Where did religion come into the matter? And, supposing it did come in, what might it have to say? That the Betterment of Humanity was less urgent than some ancient theological quibble?

That was what I thought we might do well to discuss in our class. And so it came about. I have no evocative reports on the discussion, which was relatively straightforward: Cloning was a news story; cloning had a decided religious dimension; this dimension was going to become increasingly inconvenient for the proponents; journalists assigned to cover cloning were going to have to understand what religious objections might arise to the manipulation of biology for the presumed advancement of bios. So there. (Professorial power is a matter to which I am happily adjusting, having joined myself to academia just in the past year, after a lifetime in journalism.)

The 21st century is notably uncomfortable with religious questions as they find their way into public discourse. Such is the legacy of religious pluralism—about which we also talked in class.

The consequences of the school prayer debate work themselves into our arguments over human life questions. Among those consequences: the widespread feeling that differences among religions—not to say differences between religious and secular viewpoints—preclude much of a role for religion in the formation of government policy. Quite a few religious people—especially those who head “mainline” religious denominations—seem proud to adopt this viewpoint. Adopting it seems to feed their sense of social integrity. It is as if they were saying: Yes, we, too, are tolerant! Yes, we have convictions—dogmas, creeds, beliefs. We know we must work not to impose these on society at large, at vast cost to the social peace and to our own understanding of obligation in a pluralistic society.

The late Allan Bloom noted the phenomenon a decade and a half ago, in *The Closing of the American Mind*. If everything is opinion, nothing is true. Diciest of all viewpoints to assert may be those that proceed—allegedly! (and who is to answer for the quality of stenographic work in the First Century A.D.?)—from a supernatural presence not even Bill O’Reilly can snag for an interview.

I set these considerations on the record merely by way of suggesting the problems that attend introduction of theology into the debate over stem-cell research and the cloning of human beings. These are profoundly theological problems. Yet, in considering them, society is inclined to wave off the theologians who bring to bear their insights into the matter. The exclusion of theology throws us back on the supposed science of ethics—especially bioethics, as we call this newest speciality in an already complex field. The matter has not yet descended to Benthamite calculation—the greatest good for the greatest number. But precedents, especially with regard to abortion, are not encouraging. The settled judicial policy, concerning abortion, is that abortion is good if you think it’s good; and if you happen to think it isn’t good, why, then, as the bumper sticker enjoins, “Don’t Have One.”

The question of life as a religious concern emerges just as strongly in the context of stem-cell research/cloning as in that of abortion. A wacky side to the matter has emerged already. On Dec. 26, 2002, according to a French company calling itself Clonaid, the cloning of a baby girl called Eve took place. Young Eve is said to be an exact genetic copy of her “mother,” a 31-year-old American woman. Oh, and it gets better. Clonaid is owned by a sect called the Raelians, who claim that life on earth is the handiwork of space aliens called the Elohim, who in 1973 revealed this thitherto-overlooked morsel to a French race car driver now calling himself, not coincidentally, Rael. Rael, weeks later, informed a *Washington Post* reporter that the production of teenage clones will soon become a reality—lacking memory and personality, true, but only until technology uncovers a way to download these commodities. As my juniors and sophomores might say in various other contexts: “Whatever . . .” (A provocative datum in the discussion is that the Raelians have declined to make Eve available for testing.)

I get the wackiness out of the way early so as to proceed to the serious. Religious perspectives indeed inform the the sporadic public debate on cloning. You just don’t hear that much about them, that’s all. America some years ago turned down its hearing aid when the talk turned to public matters and their relationship to religion. Cloning affords the opportunity, indeed the duty, to turn up the volume. And “cloning” means . . . ? That would seem a useful matter for clarification. Here is the definition of the President’s

Council on Bioethics: “A form of reproduction in which offspring result not from the chance union of egg and sperm (sexual reproduction) but from the deliberate reproduction of the genetic makeup of another single individual (asexual reproduction).” To achieve this, you introduce “the nuclear material of a human somatic cell (donor) into an oocyte (egg) whose own nucleus has been removed or inactivated, yielding a product that has a human genetic constitution virtually identical to the donor of the somatic cell.” You would do this, fundamentally, for two reasons: to produce “a child who will be genetically virtually identical to a currently existing or previously existing individual” or “for the proximate purpose of using [a cloned human embryo] in research or for extracting its stem cells, with the (ultimate) goals of gaining scientific knowledge of normal and abnormal development and of developing cures for human diseases.”

That will get us started. Where from here? To consideration of the religious consensus in the matter. The first thing we discover is that “consensus” is not the operative word. If a “con” word is what we are seeking, “concern” will do the job. There is religious concern about cloning and stem-cell research, just as there is concern about abortion. Concern fails notoriously these days to translate into principled opposition.

This is probably not to wonder at. As the English would say, these are early days in the cloning debate. A debate that is conditioned to no small degree on what we, as a society, already have decided about abortion. Abortion, we seem to have decided, is a close call. It is not, of course, a close call, but close-calling a policy means obviating the need to think about and, especially, to look at it closely; and, still more, to exempt opponents, to whom we may be closely related, from blame or censure. That is one reason for calling abortion a close call.

If people think that of abortion, which condemns to death recognizably human forms (unborn babies, fetuses, take your pick—anything but “products of conception”) all the more so must many view cloning for medical research. This thing, this egg—why, you can’t even see it, except with a powerful microscope! That is less, certainly, than may be said of a developing fetus, with its differentiated limbs and occasional jerks of activity.

Yet that fertilized egg, in the mythology of cloning, has purpose. Might stem cells, rightly employed, lead researchers to cell-based therapies for Parkinson’s and diabetes? If so, would not that constitute a major scientific gain? Similarly might we not figure out ways for use of the cells in the screening of new drugs and toxins, and in learning more about birth defects? That would be a social gain. Yes? Yes?

A mother wishing merely separation from an unwanted “product of conception” can be accused of selfishness and indifference, even with journalists and feminist mouthpieces (to the extent there’s any difference) ready to step in, refocusing the question on the mother’s right to enjoyment of her “privacy.” An embryo, though, ready at the touch of Science to yield knowledge about the causes of Michael J. Fox’s Parkinson’s and Christopher Reeve’s immobility—that would seem, to many, a different matter.

How so? Because medical progress, supposedly, is going on. Health is being restored. Here, too, we have life questions—medicine, health; the extension in many cases of life itself. Yes, God is the author of life. He would nod His head approvingly (assuming, à la Michelangelo, He has a head to nod) at the prospect of His creatures finding the clues He has scattered about for them, using those clues to enter more deeply into the mysteries of creation. I must acknowledge that I have not heard a theologian put it exactly that way, but I would expect to, once this essentially new debate is more fully joined. Theologians are not much different from non-theologians in their capacity for discovering that God happens to see things just the way they do themselves.

The difficulty with this viewpoint involves squaring it with another human capacity—for stark terror. And just how does terror come into it? The alleviation of suffering is about joy and bliss and peace and contentment.

Isn’t it? It would seem to depend. Done the right way, the alleviation of suffering brings anticipated pleasures. Done the wrong way . . . The wrong way? There could be a wrong way? The ethical-theological question of means and ends begins to spread open its wings. We start to see things . . .

Not necessarily the awful things we might have expected. The Frankenstein movies have equipped us to anticipate the moment when science steps in as creator: not necessarily displacing the original Creator but, as the gangster movies used to have it, muscling in on His racket. “Opposition to cloning to produce children is practically unanimous in America,” writes Dr. Leon Kass, chairman of the President’s Council on Bioethics. “The vast majority of Americans oppose it. Most research scientists agree that it should be banned. Nearly every member of Congress has condemned it. Cloning not only carries high risks of bodily harm to the cloned child, but it also threatens the dignity of human procreation, giving one generation unprecedented genetic control over the next. It is the first step in a eugenic world in which children become objects of manipulation and products of will.” Little Boris Karloffs, with bolts in their brains? That would be one way of putting it.

We are not there. It might be easier if we were. A hulk with stiff arms and bolts in the brain is apt to have a clarifying effect on its beholders. This is

not life. It walks, it stalks, it breathes—but walking, stalking, and breathing are not the essence of life. We know instinctively, as one movie title had it, that *Frankenstein Must Be Destroyed*.

That does not take care of the ethical-theological question with respect as to cloning—even if, as Kass notes with satisfaction, hardly anybody out there wants to clone kids. Between Boris Karloff and Michael J. Fox some spacious territory lies; not just in cinematic terms either. Afflicted (like Pope John Paul II and many others) with Parkinson’s Disease, Michael J. Fox, star of movies and television, sees embryonic stem-cell research as a hopeful means of addressing his plight. His foundation, and that of Christopher Reeve, paralyzed in a riding accident, promote stem-cell research as a manifestly good work. Scientists, as we are regularly informed, see such research as affecting cures not just for Parkinson’s and paralysis, but also for diabetes, Alzheimer’s, heart disease, and cancer. What is to stop us, all that being so? A strong minority last year on the President’s Council on Bioethics argued that “moral objections to [cloning for medical research] are outweighed by the great good that may come from it;” that embryos marked for destruction would serve “a great good, and this should not be obscured.”

This was insufficient to override the objections of the council majority, which hoped in all our names that we would leave our children “a world that honors moral limits, that respects all life whether strong or weak, and that refuses to secure the good of some human beings by sacrificing the lives of others.”

Kass, in a subsequent article for the *New York Times*, would contend that “the production of cloned embryos for any purpose is a significant leap in transforming procreation into a form of manufacture . . . [S]aying yes to cloned embryos, even for research, means saying yes, at least in principle, to an ever-expanding genetic mastery of one generation over the next. Once cloned embryos exist in laboratories, the eugenic revolution will have begun.” A “crucial moral boundary” will have been crossed.

One more intuition deserves to be recorded: that when the boundary in question is crossed, mass rejoicings may out. This could be the thing for which millions have waited—the chance to re-engineer humanity, finally getting this life thing right. Goodbye to pain and suffering! Goodbye to mortality!

What holds that moment at bay? Right now, ethical considerations of the sort explored by Leon Kass. Sometimes those considerations are embodied in law, sometimes not. (The U.S. House of Representatives voted in February 2003 to prohibit all forms of human cloning; the Senate, as of this writing, had yet to act.)

Clearly the ethics of the matter are urgent. More urgent still is the theology. The latter point is the one we should get fixed firmly in mind, because on cloning, ethics is divided against itself: on one side, the Leon Kassés, on the other, the Michael J. Foxes. The Kassés look into the future, asking, what if? The Foxes talk about now, saying, why not? The Kassé commission minority stated its case straightforwardly: There is a moral case for research cloning; it “rests on our obligation to try to relieve human suffering . . . it may offer uniquely useful ways of investigating and possibly treating many chronic debilitating diseases and disabilities, providing aid and relief to millions. We also believe that the moral objections to this research are outweighed by the great good that may come from it.” Even council members who entertain moral concerns about research cloning overcome these concerns by reasoning that embryos created for research “would not be ‘created for destruction,’ but for use in the service of life and medicine. They would be destroyed in the service of a great good . . .”

A great good. According to whom? Not according to Leon Kass, certainly, or to the majority of the bioethics council. But so it goes in ethics: the conflict of perceived good against perceived good. Who does the perceiving, or does it most convincingly, generally tells the tale.

Ethics, in the end valuable as are its insights, may not be able to hold the ramparts forever against cloning. Its insights are prospective and theoretical; the sufferings of Alzheimer’s and Parkinson’s victims are here-and-now, and what is more they have the power to draw tears and change hearts. That the claims of certain success from experimental cloning may be overstated is a point not easy to prove. Look meantime at doughty Christopher Reeve. Don’t we hope he may walk again?

The moment is ripe for the theologians, and the need is correspondingly great. Not all will rise to the occasion, or wish to. But there is clearly a good deal to say, and the field should not be left to His Holiness Rael, as he insists on others calling him. The theologians will differ—as indeed they do over abortion and everything else. But God’s appearance in the debate should neither startle nor dismay, even when His spokespeople differ among themselves.

The abortion stalemate—misgivings as well as certainties on both sides; neither able to sweep the other off the field—reminds us of the power of theological argument. Yes, the theologians assume differing postures in the matter; yet theology alone—the theology of God as Creator of life—keeps the pro-life cause intellectually and financially solvent. Without priests and preachers engaging God in the debate, Planned Parenthood and the National

Organization for Women might long ago have triumphed: talking (as did the bioethics council minority) about destruction in the service of a greater good. A good defined, naturally, by themselves.

Theology has never occupied a lower place at the American table than the one into which it was thrust at the start of the age of “pluralism.” Does that argue against the flexing of theological muscle? It would seem to argue for the reverse—that is, for sturdy and prolonged meditation on the fearful implications of creating life. When the theologians fall quiet about matters of great moment, the secular society doesn’t assume they are being good little American citizens. It assumes they have nothing to say. Nothing to say? Nothing to offer concerning human life, its origins and purposes? Who, in that case, is to do the talking?

Among others, journalists will be delighted to—from the cable news studios to the paneled editorial suites. The Eve we will hear about is not the one found in Genesis 2-4; she is the Raelians’ Eve, or another like her—a hot journalistic property for sure; matter for books, Larry King interviews, and TV movies.

That is how “pluralism” and theological daintiness, post-*Roe v. Wade*, work in American life. The sight is neither pleasant nor hopeful.



“That’s one angry mime.”

Life: Defining the Beginning by the End

Maureen L. Condic

What defines the beginning of human life? This question has been the topic of considerable legal and social debate over the years since the Supreme Court's *Roe v. Wade* decision—debate that has only been intensified by the recent controversies over human embryonic stem cells and human cloning. Answers to this question run the full gamut from those who argue that life begins at conception (the view of more than one major world religion) to those arguing that babies are not to be considered fully human until a month after birth (the position of Princeton Professor of Bioethics Peter Singer).

The range of dissent and disagreement on the question of when human life begins has led many to believe it cannot be reasonably resolved in a pluralistic society. Courts have ruled that the diversity of opinion on the topic precludes a judicial resolution, requiring instead that the matter be addressed in the political arena, where accommodation of divergent views can be wrought through debate and compromise. Many Americans appear equally unwilling to impose a single interpretation on society, preferring instead to allow decisions regarding the beginning of life to be largely a matter of personal choice.

While reluctance to impose a personal view on others is deeply ingrained in American society, one must question the legitimacy of such reluctance when the topic of our “imposition” is a matter (quite literally) of life and death. Few beyond the irrationally obdurate would maintain that human embryos are anything other than biologically *Homo sapiens* and alive, even at the earliest developmental stages. Equally few would contest the fact that, at early stages of embryonic development, human embryos bear little resemblance to anything we easily identify as “human.” For most people, reconciling these two facts involves the uncomfortably fuzzy process of drawing a line somewhere during the continuously changing process of human prenatal development and asserting: “There. That’s when human life begins—at least for me.” It is precisely the subjectivity and inaccuracy of this decision that fuels our discomfort at “imposing” it on others.

In contrast to the widespread disagreement over when human life begins, there is a broad social and legal consensus regarding when human life ends.

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Rarely has the point been made that the definition of human death can be applied to the question of when life commences with compelling symmetry. The definition of when life ends is both scientific and objective, and does not depend on personal belief or moral viewpoint. The current medical and legal understanding of death unambiguously defines both when human life ends and when it begins in a manner that is widely accepted and consistent with the legal and moral status of human beings at all stages of life.

Death is something most people readily recognize when they see it. People express very little confusion about the difference between a living person and a corpse. Surprisingly, however, the distinction is not as clear from a medical and scientific perspective. There is very little biologic difference between a living person in the instant before death and the body of that person an instant after death. Yet some property has clearly departed from the body in death, and that property is precisely the element that defines “human life.” What, then, is the difference between live persons and dead ones? How is death defined medically and scientifically?

The question of when and under precisely what conditions people are viewed as “dead” has itself been the subject of considerable debate. Traditionally, the medical profession considered a person dead when his heart stopped beating—a condition that rapidly results in the death of the cells of the body due to loss of blood flow. As the life-saving potential of organ transplants became increasingly apparent in the 1960s, the medical community undertook a reexamination of the medical standards for death. Waiting until the heart stops beating results in considerable damage to otherwise transplantable organs. After a long and contentious debate, a new standard of death was proposed in 1968 that defined “brain death” as the critical difference between living persons and corpses, a standard that is now widely (although not universally) accepted throughout the world.

Brain death occurs when there has been irreversible damage to the brain, resulting in a complete and permanent failure of brain function. Following the death of the brain, the person stops thinking, sensing, moving, breathing, or performing any other function, although many of the cells in the brain remain “alive” following loss of brain function. The heart can continue to beat spontaneously for some time following death of the brain (even hearts that have been entirely removed from the body will continue to beat for a surprisingly long period), but eventually the heart ceases to function due to loss of oxygen. The advantage of brain death as a legal and medical definition for the end of life is that the quality of organs for transplant can be maintained by maintaining artificial respiration. So long as oxygen is artificially supplied, the heart will continue to beat and the other organs of the body will be

maintained in the same state they were prior to death of the brain.

Defining death as the irreversible loss of brain function remains for some a controversial decision. The fact that the cells and organs of the body can be maintained after the death of the individual is a disturbing concept. The feeling that corpses are being kept artificially “alive” as medical zombies for the convenient culture of transplantable organs can be quite discomfoting, especially when the body in question is that of a loved one. Nonetheless, it is important to realize that this state of affairs is essentially no different from what occurs naturally following death by any means. On a cellular and molecular level, nothing changes in the instant of death. Immediately following death, most of the cells in the body are still alive, and for a time at least, they continue to function normally. Maintaining heartbeat and artificial respiration simply extends this period of time. Once the “plug is pulled,” and the corpse is left to its own devices, the cells and organs of the body undergo the same slow death by oxygen deprivation they would have experienced had medical science not intervened.

What has been lost at death is not merely the activity of the brain or the heart, but more importantly the ability of the body’s parts (organs and cells) to function together as an integrated whole. Failure of a critical organ results in the breakdown of the body’s overall coordinated activity, despite the continued normal function (or “life”) of other organs. Although cells of the brain are still alive following brain death, they cease to work together in a coordinated manner to function as a brain should. Because the brain is not directing the lungs to contract, the heart is deprived of oxygen and stops beating. Subsequently, all of the organs that are dependent on the heart for blood flow cease to function as well. The order of events can vary considerably (the heart can cease to function, resulting in death of the brain, for example), but the net effect is the same. Death occurs when the body ceases to act in a coordinated manner to support the continued healthy function of all bodily organs. Cellular life may continue for some time following the loss of integrated bodily function, but once the ability to act in a coordinated manner has been lost, “life” cannot be restored to a corpse—no matter how “alive” the cells composing the body may yet be.

It is often asserted that the relevant feature of brain death is not the loss of integrated bodily function, but rather the loss of higher-order brain activities, including consciousness. However, this view does not reflect the current legal understanding of death. The inadequacy of equating death with the loss of cognitive function can be seen by considering the difference between brain death and “persistent vegetative state” or irreversible coma. Individuals who have entered a persistent vegetative state due to injury or disease have

lost all higher brain functions and are incapable of consciousness. Nonetheless, integrated bodily function is maintained in these patients due to the continued activity of lower-order brain centers. Although such patients are clearly in a lamentable medical state, they are also clearly alive; converting such patients into corpses requires some form of euthanasia.

Despite considerable pressure from the medical community to define persistent vegetative state as a type of brain death (a definition that would both expand the pool of organ donors and eliminate the high medical costs associated with maintaining people in this condition), the courts have repeatedly refused to support persistent vegetative state as a legal definition of death. People whose bodies continue to function in an integrated manner are legally and medically alive, despite their limited (or absent) mental function. Regardless of how one may view the desirability of maintaining patients in a persistent vegetative state (this being an entirely distinct moral and legal question), there is unanimous agreement that such patients are not yet corpses. Even those who advocate the withdrawal of food and water from patients in persistent vegetative state couch their position in terms of the “right to die,” fully acknowledging that such patients are indeed “alive.” While the issues surrounding persistent vegetative state are both myriad and complex, the import of this condition for understanding the relationship between mental function and death is clear: the loss of integrated bodily function, *not* the loss of higher mental ability, is the defining legal characteristic of death.

What does the nature of death tell us about the nature of human life? The medical and legal definition of death draws a clear distinction between living cells and living organisms. Organisms are living beings composed of parts that have separate but mutually dependent functions. While organisms are made of living cells, living cells themselves do not necessarily constitute an organism. The critical difference between a collection of cells and a living organism is the ability of an organism to act in a coordinated manner for the continued health and maintenance of the body as a whole. It is precisely this ability that breaks down at the moment of death, however death might occur. Dead bodies may have plenty of live cells, but their cells no longer function together in a coordinated manner. We can take living organs and cells from dead people for transplant to patients without a breach of ethics precisely because corpses are no longer living human beings. Human life is defined by the ability to function as an integrated whole—not by the mere presence of living human cells.

What does the nature of death tell us about the *beginning* of human life?

From the earliest stages of development, human embryos clearly function as organisms. Embryos are not merely collections of human cells, but living creatures with all the properties that define any organism as distinct from a group of cells; embryos are capable of growing, maturing, maintaining a physiologic balance between various organ systems, adapting to changing circumstances, and repairing injury. Mere groups of human cells do nothing like this under any circumstances. The embryo generates and organizes distinct tissues that function in a coordinated manner to maintain the continued growth and health of the developing body. Even within the fertilized egg itself there are distinct “parts” that must work together—specialized regions of cytoplasm that will give rise to unique derivatives once the fertilized egg divides into separate cells. Embryos are in full possession of the very characteristic that distinguishes a living human being from a dead one: the ability of all cells in the body to function together as an organism, with all parts acting in an integrated manner for the continued life and health of the body as a whole.

Linking human status to the nature of developing embryos is neither subjective nor open to personal opinion. Human embryos are living human beings precisely because they possess the single defining feature of human life that is lost in the moment of death—the ability to function as a coordinated organism rather than merely as a group of living human cells.

What are the advantages of defining the beginning of human life in the same manner that we define its end, based on the integrated organismal function of human beings? To address this question, the alternative arguments regarding when life begins must be briefly considered. While at first inspection, there appear to be many divergent opinions regarding when human life commences, the common arguments are only of three general types: arguments from form, arguments from ability, and arguments from preference. The subjective and arbitrary nature of these arguments stands in stark contrast to the objective and unambiguous definition that organismal function provides for both the beginning and end of human life.

Of all the arguments regarding when human life begins, the most basic, and perhaps most intuitive, is that to be human, one must *look* human. Early human embryos are often described as “merely a ball of cells,” and for many, it is difficult to imagine that something that looks more like a bag of marbles than a baby could possibly be a human being. Fundamentally, this argument asserts that human life is worthy of respect depending on appearance. When plainly stated, this conclusion is quite disturbing and also quite problematic. What level of malformation are we willing to accept before we revoke the

right to continued existence? How are we to view children whose mature form will not be completely manifest until puberty? Form alone is a profoundly trivial and capricious basis for assigning human worth, and one that cannot be applied without considerable and obvious injustice.

The superficiality of equating worth with form is sufficient for most to reject this argument and retreat to a functional definition: form per se is not the issue; rather, it is the ability to function as a human being that defines the beginning of human life. Human beings are capable of a number of distinctive functions (self-awareness, reason, language, and so forth) that are acquired gradually over prenatal life as development proceeds. Therefore, the argument goes, human worth is also gradually acquired, with early embryos being less human than more developed fetuses.

A number of seemingly independent arguments regarding when life begins are in fact variations on this argument from ability. Thus, the proposal that human life begins when the fetus becomes “viable,” or capable of surviving outside of the womb, is a subset of the ability argument that gives conclusive weight to the suite of abilities required for survival independent of the mother. Similarly, the common argument that embryos are human when they are in the womb of the mother (where they can develop into babies), while embryos generated in the laboratory are not, is also a variation on the ability argument that equates developmental ability with human life and worth.

While the argument from ability is less superficial than the argument from form alone, it is no less problematic. As noted above, functional definitions have been repeatedly rejected as a legal basis for the definition of death, in part due to their arbitrary nature. One can certainly identify any number of elderly and disabled people who are less functionally adept than newborn infants—and perhaps even late-term fetuses. While Western culture has a strong tradition of meritocracy, providing greater economic and social rewards to those who demonstrate greater achievement, basic human rights are not meted out according to performance. Unless we are willing to assign “personhood” proportionate to ability (young children, for example, might be only 20 percent human, while people with myopia 95 percent), the limited abilities of prenatal humans are irrelevant to their status as human beings.

The final and perhaps the most emotionally compelling argument for assigning human status to a developing embryo is the extent to which parents desire a child. Yet the argument from being wanted, which equates status as a human being with the desire of a second party who has the power to confer or deny that status, essentially reduces the definition of a human being to a matter of preference. You are human because I choose to view you that way. The fact that human status can be positively conferred for “wanted”

embryos as well as denied for the “unwanted” illustrates the fundamental arbitrariness of this argument. The preferences of individuals who possess the power to impose them on others are hardly a compelling basis for legislation on human life.

Despite the apparent diversity of views regarding when human life begins, the common arguments thus reduce to three general classes (form, ability, and preference), all of which are highly subjective and impossible to reconcile with our current legal and moral view of postnatal human worth. It is, in fact, the subjectivity and inconsistency of these views, rather than their diversity, that makes them so unsatisfying as a basis for legislation on human life.

Unlike other definitions, understanding human life to be an intrinsic property of human organisms does not require subjective judgments regarding “quality of life” or relative worth. A definition based on the organismal nature of human beings acknowledges that individuals with differing appearance, ability, and “desirability” are, nonetheless, equally human. It is precisely the objective nature of such a definition (compared to vague “quality of life” assessments) that has made organismal function so compelling a basis for the legal definition of death.

Once the nature of human beings as organisms has been abandoned as the basis for assigning legal personhood, it is difficult to propose an alternative definition that could not be used to deny humanity to virtually anyone. Arguments that deny human status to embryos based on form, ability, or choice can be readily turned against adult humans who have imperfect form, limited ability, or who simply constitute an inconvenience to more powerful individuals or groups. Indeed, such arguments can be quite protean in their ability to deny rights to anyone not meeting an arbitrary criterion for humanity. Abraham Lincoln made this very point regarding arguments based on form, ability, and choice that were put forth in his day to justify the institution of slavery:

It is *color*, then; the lighter having the right to enslave the darker? Take care. By this rule, you are to be slave to the first man you meet with a fairer skin than your own.

You do not mean *color* exactly? You mean the whites are *intellectually* the superiors of the blacks, and, therefore, have the right to enslave them? Take care again. By this rule, you are to be slave to the first man you meet with an intellect superior to your own.

But, say you, it is a question of *interest*; and, if you can make it your *interest*, you have the right to enslave another. Very well. And if he can make it his interest, he has the right to enslave you.

Postnatal humans run very little risk that embryos will someday organize politically to impose restrictions on the rights of “the born.” However, once society has accepted a particular justification for denying rights to one class of individuals, the same justification can readily be applied to other classes by appealing to the simple argument: “Society has *already determined* that form, ability, or preference defines human life and thereby restricts human rights. Why should the same standard not be applied in this case?” In American society and jurisprudence, arguments from accepted precedent carry great emotional and legal force. Society must determine whether it is willing to accept the current subjective and arbitrary basis for determining the status of prenatal human beings as a legitimate precedent for future legislation on human rights.

Embryos are genetically unique human organisms, fully possessing the integrated biologic function that defines human life at all stages of development, continuing throughout adulthood until death. The ability to act as an integrated whole is the *only* function that departs from our bodies in the moment of death, and is therefore the defining characteristic of “human life.” This definition does not depend on religious belief or subjective judgment. From the landmark case of Karen Ann Quinlan (1976) on, the courts have consistently upheld organismal function as the legal definition of human life. Failure to apply the same standard that so clearly defines the end of human life to its beginning is both inconsistent and unwarranted.

The conclusion that human life is defined by integrated (organismal) function has wide-reaching implications, both political and moral. While the public domain has limited authority to promote morality, it does have both the power and the responsibility to prevent harm to individuals. A consistent definition of what constitutes human life, both at its beginning and at its end, requires that current legislation dealing with prenatal human life be considered in light of both biological fact and accepted legal precedent regarding the definition of human life. If current legislation enables and supports the killing of human beings based on a scientifically flawed understanding of human life, laws can and should be revised. Clearly, such a revision would not be without political cost. Yet allowing life-or-death decisions to be based on arbitrary or capricious definitions is also a course of action that is not without considerable social and moral cost.

Assisted-Suicide Activism:

Patience and Plastic Bags

Rita L. Marker

“We are nowhere near where we thought we would be.” That statement, by Emory University Law School Professor David Garrow, epitomizes the sentiments of assisted-suicide advocates.

In 1994, Oregon became the only place in the world with a law that specifically made assisted suicide a “medical treatment.”¹ When it went into effect in 1997,² assisted-suicide activists expected a domino effect. They were certain that, within five years, state after state would have similar laws on the books and that they would be well on their way to reaching their real goal—legalized euthanasia and assisted suicide on demand.³

They were wrong.

Since passage of Oregon’s law, activists have been trying to extend assisted-suicide tentacles beyond Oregon. Additional initiative campaigns have been waged. Court cases have been filed. Legislative proposals have been introduced. With each new effort, these activists have sought and received financial backing from deep-pocket donors. Each time, they have predicted victory. Each time they have met with failure. They have only a string of losses to show for their labors and for millions of dollars in expenditures.

Both frustration over these failures and a dogged determination to forge ahead were evident at two recent assisted-suicide conferences. But just how to proceed is becoming a matter of considerable debate within the ranks of the pro-death lobby. On one side are those who view past efforts as investments that should be used as building blocks for repeat attempts in target states. This faction wants to continue to focus primarily on achieving victory through legislative and judicial channels. On the other side are the movement’s militants—who want to defy or circumvent the law.

Conspiracy to Suppress

“We are here to commemorate the five year experiment in the State of Oregon, and it has worked!” With that proclamation, Estelle Rogers,⁴ executive director of the Washington D.C.-based Death with Dignity National Center, opened the “Fifth Anniversary Forum: Results of the Oregon ‘Experiment.’” The conference—held in Portland, Oregon on October 24, 2002—

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attracted about sixty assisted-suicide advocates, many of whom are the movement's most influential strategists and planners (but are little known outside academic and professional circles).

Speakers at the conference praised Oregon's assisted-suicide law over and over again, pointing to official reports as evidence that the law is working flawlessly.⁵ At the same time, however, they expressed dismay that it had not been replicated throughout the country, and gave various reasons.

One of the most bizarre explanations was advanced by Charles Baron, a Professor of Law at Boston College Law School and Hemlock Society activist,⁶ who said Oregon's law "has been more successful than any of us could have dreamed," but that other states haven't embraced it because assisted-suicide opponents have suppressed news of the law's success. He didn't explain *how* this information blockade has been accomplished, but Baron believes it exists and sees it as a conspiracy to keep other states from learning about Oregon's law, thus preventing others from wanting what Oregon has. He compared his perceived assisted-suicide information blackout to slave owners' actions and to modern-day racist opposition to minority success. "The State of Virginia would give freed slaves six mules to pick up and leave," he said, because if other slaves saw those who were free, they would want the same freedom for themselves. Referring to instances when successful African-Americans have experienced racism and bigotry, Baron said that opponents of assisted suicide can't tolerate the successful "living example" of death with dignity in Oregon.

The "Good Things" and the "Bad Things"

Like Baron, conference speaker David Garrow also noted his disappointment that the expected bounce from the Oregon law has not materialized, as he walked his audience through the "good things" and the "bad things" that have occurred during the last five years.

Among the good things was that implementation of the Oregon law had been tremendously successful, since "we haven't had any train wrecks." He also explained that two U.S. Supreme Court losses⁷ have been almost universally depicted as an endorsement of state laws permitting assisted suicide. "That was a tremendous victory, even though we lost unanimously."

Turning to the disappointments, Garrow described the failure in 2000 to pass a voter initiative in Maine⁸ that was identical to the Oregon law. He said the question of religion was vastly less visible in Maine than it had been in Oregon, so one couldn't argue that those who opposed assisted suicide there were trying to impose their religious views on others. He also noted that the opposition ran a vastly more professional campaign than it had in Oregon.

Nonetheless, he said, “Maine was a campaign we should not have lost.”

State court rulings have also been disappointing. “I expected that we would win independent state constitutional arguments in state courts,” he said. “We lost in Florida⁹ and Alaska,¹⁰ two of the most liberal courts in the country, second only to Montana.”

Another “bad thing” was the failure to pass any measure at the state legislative level, although progress was made in Hawaii in late 2002 when, for the first time in any state, an assisted-suicide proposal made it out of committee to the full legislative body.¹¹

“To reach beyond Oregon, it may be many more years than we had expected,” Garrow said. “The timeline is significantly longer that it was five years ago.” Since he considers prospects in the legislative arena to be dim, he said that “this issue will inevitably have to go back into a constitutional litigation trap. . . . If you’re not able to win on a matter politically, in order to face the issue, you may have to have a constitutional case.”

Garrow then proposed a bold move. Suggesting a new angle for the next venture into the courts, he described a case in which a doctor would risk a murder conviction by assisting a suicide or performing euthanasia. Such an approach would require a patient with a classic “hard case” condition and a physician with appeal—as one participant remarked, “Kevorkian put the wrong face on the issue.”

The location for the case would be equally important, and Garrow noted that Montana might fit the bill: “Montana has a wonderfully, radically libertarian state supreme court.”

If a willing physician and poster-perfect patient can be found there, it’s possible that, sooner rather than later, Montana will be in the spotlight. The makeup of the state’s supreme court, in combination with the Montana constitution’s right to privacy provision, could make Montana an important judicial battleground. The state could also be the site of a legislative proposal or a voter initiative. Recently, assisted-suicide activists have made a number of trips to Montana for organizational and informational meetings.

Eli Stutsman of Oregon Death with Dignity put by far the most positive spin on past losses. He described the resources, time and efforts that his organization and the Hemlock Society put into the failed 2000 Maine initiative campaign as an “investment.” Although they didn’t win, he claimed they hadn’t done any damage to the movement and had, in fact, built an organization that could be used in the future. Similarly, he depicted the 2002 Hawaii legislative defeat as only a temporary setback.

He explained that both states had been targeted for action ever since 1997. When research identified them as states with the greatest potential for passing

Oregon type laws, activists began planning, preparing, and organizing. By the time Hawaii's governor—a strong advocate of assisted suicide—called for assistance, Stutsman said, “We were spring-loaded to help. We delivered funding and resources and made multiple trips ourselves.” According to Stutsman, “Maine and Hawaii are still very hopeful states.”¹²

Yet, like other speakers, Stutsman did not foresee immediate success. He said his goal for ten years from now is that Oregon won't be known as the only state permitting assisted suicide, but as the first state to have done so.

Barriers to Acceptance of Assisted Suicide

Speakers and participants at the Oregon conference were candid about barriers that stand in the way of public support for assisted suicide. Among these are terminology, lack of support from major medical associations, and fear created by safeguards.

Terminology poses problems. Assisted-suicide activists know the power of words. They are keenly aware of the fact that all social engineering is preceded by verbal engineering. The names of most pro-assisted-suicide organizations are illustrative (e.g., Compassion in Dying, Death with Dignity National Association, Caring Friends, Oregon Death with Dignity, etc.). Indeed, at the January 2003 Hemlock Society conference, officials announced that the organization was planning a name change that would reflect a softer image and, therefore, be more appealing to the public.

In addition to changes in organizational names, the phrases “assisted suicide” and “physician-assisted suicide” (PAS) are being phased out. Since the word “suicide” conjures up negative public feelings, activists are seeking to delete it. Oregon Assistant Attorney General Stephen Bushong said he never refers to “assisted suicide”: “I use the term ‘physician aid-in-dying’ or ‘physician hastening death of a terminally ill person.’”

“Aid-in-dying” is currently the phrase of choice for many assisted suicide activists. But it is not new. Failed initiatives in Washington (1991)¹³ and California (1992)¹⁴ would have legalized “aid-in-dying,” defined to include both euthanasia and assisted suicide. Likewise, a model law to permit lethal injections or a fatal overdose for children as young as six was called an “aid-in-dying” act.¹⁵ Apparently, activists believe that the bad taste left from those failed ventures has faded sufficiently, and they're banking on the fact that the resurrected label will convey a much-needed gentle image.

Lack of support from major medical associations. With the exception of Oregon, where the state medical association did not take a position during the 1994 campaign that legalized assisted suicide, the American Medical Association (AMA) and state medical associations oppose assisted suicide.

Assisted-suicide activists want desperately to change this since physician support or, at least, neutrality would greatly increase their prospects of success. This is particularly true in state houses where legislators could use physician support as cover for a favorable vote on an assisted-suicide measure. "We're not going to succeed where there is only a legislative route unless there is a large shift on the part of large medical associations," said Garrow. "We must produce a major change of opinion within the medical profession."

Oregon presents a cautionary example. There, where the law has permitted assisted suicide for more than five years, physician attitudes have changed. According to Stutsman, the majority of Oregon medical students now *favor* physician-assisted suicide. As physicians who practiced in Oregon prior to legal assisted suicide retire, they will be replaced by those whose entire professional careers have taken place in an environment where assisted suicide is viewed as just one more medical treatment.

Cultivation of young physicians and medical students is on the agenda outside of Oregon as well. In response to a questioner who asked what could be done to get the American Medical Association to support assisted suicide, Dr. Timothy Quill suggested focusing on autonomy. (Quill is best known for his 1991 *New England Journal of Medicine* article in which he described assisting the death of a patient after referring her to the Hemlock Society.¹⁶ He was also the lead physician plaintiff in one of the failed assisted-suicide cases.¹⁷) "Younger doctors are schooled in patient autonomy," he said. "It's like, you want it, you get it." So, if the issue is framed as one of patient control, medical students and young physicians can "be activated."

Safeguards create fear. Fear of abuse tops the list of concerns that create barriers to assisted-suicide support. According to Stutsman, "With this issue, we lose women voters first because they're afraid of abuse." To allay those fears, drafters always include so-called safeguards¹⁸ in any assisted-suicide proposal. However, those very safeguards send a message that is problematic. Dr. Marcia Angell, the former editor-in-chief of the *New England Journal of Medicine*,¹⁹ told participants that support for physician-assisted suicide is "soft, very skittish" because people fear doctors. And, while the inclusion of safeguards in assisted-suicide bills has been necessary to dispel fears, the safeguards themselves actually feed those fears. "By adding safeguards, it gives the public the impression that PAS is a very scary thing," she said.

Assisting Suicide Isn't Rocket Science

While most participants at the Portland gathering were focused on ways to gain physician support and to establish strategies for victory outside Oregon's boundaries, a few did not want to confine activities to calm,

methodical and, possibly, slow progress.

Hemlock's Faye Girsh²⁰ took speakers to task for what she obviously viewed as unreasonable caution, and she suggested another model. "This isn't rocket science. You don't need four years of medical school" to assist someone's death. "In our Caring Friends program, we're using techniques that don't require physician participation. . . . We've had four years of experience." But Girsh's pitch for Caring Friends—a Hemlock Society program that provides hands-on death assistance—was not well received.

Stutsman pointed out that, if the goal is legal reform, "involvement of physicians is all important. In order to get voter support, physicians are necessary." Angell said she didn't think doctors should be "let off the hook. . . . When they sign on to take care of a patient, they should take care of the patient all the way through," including assisting suicide. Although Quill acknowledged that the "technical part" of ending a patient's life isn't difficult, he said a doctor is necessary to diagnose the patient and to decide whether assisted suicide is the right thing at the right time.

Girsh strongly disagreed. She insisted that people can be trained to make clinical assessments, and that well-trained volunteers can help people explore their options as well as help them end their lives with currently available non-medical methods.

Support for the full-speed-ahead approach described by Girsh in Portland was readily apparent three months later, at the 13th National Hemlock Biennial Conference, held at San Diego's Bahia Resort Hotel on January 9-12. Most who attended the San Diego confab were the rank and file of assisted-suicide activism.

There is a division among activists over the means to reach their goal. But the "right-to-die" organizations are more closely aligned than they may seem on the surface. The origin and activities of two organizations—the Hemlock Society and Compassion in Dying—illustrate this phenomenon.

Hemlock as Behind-the-Scenes "Money Cow"

Ever since its co-founding in 1980 by Derek and Ann Humphry, the Hemlock Society has been viewed as the "street-fighter" element of the euthanasia movement. Hemlock publicly led failed attempts to legalize "aid in dying" in California and Washington. It openly supported Jack Kevorkian. It published the suicide manual, *Final Exit*.

By comparison, Compassion in Dying (CID) has a staid public image. It drapes itself with the "respectable" aura of a professional organization that works within the system. Currently headed by Barbara Coombs Lee (a former managed-care company executive who was one of the chief petitioners²¹ for

Oregon's successful voter initiative), CID has spearheaded the court cases to have laws against assisted suicide declared unconstitutional. It is also known as the go-to group for information about and implementation of the Oregon law.

However, few people are aware that CID's roots are in Hemlock-type in-your-face activities.

CID was founded after the 1991 defeat of Washington State's aid-in-dying initiative. Its purpose was to offer suicide assistance for "deserving cases."²² Ralph Mero, the organization's first executive director, described it as an outgrowth of the Washington State Hemlock Society,²³ which he also directed. It was the first U.S. group to admit publicly that it offered actual suicide assistance. As detailed by Mero himself, CID was involved in 24 prescription-overdose deaths during its first 13 months of operation²⁴—a time when assisted suicide was not legally permitted, even in Oregon.

Efforts to downplay links between CID and Hemlock were described at the San Diego conference by Dr. Peter Goodwin, CID's current medical director. Summarizing the 1994 Oregon campaign, Goodwin said, "Hemlock was our money cow." Without Hemlock's financial resources, "we would have been dead in the water." However, the campaign publicly and intentionally distanced itself from Hemlock. The campaign concentrated on pain and suffering, while it emphasized the measure's safeguards.

Key also in the Oregon success was the neutral stance taken by the Oregon Medical Association (OMA). Goodwin, who had been a professor of medicine at the Oregon Health Sciences University—Oregon's only medical school—for many years, and had taught close to half of Oregon physicians at one time or another, was almost single-handedly responsible for the OMA's position of neutrality. He explained that, early in the '94 campaign, the OMA considered two resolutions. One would have reaffirmed the OMA's support for the American Medical Association's position opposing assisted suicide in general. The other would have put the OMA in specific, direct opposition to the Oregon proposal.

At the meeting where the resolutions were considered, Goodwin and the OMA's incoming president successfully argued that no action should be taken on either resolution since it would be best to "let the people of Oregon tell us what they want." The strategy was successful. Assisted-suicide advocates did not need the OMA to endorse their position. They did need, and they did achieve, a hands-off stance. According to Goodwin, that neutrality allayed the fears of the general population since it sent a message that, "if the OMA could tolerate this, the claim of the opposition that this was hugely dangerous lost some of its power."

Three years later, voters were asked to decide whether to repeal the law. The OMA did express opposition to assisted suicide at that time. (According to Goodwin that was only because opponents “stacked the House of Delegates” and only permitted him to speak once). Goodwin said the OMA’s 1997 position had little effect, and merely served to confuse voters. The law was not repealed.

When Oregon’s law went into effect in 1997, three years after its passage, Goodwin assumed the role of CID’s medical director, and CID has been active in facilitating most of the reported assisted suicide cases in the state. (If a patient’s own physician opposes assisted suicide or believes the patient does not fit the Oregon law’s criteria, CID will arrange the death.) According to Goodwin, about 75 percent of those who die using Oregon’s assisted-suicide law do so with CID’s assistance.

He said he has been present at a number of assisted suicides—which he called “aid in dying”—and described this as “an incredible privilege.” “I’ve delivered many, many babies,” he said, “but this is the deepest privilege—to share this sort of intimacy with patients and with their families. And I wish more physicians would appreciate that, because it might involve more of them in this process.”

Goodwin explained that almost all who choose to die using the Oregon law do so for reasons of autonomy. The deaths result from large doses of liquid Nembutal “obtained from certain selected pharmacists around the state,” and all have been peaceful and complication free.

Even with the rosy picture he painted, Goodwin acknowledged that the future is still “very, very uncertain and very, very cloudy in Oregon.” This is due, in part, to the discomfort that many older physicians still feel about participating in assisted suicide. He also attributed the uncertainty to the court case pending over Attorney General Ashcroft’s directive that would prohibit physicians from using their federal licenses to prescribe federally-controlled substances for assisted suicide.²⁵

In light of those concerns he urged attendees to prevent conservatives from rolling back the clock. “We cannot afford to continue to be sort of passive and namby-pamby about this,” he said. “We have got to fight.”

Hemlock’s “Crown Jewel”

As she made abundantly clear at the Portland conference, Faye Girsh is not passive when it comes to pushing assisted suicide, and she found a receptive audience in San Francisco. She explained the origin and rationale for the Caring Friends program, described in the conference program as Hemlock’s “Crown Jewel.”

Girsh paid tribute to Ralph Mero as the person who started CID “after the defeat of our first initiative in Washington State” and described Caring Friends as an extension of Mero’s work. Indeed, it does follow the spirit of CID’s founding. That group had been formed to circumvent laws against assisted suicide. Now, with CID implementing the Oregon law, Hemlock’s Caring Friends has picked up the baton to assist in deaths outside of any legal boundaries.

A catalyst for Caring Friends, as it is currently organized, came when other states failed to follow Oregon’s lead and after attempts to gain court approval for assisted suicide failed. Not willing to accept the outcome of those losses, Girsh and others became angry and frustrated. “Well, damn it, we had to do something,” she explained. “Gosh, you know, you go through all the channels and they don’t help you” so you have to take things into your own hands.

She said she asked herself, “Why do we have to wait for Justice Rehnquist or this person or that person or the Pope to decide how we’re going to die?”

An Arizona woman, who later killed herself, provided \$40,000 in seed money to begin training volunteers to facilitate deaths through Caring Friends. The program now has 104 trained volunteers in various states and is conducting additional sessions to increase that number.²⁶ To emphasize why more Caring Friends are needed, Girsh referred to the New Year’s Eve suicides of Morris and Estelle Spivack. The elderly Floridians, who had been married for forty-two years, leaped to their deaths from their seventeenth-floor condominium window. (Although increasingly feeble, neither was terminally ill.) “The two left a note with clear burial instructions and the names of relatives and their lawyers,” she said. “Do we need to expand the Caring Friends program? Yes.” Ostensibly, with Caring Friends’ assistance, the deaths would still have taken place but would have been less messy.

(Hemlock’s willingness to look favorably on double suicides is not new. In a *Final Exit* chapter titled, “Going Together,” Derek Humphry wrote: “Some couples choose to die together, regardless of whether both are in poor health, or only one. . . . That the couple would wish to die together is a tribute to the strength of a loving relationship.”²⁷)

Caring Friends’ Procedures

Caring Friends is coordinated out of Hemlock’s Denver headquarters by Lois Shafer,²⁸ the community services director for the Hemlock Foundation. Schafer outlined the volunteer training program and the procedure for obtaining the group’s services.

She said Hemlock pays for half of the airfare and hotel costs for trainees.

Those selected for training are expected to be good listeners, since volunteers become close to those whom they assist. She explained that, even if the person who will be using the program may have a loving family around, “they don’t want to drag everybody down” and “they don’t want to be a pall on the household.”

According to Shafer, the process for hastening a death begins when a person contacts the Denver office. To receive Caring Friends’ services, a person must be a Hemlock member.²⁹ However, Hemlock board member Arthur Metcalfe assured participants that this requirement does not present a problem since people can—and often do—join Hemlock and request the services of Caring Friends on the same day. After the assisted-suicide candidate submits medical records and a written personal statement, the “senior committee” looks at them “and decides if we can risk this one.”

Once the go-ahead is given, the Denver office calls a volunteer in the field to give information about the person and asks if the volunteer would be willing to fly to the person needing services. If so, background information and records are sent to the volunteer, who then phones the person and arranges a personal visit. (Not all Caring Friends’ assisted suicides involve personal visits. How-to instructions, plastic “exit bags,” and information about procuring substances are all available by mail.)

“If they get to the point where they say, ‘Okay, I want to set a date now,’ then we contact one of our senior Caring Friends. These are people who have more experience being at the bedside of folks who have self-delivered,” Shafer said.

She claimed that the program puts a lot of effort into working with the family. “Families are so grateful when they call us after the fact,” she said. Shafer neglected to mention that some families are horrified by Caring Friends’ involvement in a loved one’s death. (See: “A Widow’s Story,” below, p. 43.) It is something that could eventually cause problems for the Hemlock Society.

Michael Evans, an attorney who provides legal advice for the organization, compared the role of the senior volunteer to that of “an auditor who comes in and reviews the situation in a kind of socio-psycho-medical way.” Protecting the organization is important. “Despite the fact that we talk about speedy and peaceful dying,” he said, “that is not our goal. The goal is to have a good decision and a good decisional process.” He pointed out that that process will be extremely important in any legal proceedings. And after predicting that there would be litigation, he made a pitch to participants to contribute to a legal defense fund so funds will be available when needed.

The process for obtaining medical records for the senior committee to

review is somewhat dicey. Dr. Richard MacDonald, Hemlock's medical director,³⁰ said, "We don't suggest you go to your physician and say 'I want you to send my medical records to the Hemlock Society.'"

He told the audience that attendance at a hastened death is a great privilege. When the time for the death has arrived, the volunteer who did the preliminary work, a senior volunteer and, often, MacDonald go to what he called "the scene of the chosen death." "It's not a medical procedure," he admitted, but said his presence has "to ensure that people were comfortable, that their loved ones and the volunteers would understand how death occurs."

He said, "I've been at more dying events in the last four years than in fifty years of practice." He wouldn't give exact numbers, but he did say that he has been present at over 85 of the more than 120 Caring Friends' deaths that have taken place in a four year period. "I'm sort of a midwife to ensure that we depart safely and surely and as peacefully as possible," he said. "I want to tell you what a privilege it is to attend a hastened death."

Those who use the services of Caring Friends have done so because they don't want their loved ones to see them die badly, he said. "This is a control issue."

Exit Bags and Gas

And what, exactly, is used to accomplish deaths assisted by Caring Friends? None other than the plastic bag—a method that euthanasia activists have suggested for many years.³¹

MacDonald explained that, when Caring Friends first began, it used barbiturates, but it has been increasingly difficult for people to obtain them. As a result, "We have had to shift to techniques using plastic bags and helium. That, remarkably, has become an acceptable method of hastening death." His initial abhorrence of plastic bags has disappeared. "In seeing the technique used," he said, "we have seen it to be the principal technique used in Caring Friends."

Over the years, customized "Exit Bags" have been designed for this purpose. An advertisement in Hemlock's newsletter promoted the Exit Bag as a necessity: "Data from the Netherlands reveal that in 20% of self-deliverances involving lethal dosages of medications, individuals do not die quickly but linger in a coma for up to four days! *This is why how-to guides such as 'Final Exit' and 'Departing Drugs' also recommend the use of plastic bags for self-deliverance.*"³²

An information sheet that accompanies shipment of the Exit Bag describes its features: "Optional neck band for 'turtleneck' fit; Adjustable velcro strip for snug but comfortable fit with sewn-in elastic and flannelette collar;

Extra large size to minimize discomforts of overheating and breathing difficulties.” Praising the merits of the bag, it states: “The customized EXIT BAG takes the guesswork out of the use of plastic bags. Instead of using bags that are too small, faulty in some way, fastened too tightly with elastic or tape, the customized EXIT BAG allows you to make personal adjustments for safety and comfort.”³³

New models of the Exit Bag have been introduced in the last few years; in particular, a model designed for use with helium gas. Like the original bag, the new bag—described as a “fast, safe and efficient method”—has been advertised in Hemlock publications.³⁴ In addition, Hemlock newsletter articles have promoted the helium/plastic bag method.

One such article describes it as a “gentle, quick and certain death.”³⁵ The gas “disperses easily and is difficult to trace in a corpse.”³⁶ Readers are assured that “a little twitching in the arms and legs” doesn’t last long and should be expected. Among the practical tips given is that one should say goodbye before the bag is pulled over the head since, once the flow of gas begins, the helium makes the voice sound like Donald Duck. A final pitch is made for using Hemlock’s program: “Although there have been reported good deaths with just family present, we strongly recommend contacting the Caring Friends program to provide the expertise needed.”³⁷

The same advice has been repeated in other articles. In one, Girsh pitched a new Hemlock publication that has illustrated directions for the use of helium.³⁸ But, once again, she suggested that it would be a good idea to have someone from Caring Friends present. “Even if we published *Helium for Dummies*, we still think that having someone with expertise present” is needed. “Ending your life can be complex, you only do it once, and failure could be disastrous.”³⁹

Hemlock also markets a video about Caring Friends. It is intended to gain further recognition for “the country’s only nationwide program providing free, in-home counseling to hopelessly ill people” who want to evaluate their options.⁴⁰

At the San Diego conference, MacDonald was asked if plastic bags could cause an image problem for the assisted-suicide movement. He acknowledged that they could, but said that “the vast majority of people accept the bag and inert gas.” “It is a very speedy process,” he said, “and it has never failed in our program.”

Nonetheless, he’s not satisfied with the status quo. MacDonald himself plans to die by lethal injection, and said he can do that because he’s a doctor. He believes it is unfair that this option is not available to everyone since it treats non-physicians as “second class citizens.”

Conclusion

As indicated by speakers and participants at the Portland and San Diego conferences, there are definitely differences about strategy within the assisted-suicide movement. However, this tension—between those who advocate patience and those who promote plastic bags—should not be mistaken for differences about the goal.

Activists are committed to eventual achievement of death-on-demand.

Past losses will not stop them from pursuing every avenue to achieve that goal. Some will concentrate on legal challenges, some on legislative activity, some on future voter initiatives and others on activities that ignore the law. Furthermore, in spite of their surface disagreement, it is unlikely that the turmoil will weaken their resolve and their cooperation with each other.

For example, while participants at the Hemlock Society's San Diego conference seemed to overwhelmingly eschew traditional attempts to bring about legal change—preferring the Caring Friends approach—Hemlock is bankrolling a legislative proposal in Vermont. The role being played by Hemlock is similar to the one it fulfilled in Oregon during that state's initiative campaign (i.e., the behind-the-scenes "money cow").

After the Portland and San Diego conferences, the Vermont measure⁴¹ was introduced, as were proposals in the Hawaii⁴² and Arizona⁴³ legislatures. The Ninth Circuit Court of Appeals scheduled oral arguments in *Oregon v. Ashcroft*. No matter what the outcome of the case, it is almost certain to be appealed to the U.S. Supreme Court. Exploratory plans and preparation for introduction of ballot initiatives are underway in several states. And Caring Friends has stepped up its activities.

Assisted-suicide activists want a win now, more than ever. They know that, if they are perceived as winning anywhere, by any means, they have a far greater opportunity to retain financial support and to obtain public support.

It is thus imperative for all those who seek to protect vulnerable people from the threats of euthanasia and assisted suicide to remain informed, vigilant, dedicated, and active.

A Widow's Story

When Sue went to bed one night, she thought she and her husband Bill would be taking a much anticipated trip to Mexico in the near future.

But, the next morning, Sue's life and plans were shattered.

She woke up and found that her husband wasn't beside her. At first, she wasn't alarmed. It wasn't unusual for Bill to get up before she did. Sue went into the kitchen, expecting to see him. But he wasn't there. She called out to him. He didn't answer. Then she went into their home office.

She was met with a scene she will never forget.

Bill was in his chair—dead. There was a plastic bag over his head. Attached to it was tubing running to a canister of helium gas. Next to Bill's chair, Sue found all kinds of materials from Hemlock's Caring Friends. There was a video tape. There were explicit "how to" instructions that even described how a person should "practice" before the actual "death event."

Later, searching for answers, Sue called Hemlock's Denver office and talked to Lois Shafer who heads Caring Friends. Sue said there were no apologies from Shafer. Instead, Shafer told her that Caring Friends always reviews medical records to make sure the program is appropriate for those who are seeking services.

Sue was shocked. Here was a stranger who had decided Bill should get help to commit suicide.

As for any review of Bill's medical records, it's not clear how or whether that was done. Bill's doctor was as shocked as Sue when Bill died. Neither of them had any idea that Bill was considering suicide. Although 46-year-old Bill had been diagnosed with multiple sclerosis several years earlier, the only sign of his condition was his use of a cane. He still drove his car.

Sue doesn't know how Bill first learned about Hemlock, nor does she know how long he was in contact with the group before his death. But she does know that Caring Friends was aggressive in contacting him. She told me she found unerased messages on their answering machine, indicating that Caring Friends had called Bill again and again and again.

The days and months since Bill's death have been difficult for Sue. She gets through one day at a time.

The International Task Force on Euthanasia and Assisted Suicide receives many calls from people with similar tragic stories, but does not publicly discuss them unless a person volunteers to make the facts known to others. Sue (not her real name) asked that her story be told. She wants to warn others about Hemlock's Caring Friends. "If it saves just one life," she told me, sharing her story will be worthwhile.—*Rita Marker*

NOTES

1. Oregon Death with Dignity Act, ORS 127.800—127.995. Oregon's state Medicaid program covers the cost of drugs prescribed for the purpose of assisted suicide. (See: Steve Woodward, "Oregon will cover assisted suicide," *Oregonian*, Feb. 27, 1998 and Cyrus Sanai, "Death Stamps—No joke: Oregon will pay you to die," *Slate*, June 3, 1999.)
2. Oregon's assisted suicide law was challenged in the courts but those challenges were dismissed, not on the merits, but because the Plaintiffs lacked standing. *Lee v. Oregon*, 107 F. 3d 1382 (9th Cir. 1997), cert. denied sub nom, *Lee v. Harcleroad*, U.S. 927 (1997).
3. "Euthanasia" and "assisted suicide" are often used interchangeably; however the acts constituting each are different. One way to distinguish them is to look at the last act—the act without which death would not occur. Using this distinction, if a third party performs the last act that intentionally causes a patient's death, euthanasia has occurred. For example, giving a patient a lethal injection or putting a plastic bag over her head to suffocate her would be considered euthanasia. On the other hand, if the person who dies performs the last act, assisted suicide has taken place. Thus, it would be assisted suicide if a person swallows an overdose of drugs that has been provided by a doctor for the purpose of causing death. It would also be assisted suicide if a patient pushes a switch to trigger the flow of helium gas into a plastic bag that has been placed over his head.
4. Like many of those in attendance at the Portland conference, Rogers has a long history of activism. She previously held executive positions at the Planned Parenthood Federation of America, the Pro-Choice Public Education Project, and the American Civil Liberties Union.
5. Official reports do indicate that deaths under the Oregon assisted-suicide law are problem-free. However, from the beginning of the law's implementation, the state agency charged with compiling official reports has conceded that it "cannot detect or collect data on issues of noncompliance with accuracy." ("Oregon's Death with Dignity Act: The First Year Experience," Department of Human Resources, Oregon Health Division, Center for Disease Prevention and Epidemiology [Feb. 18, 1999,] p. 9.) Furthermore, it has even admitted that reporting physicians may have fabricated their versions of the circumstances surrounding the prescriptions written for patients: "For that matter, the entire account could have been a cock-and-bull story. We assume, however, that physicians were their usual careful and accurate selves." (Oregon Health Division, *CD Summary*, [March 16, 1999], p. 2.) Official Reports and the *CD Summary* can be accessed through <http://www.internationaltaskforce.org/splt2.htm>.
6. Baron co-authored a 1996 model law for other states to use in emulating and expanding Oregon's statute. Charles H. Baron *et al*, "Statute: A Model State Act to Authorize and Regulate Physician-Assisted Suicide," 33 *Harvard Journal on Legislation* 1-34 (1996). The model act would permit assisted suicide for a patient who has a "terminal illness" or a "bodily disorder" that causes the patient to prefer death to life.
7. *Vacco v. Quill*, 521 U.S. 793 (1997) and *Washington v. Glucksberg*, 521 U.S. 702 (1997). In both cases, assisted-suicide activists sought to have state laws against assisted suicide declared unconstitutional. The U.S. Supreme Court, in a unanimous decision, found that such laws do not violate the U.S. Constitution.
8. The Maine Death with Dignity Act appeared on the ballot as "Question 1" in November 2000.
9. *Krischer v. McIver*, 697 So. 97 (Fla. 1997). In a 5 to 1 ruling, the Florida Supreme Court found that Florida's law against assisted suicide does not violate the state constitution's right-to-privacy provision.
10. *Sampson v. State*, 31 P. 3d 88 (2001). In a unanimous decision, the Alaska Supreme Court found that the state's law against assisted suicide did not violate the privacy and liberty provisions of the state constitution.
11. Hawaii's Death with Dignity Act (HB2487 HD1 and SB 2745) passed in the Hawaiian House of Representatives on March 7, 2002 but was defeated in the State Senate on May 2, 2002.
12. In mid-January 2003, assisted suicide measures (HB 862 and SB 391) were introduced again in Hawaii. Unlike the previous governor, Gov. Linda Lingle who took office in January is not an advocate of assisted suicide and it appears that, without the governor's backing, the measures will die in committee.
13. Washington voters turned down the "Death with Dignity Act" (Initiative 119) that would have legalized "aid-in-dying" on November 5, 1991 by a vote of 54 to 46 percent.

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14. The campaign to place the "Humane and Dignified Death Act" which would have legalized euthanasia and assisted suicide under the name "aid-in-dying" failed to gain enough signatures to be placed on the 1988 California ballot. California's "Death with Dignity Act" (Proposition 161) which would have permitted "aid-in-dying" did qualify for the ballot, but it failed on November 3, 1992 by the same margin (54 to 46 percent) as the previous year's Washington state ballot initiative.
15. "Model Aid-in-Dying Act," *Iowa Law Review*, (1989) 75:139. The Model Act is available online at <http://www.uiowa.edu/~sfklaw/euthan.html>. Last accessed Sept. 26, 2002. (For a discussion of aid-in-dying for children, see "Kids and Euthanasia," *Human Life Review*, Vol XXVI, No. 1, [Winter 2000] pp. 47-75.)
16. Timothy Quill, "Death and Dignity: A Case of Individualized Decision Making," 324 *NEJM* 691 (March 7, 1991). In a 1994 article in the same publication, Quill called for legalization of physician-assisted suicide, not only for those who are terminally ill, but for those who have "incurable debilitating illnesses." 331 *NEJM* 119:120.
17. *Vacco v. Quill*, 521 U.S. 793 (1997).
18. For a discussion of the illusory nature of safeguards in Oregon's assisted suicide law, see "Assisted Suicide: The Continuing Debate," accessible at <http://www.internationaltaskforce.org/cd.htm>.
19. In 1997, *Time* magazine named Angell one of the 25 most influential Americans. She currently serves on the Advisory Board of Compassion in Dying. Articles she has written advocate both assisted suicide and euthanasia. See, for example, Marcia Angell, "Euthanasia," 319 *NEJM* 1348 (Nov. 17, 1988); Marcia Angell, "Time to Consider Mercy Killing?" *Washington Post* Health Section, Aug. 15, 1989; Marcia Angell, "Don't Criticize Dr. Death," *NY Times*, June 15, 1990; and Marcia Angell, "The Supreme Court and Physician-Assisted Suicide—The Ultimate Right," 336 *NEJM* 50 (Jan. 2, 1997).
20. Girsh is currently senior vice president of the Hemlock Society. She previously served as the organization's executive director and as its president.
21. A voter initiative must receive a requisite number signatures before it can be placed on the ballot for voter approval. "Petitioners" are those who carry all of the signatures to the Secretary of State's office. Barbara Coombs Lee was one of three petitioners for Measure 16, Oregon's assisted suicide law.
22. "Ralph Mero: An Omega Interview," 261 *OMEGA: Journal of Death and Dying* 1, 6 (1994).
23. *Ibid.*
24. Dick Lehr, "Supporting Those Who Want to Die: A Seattle Group Including Doctors and Clergy, Offers Help and Advice for Suicide," *Boston Globe*, Jan. 18, 1994, p. 6 and William Carlsen, "When Patients Choose to Die: Seattle Group Gives Assisted Suicide Momentum in Courts," *San Francisco Chronicle*, June 3, 1996, p. A1.
25. Goodwin was referring to *Oregon v. Ashcroft* which is currently before the Ninth Circuit Court of Appeals. For information about implications of the Ashcroft directive, see: "Ashcroft to Oregon: Stop Breaking the Law," *Human Life Review*, Vol. XXVII, No. 4 (Fall 2001), pp. 42-45. Additional information about the case can be accessed <http://www.internationaltaskforce.org/ashcroft.htm>.
26. Active recruitment and training for volunteers is ongoing. At the San Diego conference Shafer announced a training, scheduled to begin in Orlando, Florida. In recent months, Hemlock spokespersons have been promoting Caring Friends programs not only in areas where they were previously active, but in such places as Montana and in eastern Washington.
27. Derek Humphy, *Final Exit*, (Hemlock Society, 1992), p. 101.
28. In 1993, Shafer led an unsuccessful attempt to challenge Colorado's law against assisted suicide.
29. Another requirement for those seeking Caring Friends' services is that the person "be suffering from an irreversible physical condition that seriously compromises his or her quality of life." *Hemlock Member Handbook*, Hemlock Society, p. 8. (On file with author.)
30. MacDonald, of Chico, CA was in general practice in Chico and in Canada between 1965 and 1993. He became Hemlock's medical director in 1993 and continued to practice part time until 1996.
31. Derek Humphy, *Final Exit*, (Hemlock Society, 1992), pp. 95-101, Chapter Nineteen: "Self-Deliverance via the Plastic Bag." The chapter addresses such practicalities as whether one should use a clear or opaque plastic bag, how to practice putting the bag over the head, and securing it

Unspeakable Conversations

Or

How I Spent One Day as a Token Cripple at Princeton University

Harriet McBryde Johnson

He insists he doesn't want to kill me. He simply thinks it would have been better, all things considered, to have given my parents the option of killing the baby I once was, and to let other parents kill similar babies as they come along and thereby avoid the suffering that comes with lives like mine and satisfy the reasonable preferences of parents for a different kind of child. It has nothing to do with me. I should not feel threatened.

Whenever I try to wrap my head around his tight string of syllogisms, my brain gets so fried it's . . . almost fun. Mercy! It's like *Alice in Wonderland*.

It is a chilly Monday in late March, just less than a year ago. I am at Princeton University. My host is Prof. Peter Singer, often called—and not just by his book publicist—the most influential philosopher of our time. He is the man who wants me dead. No, that's not at all fair. He wants to legalize the killing of certain babies who might come to be like me if allowed to live. He also says he believes that it should be lawful under some circumstances to kill, at any age, individuals with cognitive impairments so severe that he doesn't consider them "persons." What does it take to be a person? Awareness of your own existence in time. The capacity to harbor preferences as to the future, including the preference for continuing to live.

At this stage of my life, he says, I am a person. However, as an infant, I wasn't. I, like all humans, was born without self-awareness. And eventually, assuming my brain finally gets so fried that I fall into that wonderland where self and other and present and past and future blur into one boundless, formless all or nothing, then I'll lose my personhood and therefore my right to life. Then, he says, my family and doctors might put me out of my misery, or out of my bliss or oblivion, and no one count it murder.

I have agreed to two speaking engagements. In the morning, I talk to 150 undergraduates on selective infanticide. In the evening, it is a convivial discussion, over dinner, of assisted suicide. I am the token cripple with an opposing view.

I had several reasons for accepting Singer's invitation, some grounded in

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my involvement in the disability-rights movement, others entirely personal. For the movement, it seemed an unusual opportunity to experiment with modes of discourse that might work with very tough audiences and bridge the divide between our perceptions and theirs. I didn't expect to straighten out Singer's head, but maybe I could reach a student or two. Among the personal reasons: I was sure it would make a great story, first for telling and then for writing down.

By now I've told it to family and friends and colleagues, over lunches and dinners, on long car trips, in scads of e-mail messages and a couple of formal speeches. But it seems to be a story that just won't settle down. After all these tellings, it still lacks a coherent structure; I'm miles away from a rational argument. I keep getting interrupted by questions—like these:

Q: Was he totally grossed out by your physical appearance?

A: He gave no sign of it. None whatsoever.

Q: How did he handle having to interact with someone like you?

A: He behaved in every way appropriately, treated me as a respected professional acquaintance and was a gracious and accommodating host.

Q: Was it emotionally difficult for you to take part in a public discussion of whether your life should have happened?

A: It was very difficult. And horribly easy.

Q: Did he get that job at Princeton because they like his ideas on killing disabled babies?

A: It apparently didn't hurt, but he's most famous for animal rights. He's the author of *Animal Liberation*.

Q: How can he put so much value on animal life and so little value on human life?

That last question is the only one I avoid. I used to say I don't know; it doesn't make sense. But now I've read some of Singer's writing, and I admit it does make sense—within the conceptual world of Peter Singer. But I don't want to go there. Or at least not for long.

So I will start from those other questions and see where the story goes this time.

That first question, about my physical appearance, needs some explaining.

It's not that I'm ugly. It's more that most people don't know how to look at me. The sight of me is routinely discombobulating. The power wheelchair is enough to inspire gawking, but that's the least of it. Much more impressive is the impact on my body of more than four decades of a muscle-wasting disease. At this stage of my life, I'm Karen Carpenter thin, flesh mostly vanished, a jumble of bones in a floppy bag of skin. When, in childhood, my muscles got too weak to hold up my spine, I tried a brace for a while, but

fortunately a skittish anesthesiologist said no to fusion, plates and pins—all the apparatus that might have kept me straight. At 15, I threw away the back brace and let my spine reshape itself into a deep twisty S-curve. Now my right side is two deep canyons. To keep myself upright, I lean forward, rest my rib cage on my lap, plant my elbows beside my knees. Since my backbone found its own natural shape, I've been entirely comfortable in my skin.

I am in the first generation to survive to such decrepitude. Because antibiotics were available, we didn't die from the childhood pneumonias that often come with weakened respiratory systems. I guess it is natural enough that most people don't know what to make of us.

Two or three times in my life—I recall particularly one largely crip, largely lesbian cookout halfway across the continent—I have been looked at as a rare kind of beauty. There is also the bizarre fact that where I live, Charleston, S.C., some people call me Good Luck Lady: they consider it propitious to cross my path when a hurricane is coming and to kiss my head just before voting day. But most often the reactions are decidedly negative. Strangers on the street are moved to comment:

I admire you for being out; most people would give up.

God bless you! I'll pray for you.

You don't let the pain hold you back, do you?

If I had to live like you, I think I'd kill myself.

I used to try to explain that in fact I enjoy my life, that it's a great sensual pleasure to zoom by power chair on these delicious muggy streets, that I have no more reason to kill myself than most people. But it gets tedious. God didn't put me on this street to provide disability awareness training to the likes of them. In fact, no god put anyone anywhere for any reason, if you want to know.

But they don't want to know. They think they know everything there is to know, just by looking at me. That's how stereotypes work. They don't know that they're confused, that they're really expressing the discombobulation that comes in my wake.

So. What stands out when I recall first meeting Peter Singer in the spring of 2001 is his apparent immunity to my looks, his apparent lack of discombobulation, his immediate ability to deal with me as a person with a particular point of view.

Then, 2001. Singer has been invited to the College of Charleston, not two blocks from my house. He is to lecture on "Rethinking Life and Death." I have been dispatched by Not Dead Yet, the national organization leading the disability-rights opposition to legalized assisted suicide and disability-

based killing. I am to put out a leaflet and do something during the Q. and A.

On arriving almost an hour early to reconnoiter, I find the scene almost entirely peaceful; even the boisterous display of South Carolina spring is muted by gray wisps of Spanish moss and mottled oak bark.

I roll around the corner of the building and am confronted with the unnerving sight of two people I know sitting on a park bench eating veggie pitas with Singer. Sharon is a veteran activist for human rights. Herb is South Carolina's most famous atheist. Good people, I've always thought—now sharing veggie pitas and conversation with a proponent of genocide. I try to beat a retreat, but Herb and Sharon have seen me. Sharon tosses her trash and comes over. After we exchange the usual courtesies, she asks, "Would you like to meet Professor Singer?"

She doesn't have a clue. She probably likes his book on animal rights. "I'll just talk to him in the Q. and A."

But Herb, with Singer at his side, is fast approaching. They are looking at me, and Herb is talking, no doubt saying nice things about me. He'll be saying that I'm a disability-rights lawyer and that I gave a talk against assisted suicide at his secular humanist group a while back. He didn't agree with everything I said, he'll say, but I was brilliant. Singer appears interested, engaged. I sit where I'm parked. Herb makes an introduction. Singer extends his hand.

I hesitate. I shouldn't shake hands with the Evil One. But he is Herb's guest, and I simply can't snub Herb's guest at the college where Herb teaches. Hereabouts, the rule is that if you're not prepared to shoot on sight, you have to be prepared to shake hands. I give Singer the three fingers on my right hand that still work. "Good afternoon, Mr. Singer. I'm here for Not Dead Yet." I want to think he flinches just a little. Not Dead Yet did everything possible to disrupt his first week at Princeton. I sent a check to the fund for the 14 arrestees, who included comrades in power chairs. But if Singer flinches, he instantly recovers. He answers my questions about the lecture format. When he says he looks forward to an interesting exchange, he seems entirely sincere.

It is an interesting exchange. In the lecture hall that afternoon, Singer lays it all out. The "illogic" of allowing abortion but not infanticide, of allowing withdrawal of life support but not active killing. Applying the basic assumptions of preference utilitarianism, he spins out his bone-chilling argument for letting parents kill disabled babies and replace them with nondisabled babies who have a greater chance at happiness. It is all about allowing as many individuals as possible to fulfill as many of their preferences as possible.

As soon as he's done, I get the microphone and say I'd like to discuss

selective infanticide. As a lawyer, I disagree with his jurisprudential assumptions. Logical inconsistency is not a sufficient reason to change the law. As an atheist, I object to his using religious terms (“the doctrine of the sanctity of human life”) to characterize his critics. Singer takes a notepad out of his pocket and jots down my points, apparently eager to take them on, and I proceed to the heart of my argument: that the presence or absence of a disability doesn’t predict quality of life. I question his replacement-baby theory, with its assumption of “other things equal,” arguing that people are not fungible. I draw out a comparison of myself and my nondisabled brother Mac (the next-born after me), each of us with a combination of gifts and flaws so peculiar that we can’t be measured on the same scale.

He responds to each point with clear and lucid counterarguments. He proceeds with the assumption that I am one of the people who might rightly have been killed at birth. He sticks to his guns, conceding just enough to show himself open-minded and flexible. We go back and forth for 10 long minutes. Even as I am horrified by what he says, and by the fact that I have been sucked into a civil discussion of whether I ought to exist, I can’t help being dazzled by his verbal facility. He is so respectful, so free of condescension, so focused on the argument, that by the time the show is over, I’m not exactly angry with him. Yes, I am shaking, furious, enraged—but it’s for the big room, 200 of my fellow Charlestonians who have listened with polite interest, when in decency they should have run him out of town on a rail.

My encounter with Peter Singer merits a mention in my annual canned letter that December. I decide to send Singer a copy. In response, he sends me the nicest possible e-mail message. Dear Harriet (if he may) . . . Just back from Australia, where he’s from. Agrees with my comments on the world situation. Supports my work against institutionalization. And then some pointed questions to clarify my views on selective infanticide.

I reply. Fine, call me Harriet, and I’ll reciprocate in the interest of equality, though I’m accustomed to more formality. Skipping agreeable preambles, I answer his questions on disability-based infanticide and pose some of my own. Answers and more questions come back. Back and forth over several weeks it proceeds, an engaging discussion of baby killing, disability prejudice and related points of law and philosophy. Dear Harriet. Dear Peter.

Singer seems curious to learn how someone who is as good an atheist as he is could disagree with his entirely reasonable views. At the same time, I am trying to plumb his theories. What has him so convinced it would be best to allow parents to kill babies with severe disabilities, and not other kinds of

babies, if no infant is a “person” with a right to life? I learn it is partly that both biological and adoptive parents prefer healthy babies. But I have trouble with basing life-and-death decisions on market considerations when the market is structured by prejudice. I offer a hypothetical comparison: “What about mixed-race babies, especially when the combination is entirely nonwhite, who I believe are just about as unadoptable as babies with disabilities?” Wouldn’t a law allowing the killing of these undervalued babies validate race prejudice? Singer agrees there is a problem. “It would be horrible,” he says, “to see mixed-race babies being killed because they can’t be adopted, whereas white ones could be.” What’s the difference? Preferences based on race are unreasonable. Preferences based on ability are not. Why? To Singer, it’s pretty simple: disability makes a person “worse off.”

Are we “worse off”? I don’t think so. Not in any meaningful sense. There are too many variables. For those of us with congenital conditions, disability shapes all we are. Those disabled later in life adapt. We take constraints that no one would choose and build rich and satisfying lives within them. We enjoy pleasures other people enjoy, and pleasures peculiarly our own. We have something the world needs.

Pressing me to admit a negative correlation between disability and happiness, Singer presents a situation: imagine a disabled child on the beach, watching the other children play.

It’s right out of the telethon. I expected something more sophisticated from a professional thinker. I respond: “As a little girl playing on the beach, I was already aware that some people felt sorry for me, that I wasn’t frolicking with the same level of frenzy as other children. This annoyed me, and still does.” I take the time to write a detailed description of how I, in fact, had fun playing on the beach, without the need of standing, walking or running. But, really, I’ve had enough. I suggest to Singer that we have exhausted our topic, and I’ll be back in touch when I get around to writing about him.

He responds by inviting me to Princeton. I fire off an immediate maybe. Of course I’m flattered. Mama will be impressed.

But there are things to consider. Not Dead Yet says—and I completely agree—that we should not legitimate Singer’s views by giving them a forum. We should not make disabled lives subject to debate. Moreover, any spokesman chosen by the opposition is by definition a token. But even if I’m a token, I won’t have to act like one. And anyway, I’m kind of stuck. If I decline, Singer can make some hay: “I offered them a platform, but they refuse rational discussion.” It’s an old trick, and I’ve laid myself wide open.

My invitation is to have an exchange of views with Singer during his undergraduate course. He also proposes a second “exchange,” open to the

whole university, later in the day. This sounds a lot like debating my life—and on my opponent’s turf, with my opponent moderating, to boot. I offer a counterproposal, to which Singer proves amenable. I will open the class with some comments on infanticide and related issues and then let Singer grill me as hard as he likes before we open it up for the students. Later in the day, I might take part in a discussion of some other disability issue in a neutral forum. Singer suggests a faculty-student discussion group sponsored by his department but with cross-departmental membership.

The topic I select is “Assisted Suicide, Disability Discrimination and the Illusion of Choice: A Disability Rights Perspective.” I inform a few movement colleagues of this turn of events, and advice starts rolling in. I decide to go with the advisers who counsel me to do the gig, lie low and get out of Dodge.

II ask Singer to refer me to the person who arranges travel at Princeton. I imagine some capable and unflappable woman like my sister, Beth, whose varied job description at a North Carolina university includes handling visiting artists. Singer refers me to his own assistant, who certainly seems capable and unflappable enough. However, almost immediately Singer jumps back in via e-mail. It seems the nearest hotel has only one wheelchair-accessible suite, available with two rooms for \$600 per night. What to do? I know I shouldn’t be so accommodating, but I say I can make do with an inaccessible room if it has certain features. Other logistical issues come up. We go back and forth. Questions and answers. Do I really need a lift-equipped vehicle at the airport? Can’t my assistant assist me into a conventional car? How wide is my wheelchair?

By the time we’re done, Singer knows that I am 28 inches wide. I have trouble controlling my wheelchair if my hand gets cold. I am accustomed to driving on rough, irregular surfaces, but I get nervous turning on steep slopes. Even one step is too many. I can swallow purées, soft bread and grapes. I use a bedpan, not a toilet. None of this is a secret; none of it cause for angst. But I do wonder whether Singer is jotting down my specs in his little notepad as evidence of how “bad off” people like me really are.

I realize I must put one more issue on the table: etiquette. I was criticized within the movement when I confessed to shaking Singer’s hand in Charleston, and some are appalled that I have agreed to break bread with him in Princeton. I think they have a very good point, but, again, I’m stuck. I’m engaged for a day of discussion, not a picket line. It is not in my power to marginalize Singer at Princeton; nothing would be accomplished by displays of personal disrespect. However, chumminess is clearly inappropriate. I tell

Singer that in the lecture hall it can't be Harriet and Peter; it must be Ms. Johnson and Mr. Singer.

He seems genuinely nettled. Shouldn't it be Ms. Johnson and Professor Singer, if I want to be formal? To counter, I invoke the ceremonial low-country usage, Attorney Johnson and Professor Singer, but point out that Mr./Ms. is the custom in American political debates and might seem more normal in New Jersey. All right, he says. Ms./Mr. it will be.

I describe this awkward social situation to the lawyer in my office who has served as my default lunch partner for the past 14 years. He gives forth a full-body shudder.

"That poor, sorry son of a bitch! He has no idea what he's in for." Being a disability rights lawyer lecturing at Princeton does confer some cachet at the Newark airport. I need all the cachet I can get. Delta Airlines has torn up my power chair. It is a fairly frequent occurrence for any air traveler on wheels.

When they inform me of the damage in Atlanta, I throw a monumental fit and tell them to have a repairperson meet me in Newark with new batteries to replace the ones inexplicably destroyed. Then I am told no new batteries can be had until the morning. It's Sunday night. On arrival in Newark, I'm told of a plan to put me up there for the night and get me repaired and driven to Princeton by 10 a.m.

"That won't work. I'm lecturing at 10. I need to get there tonight, go to sleep and be in my right mind tomorrow."

"What? You're lecturing? They told us it was a conference. We need to get you fixed tonight!"

Carla, the gate agent, relieves me of the need to throw any further fits by undertaking on my behalf the fit of all fits.

Carmen, the personal assistant with whom I'm traveling, pushes me in my disabled chair around the airport in search of a place to use the bedpan. However, instead of diaper-changing tables, which are functional though far from private, we find a flip-down plastic shelf that doesn't look like it would hold my 70 pounds of body weight. It's no big deal; I've restricted my fluids. But Carmen is a little freaked. It is her first adventure in power-chair air travel. I thought I prepared her for the trip, but I guess I neglected to warn her about the probability of wheelchair destruction. I keep forgetting that even people who know me well don't know much about my world.

We reach the hotel at 10:15 p.m., four hours late.

I wake up tired. I slept better than I would have slept in Newark with an unrepaired chair, but any hotel bed is a near guarantee of morning crankiness. I tell Carmen to leave the TV off. I don't want to hear the temperature.

I do the morning stretch. Medical people call it passive movement, but it's not really passive. Carmen's hands move my limbs, following my precise instructions, her strength giving effect to my will. Carmen knows the routine, so it is in near silence that we begin easing slowly into the day. I let myself be propped up to eat oatmeal and drink tea. Then there's the bedpan and then bathing and dressing, still in bed. As the caffeine kicks in, silence gives way to conversation about practical things. Carmen lifts me into my chair and straps a rolled towel under my ribs for comfort and stability. She tugs at my clothes to remove wrinkles that could cause pressure sores. She switches on my motors and gives me the means of moving without anyone's help. They don't call it a power chair for nothing.

I drive to the mirror. I do my hair in one long braid. Even this primal hairdo requires, at this stage of my life, joint effort. I undo yesterday's braid, fix the part and comb the hair in front. Carmen combs where I can't reach. I divide the mass into three long hanks and start the braid just behind my left ear. Section by section, I hand it over to her, and her unimpaired young fingers pull tight, crisscross, until the braid is fully formed.

A big polyester scarf completes my costume. Carmen lays it over my back. I tie it the way I want it, but Carmen starts fussing with it, trying to tuck it down in the back. I tell her that it's fine, and she stops.

On top of the scarf, she wraps the two big shawls that I hope will substitute for an overcoat. I don't own any real winter clothes. I just stay out of the cold, such cold as we get in Charleston.

We review her instructions for the day. Keep me in view and earshot. Be instantly available but not intrusive. Be polite, but don't answer any questions about me. I am glad that she has agreed to come. She's strong, smart, adaptable and very loyal. But now she is digging under the shawls, fussing with that scarf again.

"Carmen. What are you doing?"

"I thought I could hide this furry thing you sit on."

"Leave it. Singer knows lots of people eat meat. Now he'll know some crips sit on sheepskin."

The walk is cold but mercifully short. The hotel is just across the street from Princeton's wrought-iron gate and a few short blocks from the building where Singer's assistant shows us to the elevator. The elevator doubles as the janitor's closet—the cart with the big trash can and all the accouterments is rolled aside so I can get in. Evidently there aren't a lot of wheelchair people using this building.

We ride the broom closet down to the basement and are led down a long passageway to a big lecture hall. As the students drift in, I engage in light

badinage with the sound technician. He is squeamish about touching me, but I insist that the cordless lavalier is my mike of choice. I invite him to clip it to the big polyester scarf.

The students enter from the rear door, way up at ground level, and walk downstairs to their seats. I feel like an animal in the zoo. I hadn't reckoned on the architecture, those tiers of steps that separate me from a human wall of apparent physical and mental perfection, that keep me confined down here in my pit.

It is 5 before 10. Singer is loping down the stairs. I feel like signaling to Carmen to open the door, summon the broom closet and get me out of here.

But Singer greets me pleasantly and hands me Princeton's check for \$500, the fee he offered with apologies for its inadequacy.

So. On with the show.

My talk to the students is pretty Southern. I've decided to pound them with heart, hammer them with narrative and say "y'all" and "folks." I play with the emotional tone, giving them little peaks and valleys, modulating three times in one 45-second patch. I talk about justice. Even beauty and love. I figure they haven't been getting much of that from Singer.

Of course, I give them some argument too. I mean to honor my contractual obligations. I lead with the hypothetical about mixed-race, nonwhite babies and build the ending around the question of who should have the burden of proof as to the quality of disabled lives. And woven throughout the talk is the presentation of myself as a representative of a minority group that has been rendered invisible by prejudice and oppression, a participant in a discussion that would not occur in a just world.

I let it go a little longer than I should. Their faces show they're going where I'm leading, and I don't look forward to letting them go. But the clock on the wall reminds me of promises I mean to keep, and I stop talking and submit myself to examination and inquiry.

Singer's response is surprisingly soft. Maybe after hearing that this discussion is insulting and painful to me, he doesn't want to exacerbate my discomfort. His reframing of the issues is almost pro forma, abstract, entirely impersonal. Likewise, the students' inquiries are abstract and fairly predictable: anencephaly, permanent unconsciousness, eugenic abortion. I respond to some of them with stories, but mostly I give answers I could have e-mailed in.

I call on a young man near the top of the room.

"Do you eat meat?"

"Yes, I do."

“Then how do you justify—”

“I haven’t made any study of animal rights, so anything I could say on the subject wouldn’t be worth everyone’s time.”

The next student wants to work the comparison of disability and race, and Singer joins the discussion until he elicits a comment from me that he can characterize as racist. He scores a point, but that’s all right. I’ve never claimed to be free of prejudice, just struggling with it.

Singer proposes taking me on a walk around campus, unless I think it would be too cold. What the hell? “It’s probably warmed up some. Let’s go out and see how I do.”

He doesn’t know how to get out of the building without using the stairs, so this time it is my assistant leading the way. Carmen has learned of another elevator, which arrives empty. When we get out of the building, she falls behind a couple of paces, like a respectful chaperone.

In the classroom there was a question about keeping alive the unconscious. In response, I told a story about a family I knew as a child, which took loving care of a nonresponsive teenage girl, acting out their unconditional commitment to each other, making all the other children, and me as their visitor, feel safe. This doesn’t satisfy Singer. “Let’s assume we can prove, absolutely, that the individual is totally unconscious and that we can know, absolutely, that the individual will never regain consciousness.”

I see no need to state an objection, with no stenographer present to record it; I’ll play the game and let him continue.

“Assuming all that,” he says, “don’t you think continuing to take care of that individual would be a bit—weird?”

“No. Done right, it could be profoundly beautiful.”

“But what about the caregiver, a woman typically, who is forced to provide all this service to a family member, unable to work, unable to have a life of her own?”

“That’s not the way it should be. Not the way it has to be. As a society, we should pay workers to provide that care, in the home. In some places, it’s been done that way for years. That woman shouldn’t be forced to do it, any more than my family should be forced to do my care.”

Singer takes me around the architectural smorgasbord that is Princeton University by a route that includes not one step, unramped curb or turn on a slope. Within the strange limits of this strange assignment, it seems Singer is doing all he can to make me comfortable.

He asks what I thought of the students’ questions.

“They were fine, about what I expected. I was a little surprised by the question about meat eating.”

"I apologize for that. That was out of left field. But—I think what he wanted to know is how you can have such high respect for human life and so little respect for animal life."

"People have lately been asking me the converse, how you can have so much respect for animal life and so little respect for human life."

"And what do you answer?"

"I say I don't know. It doesn't make a lot of sense to me."

"Well, in my view—"

"Look. I have lived in blissful ignorance all these years, and I'm not prepared to give that up today."

"Fair enough," he says and proceeds to recount bits of Princeton history. He stops. "This will be of particular interest to you, I think. This is where your colleagues with Not Dead Yet set up their blockade." I'm grateful for the reminder. My brothers and sisters were here before me and behaved far more appropriately than I am doing.

A van delivers Carmen and me early for the evening forum. Singer says he hopes I had a pleasant afternoon.

Yes, indeed. I report a pleasant lunch and a very pleasant nap, and I tell him about the Christopher Reeve Suite in the hotel, which has been remodeled to accommodate Reeve, who has family in the area.

"Do you suppose that's the \$600 accessible suite they told me about?"

"Without doubt. And if I'd known it was the Christopher Reeve Suite, I would have held out for it."

"Of course you would have!" Singer laughs. "And we'd have had no choice, would we?"

We talk about the disability-rights critique of Reeve and various other topics. Singer is easy to talk to, good company. Too bad he sees lives like mine as avoidable mistakes.

I'm looking forward to the soft vegetarian meal that has been arranged; I'm hungry. Assisted suicide, as difficult as it is, doesn't cause the kind of agony I felt discussing disability-based infanticide. In this one, I understand, and to some degree can sympathize with, the opposing point of view—misguided though it is.

My opening sticks to the five-minute time limit. I introduce the issue as framed by academic articles Not Dead Yet recommended for my use. Andrew Batavia argues for assisted suicide based on autonomy, a principle generally held high in the disability-rights movement. In general, he says, the movement fights for our right to control our own lives; when we need assistance to effect our choices, assistance should be available to us as a matter of right. If the choice is to end our lives, he says, we should have

assistance then as well. But Carol Gill says that it is differential treatment—disability discrimination—to try to prevent most suicides while facilitating the suicides of ill and disabled people. The social-science literature suggests that the public in general, and physicians in particular, tend to underestimate the quality of life of disabled people, compared with our own assessments of our lives. The case for assisted suicide rests on stereotypes that our lives are inherently so bad that it is entirely rational if we want to die.

I side with Gill. What worries me most about the proposals for legalized assisted suicide is their veneer of beneficence—the medical determination that, for a given individual, suicide is reasonable or right. It is not about autonomy but about nondisabled people telling us what's good for us.

In the discussion that follows, I argue that choice is illusory in a context of pervasive inequality. Choices are structured by oppression. We shouldn't offer assistance with suicide until we all have the assistance we need to get out of bed in the morning and live a good life. Common causes of suicidality—dependence, institutional confinement, being a burden—are entirely curable. Singer, seated on my right, participates in the discussion but doesn't dominate it. During the meal, I occasionally ask him to put things within my reach, and he competently complies.

I feel as if I'm getting to a few of them, when a student asks me a question. The words are all familiar, but they're strung together in a way so meaningless that I can't even retain them—it's like a long sentence in Tagalog. I can only admit my limitations. "That question's too abstract for me to deal with. Can you rephrase it?"

He indicates that it is as clear as he can make it, so I move on.

A little while later, my right elbow slips out from under me. This is awkward. Normally I get whoever is on my right to do this sort of thing. Why not now? I gesture to Singer. He leans over, and I whisper, "Grasp this wrist and pull forward one inch, without lifting." He follows my instructions to the letter. He sees that now I can again reach my food with my fork. And he may now understand what I was saying a minute ago, that most of the assistance disabled people need does not demand medical training.

A philosophy professor says, "It appears that your objections to assisted suicide are essentially tactical."

"Excuse me?"

"By that I mean they are grounded in current conditions of political, social and economic inequality. What if we assume that such conditions do not exist?"

"Why would we want to do that?"

"I want to get to the real basis for the position you take."

I feel as if I'm losing caste. It is suddenly very clear that I'm not a philosopher. I'm like one of those old practitioners who used to visit my law school, full of bluster about life in the real world. Such a bore! A once-sharp mind gone muddy! And I'm only 44—not all that old.

The forum is ended, and I've been able to eat very little of my puréed food. I ask Carmen to find the caterer and get me a container. Singer jumps up to take care of it. He returns with a box and obligingly packs my food to go.

When I get home, people are clamoring for the story. The lawyers want the blow-by-blow of my forensic triumph over the formidable foe; when I tell them it wasn't like that, they insist that it was. Within the disability-rights community, there is less confidence. It is generally assumed that I handled the substantive discussion well, but people worry that my civility may have given Singer a new kind of legitimacy. I hear from Laura, a beloved movement sister. She is appalled that I let Singer provide even minor physical assistance at the dinner. "Where was your assistant?" she wants to know. How could I put myself in a relationship with Singer that made him appear so human, even kind?

I struggle to explain. I didn't feel disempowered; quite the contrary, it seemed a good thing to make him do some useful work. And then, the hard part: I've come to believe that Singer actually is human, even kind in his way. There ensues a discussion of good and evil and personal assistance and power and philosophy and tactics for which I'm profoundly grateful. I e-mail Laura again. This time I inform her that I've changed my will. She will inherit a book that Singer gave me, a collection of his writings with a weirdly appropriate inscription: "To Harriet Johnson, So that you will have a better answer to questions about animals. And thanks for coming to Princeton. Peter Singer. March 25, 2002." She responds that she is changing her will, too. I'll get the autographed photo of Jerry Lewis she received as an M.D.A. poster child. We joke that each of us has given the other a "reason to live."

I have had a nice e-mail message from Singer, hoping Carmen and I and the chair got home without injury, relaying positive feedback from my audiences—and taking me to task for a statement that isn't supported by a relevant legal authority, which he looked up. I report that we got home exhausted but unharmed and concede that he has caught me in a generalization that should have been qualified. It's clear that the conversation will continue.

I am soon sucked into the daily demands of law practice, family, community

and politics. In the closing days of the state legislative session, I help get a bill passed that I hope will move us one small step toward a world in which killing won't be such an appealing solution to the "problem" of disability. It is good to focus on this kind of work. But the conversations with and about Singer continue. Unable to muster the appropriate moral judgments, I ask myself a tough question: am I in fact a silly little lady whose head is easily turned by a man who gives her a kind of attention she enjoys? I hope not, but I confess that I've never been able to sustain righteous anger for more than about 30 minutes at a time. My view of life tends more toward tragedy.

The tragic view comes closest to describing how I now look at Peter Singer. He is a man of unusual gifts, reaching for the heights. He writes that he is trying to create a system of ethics derived from fact and reason, that largely throws off the perspectives of religion, place, family, tribe, community and maybe even species—to "take the point of view of the universe." His is a grand, heroic undertaking.

But like the protagonist in a classical drama, Singer has his flaw. It is his unexamined assumption that disabled people are inherently "worse off," that we "suffer," that we have lesser "prospects of a happy life." Because of this all-too-common prejudice, and his rare courage in taking it to its logical conclusion, catastrophe looms. Here in the midpoint of the play, I can't look at him without fellow-feeling.

I am regularly confronted by people who tell me that Singer doesn't deserve my human sympathy. I should make him an object of implacable wrath, to be cut off, silenced, destroyed absolutely. And I find myself lacking a logical argument to the contrary.

I am talking to my sister Beth on the phone. "You kind of like the monster, don't you?" she says.

I find myself unable to evade, certainly unwilling to lie. "Yeah, in a way. And he's not exactly a monster."

"You know, Harriet, there were some very pleasant Nazis. They say the SS guards went home and played on the floor with their children every night."

She can tell that I'm chastened; she changes the topic, lets me off the hook. Her harshness has come as a surprise. She isn't inclined to moralizing; in our family, I'm the one who sets people straight.

When I put the phone down, my argumentative nature feels frustrated. In my mind, I replay the conversation, but this time defend my position.

"He's not exactly a monster. He just has some strange ways of looking at things."

“He’s advocating genocide.”

“That’s the thing. In his mind, he isn’t. He’s only giving parents a choice. He thinks the humans he is talking about aren’t people, aren’t ‘persons.’”

“But that’s the way it always works, isn’t it? They’re always animals or vermin or chattel goods. Objects, not persons. He’s repackaging some old ideas. Making them acceptable.”

“I think his ideas are new, in a way. It’s not old-fashioned hate. It’s a twisted, misinformed, warped kind of beneficence. His motive is to do good.”

“What do you care about motives?” she asks. “Doesn’t this beneficent killing make disabled brothers and sisters just as dead?”

“But he isn’t killing anyone. It’s just talk.”

“Just talk? It’s talk with an agenda, talk aimed at forming policy. Talk that’s getting a receptive audience. You of all people know the power of that kind of talk.”

“Well, sure, but—”

“If talk didn’t matter, would you make it your life’s work?”

“But,” I say, “his talk won’t matter in the end. He won’t succeed in reinventing morality. He stirs the pot, brings things out into the open. But ultimately we’ll make a world that’s fit to live in, a society that has room for all its flawed creatures. History will remember Singer as a curious example of the bizarre things that can happen when paradigms collide.”

“What if you’re wrong? What if he convinces people that there’s no morally significant difference between a fetus and a newborn, and just as disabled fetuses are routinely aborted now, so disabled babies are routinely killed? Might some future generation take it further than Singer wants to go? Might some say there’s no morally significant line between a newborn and a 3-year-old?”

“Sure. Singer concedes that a bright line cannot be drawn. But he doesn’t propose killing anyone who prefers to live.”

“That overarching respect for the individual’s preference for life—might some say it’s a fiction, a fetish, a quasi-religious belief?”

“Yes,” I say. “That’s pretty close to what I think. As an atheist, I think all preferences are moot once you kill someone. The injury is entirely to the surviving community.”

“So what if that view wins out, but you can’t break disability prejudice? What if you wind up in a world where the disabled person’s ‘irrational’ preference to live must yield to society’s ‘rational’ interest in reducing the incidence of disability? Doesn’t horror kick in somewhere? Maybe as you watch the door close behind whoever has wheeled you into the gas chamber?”

“That’s not going to happen.”

“Do you have empirical evidence?” she asks. “A logical argument?”

“Of course not. And I know it’s happened before, in what was considered the most progressive medical community in the world. But it won’t happen. I have to believe that.”

Belief. Is that what it comes down to? Am I a person of faith after all? Or am I clinging to foolish hope that the tragic protagonist, this one time, will shift course before it’s too late?

I don’t think so. It’s less about belief, less about hope, than about a practical need for definitions I can live with.

If I define Singer’s kind of disability prejudice as an ultimate evil, and him as a monster, then I must so define all who believe disabled lives are inherently worse off or that a life without a certain kind of consciousness lacks value. That definition would make monsters of many of the people with whom I move on the sidewalks, do business, break bread, swap stories and share the grunt work of local politics. It would reach some of my family and most of my nondisabled friends, people who show me personal kindness and who sometimes manage to love me through their ignorance. I can’t live with a definition of ultimate evil that encompasses all of them. I can’t refuse the monster-majority basic respect and human sympathy. It’s not in my heart to deny every single one of them, categorically, my affection and my love.

The peculiar drama of my life has placed me in a world that by and large thinks it would be better if people like me did not exist. My fight has been for accommodation, the world to me and me to the world.

As a disability pariah, I must struggle for a place, for kinship, for community, for connection. Because I am still seeking acceptance of my humanity, Singer’s call to get past species seems a luxury way beyond my reach. My goal isn’t to shed the perspective that comes from my particular experience, but to give voice to it. I want to be engaged in the tribal fury that rages when opposing perspectives are let loose.

As a shield from the terrible purity of Singer’s vision, I’ll look to the corruption that comes from interconnectedness. To justify my hopes that Singer’s theoretical world—and its entirely logical extensions—won’t become real, I’ll invoke the muck and mess and undeniable reality of disabled lives well lived. That’s the best I can do.

More Dangerous than a Monster: **Peter Singer Is Tenured**

Nat Hentoff

Despite some of her friends urging Harriet McBryde Johnson not to debate Peter Singer, she made the right choice—all the more so because that event led to a cover story by her in the New York *Times Magazine*. A chance for millions of readers to see, not in the abstract, but a living, very immediate refutation of Singer's lethal and influential utilitarian doctrine that certain lives are not worth living.

The late A. J. Muste, the direct-action pacifist—who was a key strategist in the anti-Vietnam-War movement and in many Gandhi-like ventures around the world—used to tell me he would “sup with the Devil” to see if he could find even a kernel of humanity in that Prince of Darkness.

In her *Times* article, Johnson did challenge this tenured apostle of “mercy” killings, but she wasted too much space being impressed by Singer's gentlemanly manners. Having supped with the Devil, A. J. Muste would not have been sidetracked even if Lucifer had discoursed on the infinite beauty of Beethoven's late quartets.

During one passage, Johnson writes, “We go back and forth for ten long minutes.” I would much rather have known more details of that dialogue—and the other disagreements between them at Princeton—than being told that she was “dazzled by his verbal facility.” He is so “respectful,” she continued, “so free of condescension, so focused on the argument, that by the time the show is over, I'm not exactly angry with him.”

I have interviewed Peter Singer at some length, and yes, he was reasonably courteous and attentive to my intensely fundamental disagreements with his view of “imperfect” human beings. And had the conversation not been on the phone, I'm sure he would have offered me tea. But I came away with no less a feeling of repugnance at his smugness at being so superior in his exercise of pure reason, shorn of sentimentality, in his lifework to remove unsightly persons for the greater good of the rest of us.

Singer did not condescend to me. I threw him off guard by telling him that my contrary views did not come from any religious impetus, but that I am an atheist. However, his invincible righteous smugness was there throughout the conversation, reminding me of the television debate I once had with

Nat Hentoff, a columnist for the *Village Voice*, has authored several books, including *Living the Bill of Rights: How to Be an Authentic American* (Harper Collins), and *Speaking Freely* (Knopf).

bioethicist Dr. Alexander Morgan Capron, who had devised a “precise” mathematical formula to determine which “damaged” infants should be allowed to survive.

I have described such bioethicists as Capron as being among “the new priesthood of death,” and Singer is the Archbishop. Singer’s influence on these transmogrifiers of “compassion” was illustrated in the *Cambridge Quarterly of Health Care Ethics* in the fall of 2000 when Capron—and another of that coven, Dr. Lawrence J. Schneiderman—wrote:

“A judge who orders that a severely disabled child be kept alive rarely sees firsthand the long-term continuing consequences of that decision, which remain a continuing vivid experience for the health care professionals who must care for the child.”

Such trauma, you see, can be avoided by disposing of the severely disabled child and, as Singer has counseled, by then advising the parents to try for better luck next time.

Had Johnson been less “dazzled by [Singer’s] verbal facility” and instead confronted him—and their audiences at Princeton—with Dr. Leo Alexander’s all too prophetic 1949 article, “Medical Science Under Dictatorship” (*The New England Journal of Medicine*), the readers of her article in the *Times* might have been more disturbed on their day of rest.

Elsewhere, Singer’s gentility becomes fractured when his views are compared with those of the Nazis. He is indeed not a Nazi, but I regret not having reminded him, in our interview, of Leo Alexander’s report that “the first direct order for euthanasia was issued by Hitler on September 1, 1939 . . . All state institutions were required to report on patients who had been ill five years or more and who were unable to work . . .

“The decisions regarding which patients should be killed were made entirely on the basis of this brief information by expert consultants, most of whom were professors of psychiatry in the key universities. *These consultants never saw the patients themselves.*” (Emphasis added.)

I wish Johnson, in writing of her “Unspeakable Conversations” for the large and influential *New York Times* audience, had pressed Singer more insistently on his responsibility—as the best known bioethicist in the world—for lives that have been ended summarily, and not only of infants, by those practicing utilitarians of death who do see the patients they kill, although they are unknown to Singer.

Official euthanasia is growing—The Netherlands, Belgium, Switzerland—as well as in more and more American hospitals, as Wesley Smith, an invaluable chronicler of “death with dignity,” has documented. Dr. Leo Alexander, shortly before his death in the 1980’s, warned that “the barriers

against killing are coming down,” and Smith has become the preeminent illuminator of the accuracy of Alexander’s prophecy.

If Johnson gets another invitation to Princeton, I hope she first reads Wesley Smith’s “The Clone Hustlers,” in the Fall 2002 issue of this *Review*, in which he tells of another tenured Princeton professor, Lee Silver, in the biology department, who ardently proposes modifying human genes to create “new human beings.” In that shining new world, as Smith notes, “the *ubermenschen* GenRich will utterly dominate the *untermenschen* Naturals” who will be taught only the skills necessary to serve the master race.

I think Johnson, while at times effectively countering Singer’s own view of achieving human perfectibility, let him off too easily by spending too much space on his pleasant manners. That he is not a “monster” personally is irrelevant to the monstrous results of his cherished beliefs.

However, I do believe the article was very much worth the writing, and the positioning, in so widely read a publication. The lasting impression I believe it will have is that Johnson herself is a compelling refutation of Singer’s blithe advocacy of the termination of “inferior” lives he will never see.

What is so vivid in her writing are the multiple dimensions of her active, engaged life—and her searching resilience, intelligence, and wit. She may have been too kind to Peter Singer, but now that he has actually met and seen her, I think and hope Harriet McBryde Johnson may appear, disconcertingly, in his dreams.



“Oh, don’t go—I promise, one more drink and you’ll find me attractive.”

Getting to the Bottom

George McKenna

¶ I walk into the room and Bill O'Reilly is on TV talking to a professor. The professor deploras "the loss of innocent life" in the invasion of Iraq. O'Reilly is pretty smug, as usual, at one point reminding the professor that hey, c'mon, you're not talking to your students here. But the professor is unruffled, speaks in measured language and with seeming command of the facts. O'Reilly isn't well prepared—at one point he lets the professor get away with the canard that the U.S. supplied Saddam with his poison gas—and ends up sounding defensive. He says he'll give the professor the last word and then doesn't. The segment is over, and then I find out that the professor who deploras the loss of innocent life is Peter Singer of Princeton University. It is a jaw-dropping moment on TV: a talk show host known for his hard-boiled grilling of guests allows someone who advocates selective baby-killing to pass himself off as a humanitarian.

Harriet McBryde Johnson was similarly, and in a way more profoundly, taken in by Peter Singer, though this may not at first be as apparent as it was in the case of Bill O'Reilly. Unlike O'Reilly, she knows about the dangers of legitimating Singer by giving him a forum. That, she says, is the position of her disability-rights group, Not Dead Yet, "and I completely agree." Yet she evidently doesn't "completely" agree, because she then proceeds to relate the story of all her friendly exchanges—in Singer's classroom, at dinner, and in e-mails—with a man who thinks that people like her should be put to death early in life.

Some of the subsequent letter-writers to the *New York Times Magazine* applauded her for disregarding her friends' advice. One of them calls the dialogue "a feat of amazing grace"; another contends that she was right not to think of Singer as a "monster," and another goes so far as to call Singer "a dispassionate scholar seeking truth." Their shared assumption is that a nice dispassionate debate with him couldn't hurt. I passionately disagree.

For more than three centuries liberals have celebrated the virtues of public debate. John Milton, Thomas Jefferson, John Stuart Mill, Oliver Wendell Holmes, Jr., all came up with some version or another of what Holmes called "free trade in ideas." The theory is that if people argue and debate enough, the truth will out. Perhaps less well known is that all of these advocates of

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free and open debate set limits and bounds to the debates. Milton excluded Catholics from the debate because he feared that they would use it to reverse the gains already made in human freedom; Jefferson banned Federalist books at the University of Virginia for the same reason; Mill did not think that “barbarians” were ready for freedom; and Holmes used his famous hypothetical about “shouting fire in a crowded theater” to justify the jailing of dissidents during wartime. Today’s liberals would probably not agree with these particular limitations on free speech, but they are no less prepared to set bounds to debate. That doesn’t mean jailing people or censoring their writings, but it does mean refusing to grant respectable status to them. Princeton University does not have an endowed chair for teaching that blacks are racially inferior. It would not even hire such a person to be an untenured assistant professor, or a part-time adjunct, or a teaching assistant. It would probably not allow him on campus to talk to a student club. And what Princeton student club would invite him? Implicitly, then, today’s liberals acknowledge what the great liberal thinkers explicitly recognized: certain ideas, in certain circumstances, before certain audiences, can be massively lethal, and so we must find some way of marginalizing them, keeping them off-campus, so to speak.

So what *do* you do with people who preach child-murder? It depends. If we’re talking about your average street-corner orator, you just leave him alone. Americans are long used to these types. Some people listen, some don’t, most stroll on by. But what if they have given him a chair at a major university? Then you deal with him by protests, posters, petitions, picket lines, civil disobedience, pointed questions shouted across a room. You get in his face. What you do not do is to shake his hand, enjoy a meal with him, let him help you around, and carry on a cozy e-mail dialogue with him. You don’t have a civil debate with him, because he is, by design and declaration, an enemy of our inherited civilization. Harriet McBryde Johnson, for reasons that do not seem quite clear even to her, decided to sleep with the enemy. It never should have happened.

But it did, so we might as well get into the substance of the debate. Her basic approach was to cast it as a civil rights debate. Her article is replete with terms like “discrimination,” “token cripple,” and “disability rights,” and she accuses Singer of preaching “genocide,” as if disability were a racial category. To be more specific, she tries to frame the issue not according to the Martin Luther King model of universal civil rights but in the Malcolm X model of “black power.”

It started in the mid-1960s. There was black power and then, successively, Latino power, sisterhood is powerful, red power, gay pride, and gray pride.

Now Harriet Johnson, and apparently some others in the organization she represents, wants it to be something like “disabled pride.” All these “power” and “pride” movements have a common philosophical core: a tendency to identify one attribute of a person with the person’s very self. I am black and I am beautiful and what makes me beautiful is my blackness; my essence is blackness. Substitute “Latino,” or any of the other categories, and the formula works the same way. It is logically problematic—in scholastic jargon, one could say that it confuses accident with essence—but rhetorically very potent. Nobody except a bigot is going to say that black is not beautiful. So we sort of get bullied into saying, yes, yes, of course. But for Harriet Johnson it doesn’t work at all, not even rhetorically.

We see this when she confronts Singer with an analogy between an abandoned mixed-race baby and a baby with serious disabilities. In both cases, she says, it will be difficult to find families willing to adopt. Would it then be morally permissible to kill the mixed-race baby? No, Singer replies, because the mixed-race baby has no physical or mental problems, whereas a disability makes a person “worse off.” She denies this. Disabled people “enjoy pleasures other people enjoy, and pleasures peculiarly our own. We have something the world needs.”

Now this is very delicate and has to be approached delicately. Let’s start with her statement that “we have something the world needs.” Who is the “we” in this statement? Is it all disabled people? Or only those who have the courage, determination, wisdom and other virtues that enable them to rise above their disabilities and make something beautiful of their lives? But surely that could not include all disabled people; some, no doubt, succumb to depression and simply give up. Yet she uses the word “we,” which is an all-inclusive word. The only thing *all* disabled people have in common is their disability. Therefore, when she says that “we” have something the world needs, she must be referring to their disability. What all the world needs is their disability! This is what comes of identifying one of the attributes of a person with the person herself.

She weakens her case even more in the descriptive portions of her article. Let’s back up for a moment. Singer said that a disabled child is “worse off” than other children, and gives as an example a disabled child on a beach who is unable to frolic with the other children. She replies by providing a description “of how I, in fact, had fun playing on the beach, without the need of standing, walking or running.” I am sorry to say this, but a child who is unable to run and play on the beach as the other children do is, other things being equal, “worse off” than the other children. Fortunately, other things

are never equal, and I believe her when she says that she was able to have her own kinds of pleasures at the beach. But that was not because of her disability but because of other attributes she possesses—intelligence, imagination, a sense of humor, emotional toughness and serenity. These are the qualities she should extol, not her disability. Instead, what she does through much of the article is actually to show off her disability, as if *that* were what she is proud of. And so we read about her bathroom rituals (her bedpan, the use of changing tables in restrooms), her dietary limitations (grapes, soft food), the help she needs to reach the salt shaker in front of her, her recurring hassles with airlines over her wheel-chair battery, and so on. Not only do we not need to know these things, they actually lend plausibility to Singer's proposition that she is "worse off" than people without her disabilities. Singer's proposition is of course stupid—it is like saying that I, because I have weak eyes, am "worse off" than somebody with 20-20 vision who is locked up in Sing-Sing—but we are talking here about rhetorical effectiveness. From that standpoint she has done her cause no good by parading her disabilities. Yet that is just one offshoot of the main weakness in her argument, which, as I have said, is the attempt to cast "disability rights" in the mold of civil rights. You can say, if you like, that black is beautiful, or female is beautiful, but nobody can plausibly argue that a disability *per se* is beautiful.

Why did she resort to such a clumsy paradigm to make the case against child-murder? Wouldn't it have been better simply to remind Singer that our nation and our civilization are founded on the sanctity of human life, so that nobody has the right intentionally to kill children? The answer is she doesn't want to use any language about the "sanctity of human life" because that is religious talk and she, like Singer, is an atheist.

Let's talk about atheism. Broadly speaking, there are two different kinds of atheists: old-fashioned atheists and modern atheists. ("Agnosticism" is for the seminar-room; in living our lives we have to put down our bets on God or no-God.) Perhaps this is generational, but all my atheist friends are the old-fashioned kind. Most are pro-choice, but that is only because they have allowed themselves to believe that a child in the womb is not really a child. Every one of them, however, would shudder at the thought of deliberately killing an already-born child. That is because they, like all old-fashioned atheists, cling to the moral heritage of Judeo-Christian civilization even as they reject its religious foundation.

Modern atheism, on the other hand, is more ambitious and daring. It wants to explore the full implications of a godless universe. Karl Marx, one of its pioneers, accused previous writers of not taking atheism seriously enough.

He criticized Ludwig Feuerbach, one of the important “left” Hegelians, on these grounds. Feuerbach, who characterized all religious belief as “illusionistic,” contended that Christianity projects onto “God” all the beautiful qualities which rightly belong to man. Theology should therefore be replaced by anthropology and other human sciences in order to establish a genuine human community on earth. Not good enough, said Marx. Feuerbach hadn’t thought enough about the current, actual conditions of economic exploitation that give rise to the “illusions” of Christianity. These can be resolved not by study but by radical action. In bourgeois society, Atheism pushed to its conclusion is revolution.

Friedrich Nietzsche was another modern atheist. Posters for Bass Ale have his photo next to a pint of their famous product, with the caption, “Getting to the Bottom of Things.” Nietzsche was all for that. He was scornful of atheists who failed to take atheism seriously. They rejected Christianity but continued to honor all that Christian-derived twaddle about equality and human rights. “Through Christianity, the individual was made so important, so absolute, that he could no longer be sacrificed: but the species endures only through human sacrifice—All ‘souls’ equal before God: but this is precisely the most dangerous of all possible evaluations! If one regards individuals as equal, one calls the species into question.”

Now Singer wants to go Nietzsche one better—beyond species and beyond what he calls “speciesism.” He intends to launch a new moral revolution by discarding the Linnaean system. We all remember those schematic “trees” from our biology classes, the hierarchy that has *homo sapiens* at the top, then the other primates (apes, lemurs, monkeys), and below them, in descending order, birds, amphibians, reptiles, and so on until we get down to sponges and protozoa. The Linnaean system is anthropomorphic, and so, Singer thinks, needs to be replaced with a *shared* hierarchy. At the top would be intelligent and physically autonomous creatures, humans *and* animals, and then down the scale would be those humans and animals which are increasingly dependent and/or unintelligent. You can see where this goes. If we have no right to slaughter a one-year-old child, what right do we have to slaughter a pig, which is just as intelligent? And it also works the other way: if we have a right to put down a hopelessly sick puppy, why don’t we have a similar right to kill (painlessly of course) a hopelessly sick child? As for a newborn, a “neonate,” no problem at all. In Singer’s 1979 book *Practical Ethics* he asserted that there is no inherent ethical difference between killing a day-old infant and killing a snail.

So relentless is Peter Singer in pursuing the logic of our partnership with

animals that in recent years he has taken to wondering why we can't be lovers as well as friends. In a review-essay that appeared in 2000 he maintained that humans and nonhumans can have "mutually satisfying" sexual relations. (He wrote the review for a porno magazine, so he used obscenities to refer to sexual acts and female genitalia.) He described an encounter between a woman and an orangutan living in Borneo. This should be no cause for shock or disgust, he wrote, because "we are animals, indeed more specifically, we are great apes." Thus, he concluded, the idea of sex between humans and non-humans "ceases to be an offense to our status and dignity as human beings." The main thing is that nobody should get hurt in these encounters; he ruled out, for example, sex with hens.

Harriet McBryde Johnson seems intimidated by Singer's "animal rights" philosophy. On at least three occasions in her article she is challenged to respond to it, and each time she runs away from it. Singer taunts her playfully at the end when he gives her a book of his writings with the inscription, "To Harriet Johnson, So that you will have a better answer to questions about animals." Why is she at such a loss to respond to an extremist ideology, an ideology from which every animal-protection society in the world except the wacko group PETA has distanced itself? The answer seems obvious to me. How could she do it without bringing up the Christian belief in the soul or the Judeo-Christian doctrine of man's "dominion" over the animal kingdom? If she tried to use the pre-Christian way of distinguishing man from lower animals by saying that man is the only animal who uses language and lives in a political community, Singer would probably come back with references to "communities" of apes and the "language" of whales. (Anyway, the ancient Greeks and Romans would probably side with Singer on the issue of selective infanticide.) This is, indeed, a problem for atheists. *Village Voice* columnist Nat Hentoff, an atheist who opposes abortion (not to mention infanticide), once half-seriously suggested that the solution might be to *declare* unborn children animals, thus securing much greater protection for them than they now enjoy. Perhaps the idea has some merit—if we killed 1.5 million dolphins every year there would certainly be an outcry from environmentalists—but it does not get to the heart of the question: why does an infant Harriet McBryde Johnson have an inalienable right to live? Perhaps we could work up a purely secular answer by invoking Immanuel Kant's dictum about treating people as ends rather than means, but Singer (correctly) considers Kant as operating within the Judeo-Christian tradition, and so dismisses him.

Peter Singer is a crackpot, an intellectual descendent of nineteenth-century phrenologists, the people who went around putting calipers on people's

heads to gauge their mental fitness. Yet it would be a mistake to minimize his importance, and for two reasons: first, because he is taken very seriously by the intellectual community (just as the phrenologists were in their time); second, because he confronts many intellectuals with a serious challenge. If they reject God and the religious heritage of the West, on what grounds can they assert that innocent human beings have an inalienable right to life? Before Singer, the last serious challenge of this sort came from the Nazis. The roots of Nazism, or at least with what we have come to think of as its worst horror, lay not in German nationalism or even anti-Semitism but in the proposition, once accepted by leading doctors, scientists, philosophers and jurists throughout Europe and even North America (Oliver Wendell Holmes, Jr., and Margaret Sanger were fans of it in the United States), that we would all be better off if certain categories of people ceased to exist. The Germans, with their usual economy of words, called it *lebensunwertes Leben*, "life unworthy of life." Michael Korda, one of the letter-writers to the *Times Magazine*, asks plaintively, "does it occur to nobody that Peter Singer's opinions on the subject of killing the mentally and physically handicapped, however sincerely meant, have eerie similarities to those of Hitler?" In fact, as Robert Lifton has shown in *The Nazi Doctors* (1986), the thinking behind the killing long preceded Hitler's takeover of Germany. An article making the case for it, "The Permission to Destroy Life Unworthy of Life" was published in 1920, co-written by two distinguished German professors, the jurist Karl Binding and psychiatry professor Alfred Hoche. Like Singer, they argued their case logically and professionally, stressing the therapeutic side of it. Destroying such unworthy lives, they concluded, is "purely a healing treatment" and a "healing work."

When the Third Reich's poisonous weeds were crushed under Allied tanks in 1945, we thought we could all breathe freely again. But they didn't get the roots. And now the roots are sprouting again.

Commentary on “Unspeakable Conversations”

David S. Oderberg

Harriet McBryde Johnson’s article is extraordinary. She herself is extraordinary. Many commentators and correspondents to the *New York Times* have already noted this; I can only echo the sentiment. To say that it takes courage and dignity for someone in Miss Johnson’s position, severely physically handicapped as she is, publicly to confront a prominent academic with views as odious and threatening as those of Professor Peter Singer, is an understatement. The gentility and diffidence with which she describes her fears, her reservations, and her reaction to the person of Singer; the elegance of her writing; her humility, in not pretending to be philosophically clued-up like Singer, or a match for his quick thinking and ease in front of an audience of mostly fawning students and faculty; all of these qualities shine through in her article. As an academic myself, long opposed in print to Singer’s execrable doctrines, I find it both salutary and refreshing to see that a well-crafted and highly personal article such as Miss Johnson’s can achieve more in persuasiveness than hundreds of pages of drily argued academic text. So it is in this spirit that I merely offer some comments and observations on her story, my points being made in no special order of importance.

To begin, readers of Miss Johnson’s article might get the impression that Singer never advocates the killing of the disabled as an *obligation*, only as an “option.”¹ The truth is that for Singer, as a utilitarian who believes that maximizing good effects over bad is all that matters in morality, killing a disabled child—even a child with no physical or mental disability but merely an illness as mild as haemophilia—would be a *duty* if it maximized the satisfaction of people’s preferences (e.g. those of the parents, family, doctors, providers of health care resources, health insurance companies, etc., etc.) and had “no adverse effects on others.”² Utilitarians do not just give options—they impose obligations. Hence when Miss Johnson wonders why Singer is “so convinced it would be best to allow parents to kill babies with severe disabilities, and not other kinds of babies, if no infant is a ‘person’ with a right to life,” my reply is: Do not wonder about it, because other kinds of babies may be killed too, since all “non-persons” are “replaceable,” just like barnyard animals or even snails.³

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Secondly, the article gives the impression that Singer allows the preferences of “persons” (the ones, on his theory, who happen to be actively rational and self-aware), including disabled persons, to trump all other desires: “he doesn’t propose killing anyone who prefers to live.” The truth is, however, that for Singer killing can sometimes be obligatory *even in the case of “persons.”* They may have the strongest of all claims on life, but the fact is: “if we are preference utilitarians, we must allow that a desire to go on living can be outweighed by other desires”⁴ If, for example, we reached the “limit to the burden of dependence which any community can carry,”⁵ we might have to apply the principle that “in some cases it would be right to kill a person who does not choose to die on the grounds that the person will otherwise lead a miserable life.”⁶ Perhaps Singer gave a different impression to Miss Johnson in private conversation or public debate, but she must look to his *official* position as expressed again and again in print.

A good example of the danger of being misled by what Singer might say off the cuff, rather than concentrating on the views he puts in print and teaches in lectures, concerns that slippery six-letter word—*rights*. Miss Johnson understandably perpetuates the impression gained mainly by those who have come to Singer’s philosophy through his work on “animal liberation,” namely that he believes in animal rights—and presumably, if he believes in those, he must also believe in rights for those of us lucky enough to be “persons”: “. . . I’ll lose my personhood and therefore my right to life . . . he’s most famous for animal rights. He’s the author of *Animal Liberation*.” The truth is, however, that like all utilitarians *Peter Singer does not believe in rights*. He subscribes to the slogan of the father figure of utilitarianism, Jeremy Bentham, that rights are “nonsense upon stilts.” But this does not mean Singer ensures the public are *aware* that he does not believe in rights; for although he says, “I am not convinced that the notion of a moral right is a helpful or meaningful one . . . ,”⁷ he also adheres to the practical principle that “[t]he language of rights is a convenient political shorthand. It is even more valuable in the era of thirty-second TV news clips”⁸ Just as he is quite happy for the public to be deceived into thinking he believes in rights (I am not aware of his correcting anyone who perpetuates the myth), so he also countenances deceiving people into thinking their desire to go on living trumps all other desires.⁹

Miss Johnson, when politely upbraided by Singer for having “such high respect for human life and so little respect for animal life”—i.e., for eating meat, as though that entailed having little respect for animal life—brilliantly shoots back: “People have lately been asking me the converse, how you can have so much respect for animal life and so little respect for human life.”

Which hits the nail on the head of what Peter Singer is all about. Animal “liberationists” need to think twice and three times before trumpeting the fable that Singer has striven might and main to elevate the status of animals in society. Certainly, he has worked hard to promote their welfare, campaigning against intensive farming methods with the cruelty and misery they typically entail, and against the brutality of much animal experimentation in the name of scientific “progress.” And he has been the guiding light behind the bizarre Great Ape Project aimed at conferring “civil rights” on higher primates. But what Singer is *really* about is debasement, not elevation: levelling down human beings, with their unique and irreplaceable moral worth, to the status of clever animals in the Darwinian jungle, ingredients in the utilitarian melting pot, just so many bearers of “units of quality” in the calculations of social engineers and phileconomists (if I may be allowed a novel barbarism). One might wonder: if the tasty bait of “animal liberation” were not dangled before the eyes of well-meaning people, would they ever be sucked in by the professor’s depraved views on human beings, views which, as Miss Johnson correctly advocates, should not be given a forum?

The question of forums and public debates is a painful theme of Miss Johnson’s article. She has wrestled long and hard—under enormous pressure from her colleagues at Not Dead Yet—over the question whether even to shake hands with such a man as Singer, let alone give his views legitimacy by engaging with him in public debate. My impression is that her head was for it, but her heart well against. She thought, perhaps correctly, that she could put up a good show, and that Singer’s views simply should not go unchallenged. I would agree, with strong caveats. Spokesmen for the disabled, such as Miss Johnson, are generally well trained in sparring with their opponents. Although she does not give many details, my impression, again, is that Miss Johnson acquitted herself well. But without some focused schooling in what someone like Singer really stands for, it can be easy to be bamboozled, as she also was when a colleague of Singer’s suggested that her opposition to assisted suicide was “essentially tactical,” i.e. not based on principle, but on how bad things would be in the *current* state of society if people were allowed help in killing themselves. Hence I recommend that anyone ever charged with the task of debating Singer in public should familiarise themselves carefully with Singer’s published writings. They are generally easy to read and quite accessible—albeit chock full of intellectual sleight of hand, slippery reasoning, euphemism and skilful but distracting polemic. They are easily mined for juicy quotations, and in fact a BBC television interviewer with no knowledge of philosophy and little knowledge

of Singer once did an expert job taking him apart piece by piece. How? Simply by quoting the professor back to himself and reducing his ideas to simple, straightforward propositions that any viewer could understand. It worked brilliantly and left Singer flummoxed; but it takes confidence to pull it off.¹⁰

Nevertheless, although I encourage skilled people to take Singer head-on and not allow him to waffle his way from coast to coast for the next umpteen years of his tenure at the Center for Human Values, Princeton University, I also believe that the man should *not* be given a public forum to air his intellectual poison. Following the Cambridge philosopher Jenny Teichman, I distinguish between Peter Singer's right to speak and his *right to regular access to a public platform*. The former might be a universal human right, but the latter certainly isn't. The latter is in fact a special right, or better a *privilege* that goes with one's official status as politician, religious leader, public expert, or teacher: as Teichman points out, "the privilege is not always deserved. It can be used for good, and also for evil. . . . In my view academics abuse the privilege when they advocate 'euthanasia' of human beings too young or too old or too ill to answer back."¹¹

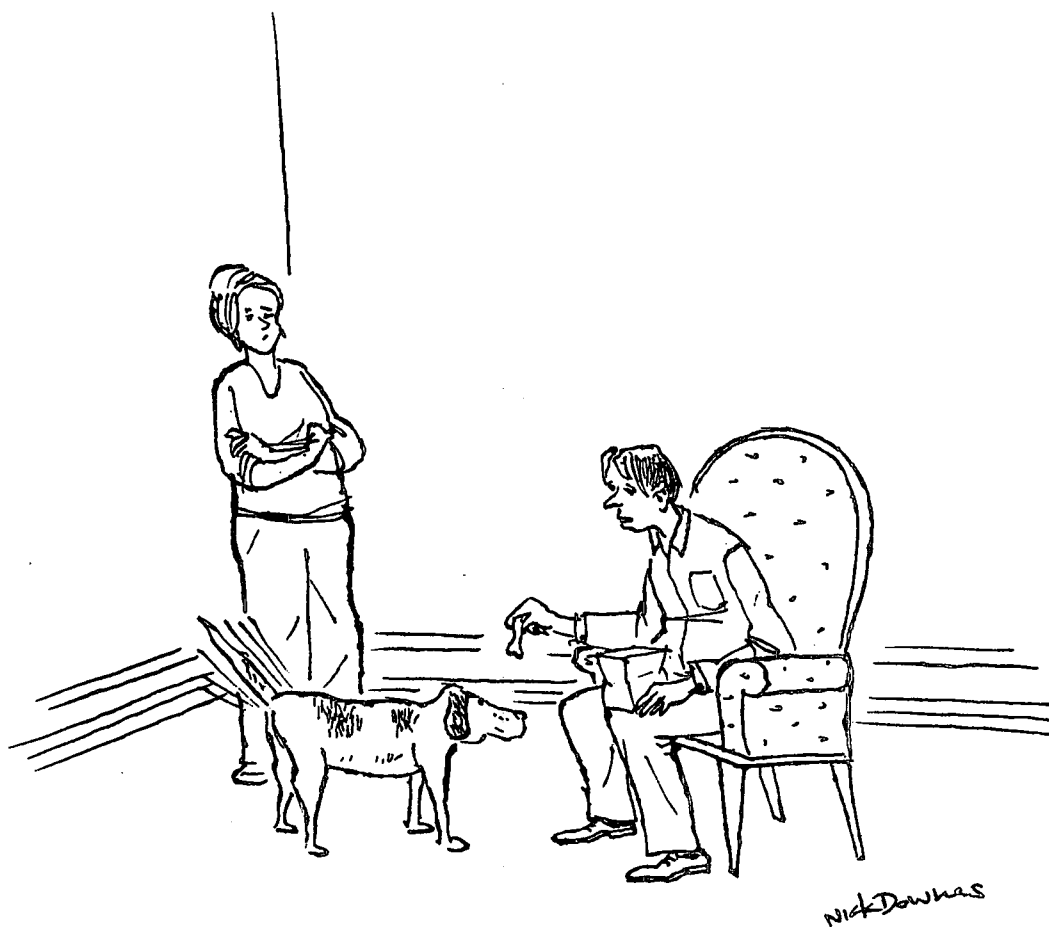
Toward the end of her splendid article, Harriet McBryde Johnson describes Peter Singer's philosophical project as "a grand, heroic undertaking." Was she merely being generous, or does she in fact believe it? Perhaps both. I wish I had such generosity, but after years of studying Singer's thought and writings, after seeing his views become more and more extreme, to the point that he now thinks bestiality is, shall we say, an activity much maligned¹²—after all this, I find it hard to believe that there is any grandeur or heroism at the heart of Singer's philosophy. What John Stuart Mill (himself a utilitarian) said of Bentham's philosophy—that it was a philosophy fit for swine—can be said with equal justice of the work of Peter Singer. It may not have gained him the respect of those who cherish human life in all its stages and conditions; it may not have won him a lasting reputation as a profound thinker; but it did get him a chair at Princeton.

NOTES

1. Words enclosed in double quotation marks are taken directly from the article unless indicated otherwise.
2. The example of haemophilia is from Singer, *Practical Ethics* (Cambridge, England; Cambridge University Press, 1993; second edition), p. 186.
3. Singer's analogies, not mine: *Practical Ethics*, pp. 90, 132-33, 185-88.
4. *Practical Ethics*, p. 99.
5. P. Singer and H. Kuhse, *Should the Baby Live?* (Oxford: Oxford University Press, 1985), p. 170.
6. *Practical Ethics*, p. 100.
7. *Practical Ethics*, p. 96.

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8. *Animal Liberation* (London: Jonathan Cape, 1990; second edition), p. 8.
9. *Practical Ethics*, pp. 99-100, 191-192.
10. I can send anyone, on request, a crib sheet of quotations I have taken from Singer's writings. My email is d.s.oderberg@reading.ac.uk.
11. J. Teichman, "Freedom of Speech and the Public Platform," *Journal of Applied Philosophy* 11 (1994), pp. 99-105, at p. 104.
12. See his review of Midas Dekkers, *Dearest Pet: On Bestiality*, published on www.nerve.com in 2001 and also in the British magazine *Prospect* (April 2001).



"I've been training him to feign affection."

Unspeakable Conversations for Good Atheists

Mark Pickup

For more than ten years, people with disabilities and incurable illnesses have lived in the cross-hairs of modern Western culture's intolerance of imperfect human life. The champions of euthanasia, assisted suicide, abortion and infanticide have steadily gained ground. What was once *unthinkable* (killing the unwanted, sick and disabled) has become fashionably *speakeable* in academic circles. It was a grim milestone when America's prestigious Princeton University gave a permanent platform to Peter Singer to promote his ideas of killing babies born with disabilities and "euthanizing" disabled adults with severe cognitive impairments. Whoever came up with the title "Unspeakable Conversations" for Harriet McBryde Johnson's New York *Times Magazine* article is decades out of date.

Johnson's rambling article was an achievement of public education about travel frustrations and indignities for the disabled. It was not, however, a significant contribution to the ethical discussion about the value of people with disabilities in a progressive, advanced society. Sadly, Johnson missed a wonderful opportunity to help the New York *Times'* vast audience see that people with disabilities are equal and important members of society. Johnson seemed awed by Singer's celebrity, his "good company" and his superficial Aussie charm. Poor Ms. Johnson—even the Devil is charming. Wait! As she tells us many times, she is an atheist: She doesn't believe in God or the Devil. Atheism seems to be the only point of consensus between her and Singer.

No Moral Scale

If there is no God, no grand designer, then, in the final analysis, we are nothing more than products of cosmic chance, descendants of primordial slime. Words like right, wrong, better, worse, meaningful and meaningless are themselves meaningless. They are words that assume some objective standard by which ideas and behavior can be measured and judged. *Thought* itself is a chemical reaction or a collection of electrical impulses in the brain. Nothing more. Morality is meaningless to a chemical reaction, just as the electricity driving my computer cannot be judged as right or wrong. Thought simply occurs, like the spread of ripples after a pebble is thrown into a pond. What's this nonsense about "ethics," "philosophy," and human value?

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Human rights? Equality? Drivel. Morality? The fiction of religion! We simply exist until our life is extinguished. If there is no God, then there's no moral scale. And yet, when Ms. Johnson says, "I didn't expect to straighten out Singer's head" she must have a concept of *distorted* thinking which can be measured against *straight* thinking (which she presumably has). Could it be that Ms. Johnson believes more than she is willing to admit perhaps even to herself?

Peter Singer definitely has a belief system: He believes the universe has no purpose and that lesser minds like Aristotle were wrong to think it does.¹ Singer believes, with all his heart, in the pointlessness of the universe. And so we find ourselves back at the utter meaninglessness of everything: philosophy, the pursuit of knowledge, music, love, language, and communication have no purpose. According to the belief system of Peter Singer, even his own words, ideas, and beliefs are meaningless. Followed to its absurd conclusion, this belief system goes nowhere. Life is hard and then you die. If you accept this, all further discussion is pointless. (If the reader feels as if he is spinning in circles, that's because Peter Singer's central premise is circular.)

So why, if the universe has no purpose, do we find Singer in the vanguard of the animal-rights movement? Surely, in that case, animals have no purpose either. Why does he make a preposterous exception to bestow purpose upon animals while man, and the rest of the universe, have none? But in reading Peter Singer, you quickly find that it's not that animals would be elevated above the status of humans—humans would descend below the status of animals. When Johnson was confronted with this aspect of Singer's world, she refused to enter it. When she was asked, "How can he place so much value on animal life and so little value on human life?" her response was this:

"That last question was the only one I avoid. I used to say I don't know; it doesn't make sense. But now I've read some of Singer's writings, and I admit it does make sense—within the conceptual world of Peter Singer. But I don't want to go there. Or at least not for long."

But we *must* go there, Ms. Johnson—we *must* peer into the abyss of his thinking, with its poisonous vapors rising, intoxicating us, and enticing us into a new Dark Age. We *must* critically examine the implications of Singer's infernal world-view—then recoil in horror and *reject* his thinking. Far better than to allow his alluring logic gradually to take over the collective public mindset. His ideas have the capacity to turn progressive societies into jungles of predators and prey, oppressors and oppressed.

Genuine progress is found not in ideas but in the lives of people—even people Peter Singer would discard.

And that brings me to a central point that Harriet Johnson would not address. Singer operates in an historical vacuum. He rejects the towering foundational concepts of America, his adopted country—especially the “self-evident” truth that all people have “certain inalienable rights,” which include the right to life, liberty, and the pursuit of happiness. That blazing Declaration of Independence does not say people have a right to happiness—only the right to *pursue* happiness. But it does not allow arbiters to decide which people are *qualified* to pursue happiness. It does not allow any individual to decide that another person’s chances of happiness are so low that his life should be extinguished—thereby denying him the first right mentioned in the Declaration: the right to life.

How do *inalienable* rights come about? There must be *something* or *someone* above human law to bestow them, if they really exist. There must be a higher law, above any legislature, that creates inalienable rights. Rights granted by a government on Monday can be taken away on Friday, by a simple majority vote. And that would make the Declaration of Independence absolute nonsense.

It is ironic that Peter Singer uses his tenure at Princeton University to tear at the bedrock ideals embodied in the Declaration of Independence. One of the signers of that august Declaration was a Presbyterian minister named John Witherspoon (1723-1794). He helped infuse that document and America’s founding concepts with Christian thinking. Witherspoon was Princeton’s sixth President, a position he held until his death. In fact, Princeton University, originally named “The College of New Jersey,” was founded (in 1746) by Presbyterians. Until 1902, every President of Princeton was a Christian minister. One of Witherspoon’s predecessors was America’s great evangelist and theologian, Jonathan Edwards. The irony is this: It is the intellectual freedom of that once Christian university that allows Singer to attack its underpinnings.

Peter Singer’s destructive and stubborn ideas would sweep away Western legal traditions that have evolved over centuries; they would overturn moral refinements attained as a result of Western culture’s embrace of the sanctity of human life. In his world view, a pig is more valuable than a disabled newborn infant, a chimpanzee more valuable than a Down’s child. To Singer, these human lives are—to use a Nazi term—“useless eaters.”

Twenty years ago, Peter Singer wrote an article for the prestigious magazine *Pediatrics*. He attacked the “sanctity-of-life view” as “religious mumbo jumbo.” He said, in part:

“The philosophical foundations of this view have been knocked asunder.

We no longer base our ethics on the idea that human beings are a special form of creation, made in the image of God, singled out from all other animals, and alone possessing an immortal soul.”²

Singer has even proposed conducting medical experiments on comatose people, for research purposes, rather than using animals.³

He is dangerous because he *is* “good company.” He is provocative and engaging: with easy scholarly detachment, he makes the most odious and brutal ideas palatable. For more than twenty years he has been doing his considerable best to “knock asunder” the foundations of the “sanctity-of-life view.” I believe Harriet McBryde Johnson’s atheism blinds her to the dangers this poses to her and to all other disabled people.

She could have reminded the New York *Times* readership of the great moral principles laid down by Thomas Jefferson, Benjamin Franklin, John Witherspoon, and other American Founders, in the Declaration of Independence. She could have used its principle of the equality of human life as a rallying cry to the millions of people of good will who saw the New York *Times Magazine* article. But the moral principles which made America great have as their foundation the Judeo-Christian tradition. And that would be unspeakable conversation indeed for a good atheist.

NOTES

1. See interview with Peter Singer, “Living and Dying,” in *Psychology Today*, January, 1999. Taken from Internet 28 March, 2003, (http://www.findarticles.com/cf_0/m1175/1_32/53479124/p3/article.jhtml?term=).
2. Singer, “Sanctity of Life or Quality of Life,” *Pediatrics*, July 1983, pp. 128, 129.
3. “Living and Dying.”

Advocacy-jujitsu

Wesley J. Smith

We live in the age of the moral outlaw. Flouters of traditional morality, ethical rule breakers, even outright criminals, are some of our most famous and celebrated citizens. In contrast, those who serve humanity selflessly—whether because of religious values, the belief in the sanctity and the equality of human life, or simply a kind and good heart—remain generally little known and largely unheralded. Mother Teresa is the rare exception, not the rule.

If you think I am overstating the case, take this little test: Who is more famous—Jack Kevorkian or Cecily Saunders? Both are public personalities. Both are medical doctors. Both are associated with issues involving the suffering of dying people. Both have communicated their views widely in books and public forums. Yet Kevorkian, the moral outlaw, is almost universally known, while I am willing to bet that relatively few people have ever heard of Saunders.

In a better world, the exact reverse would be true. Saunders was one of the greatest humanitarians of the 20th century. As conceiver and founder of the modern hospice movement, she is responsible for alleviating depths of suffering that cannot be measured. The first modern hospice opened in London in 1967, and the movement spread from there around the world. Because of Saunders's dedication and indomitable energy, people dying from even the most painful diseases have the opportunity to die in comfort and peace, surrounded by a caring and loving community.

In contrast, what has Kevorkian's assisted-suicide campaign contributed to the betterment of the world? For eight years he thumbed his nose at the law and at Hippocratic medical values, as he helped kill more than 130 people—whose names Dr. Compassion once said he could not even recall. More than 90 of his victims were not terminally ill, and five, according to their autopsies, weren't even sick. On one occasion, he ripped out the kidneys of one of his disabled "patients" after the suicide, offering the organs to the world "first come, first served."

Kevorkian deserved calumny. Instead, he received world fame. He became an A-list media darling, appearing as a guest of honor at *Time* magazine's 75th anniversary party, where the mega movie star Tom Cruise

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ran up excitedly to shake his hand.

Kevorkian's notoriety is not a fluke. Dr. Ira Byock, hospice physician and author of the splendid *Dying Well: The Prospect for Growth at the End of Life*, told me a few years ago of being invited to debate suicide guru Derek Humphry in Florida. Byock, as head of the Missoula Demonstration Project of the Life's End Institute, is one of the most prominent researchers into improving end-of-life care. In contrast, Humphry came to public prominence by assisting his first wife to commit suicide, and then writing a book about it. He soon learned that moral outlawry pays. Humphry's how-to-commit-suicide guide *Final Exit* became a *New York Times* best-seller.

After the debate, Byock recalled, the press rushed to the dais to ask questions—rushed *past* Byock, that is, and excitedly surrounded the moral outlaw Humphry in search of juicy quotes. Byock was ignored despite the fact that by any responsible measure, it was he and not Humphry who could have provided useful information to the reporters' readers and viewers, news they could really use about how to get high-quality end-of-life care.

Now, consider Peter Singer. He too is a media magnet and proud moral outlaw. Indeed, as the father of radical animal-rights ideology and the world's foremost proponent of legalizing and legitimizing infanticide, Singer is world famous precisely because he wages implacable war against Judeo-Christianity, and the belief in human uniqueness and the sanctity and equality of human life. True, Singer's obvious talents as a writer and public speaker contributed greatly to his success. But can anyone say with a straight face that, had he applied these same prodigious gifts to promoting religion and the sanctity of life, he would be as well known throughout the world?

It is in this *Through the Looking Glass* environment that we must judge the propriety and usefulness of Harriet McBryde Johnson's "Unspeakable Conversations." It is remarkable that a strong anti-euthanasia message appeared in a mainstream media outlet with the prestige and influence of the *New York Times Magazine*. Better yet, the anti-euthanasia spokesperson was the star of the piece, a vivid presence in all her three-dimensional human glory. This is quite a change from the usual media treatment received by opponents of the "right to die." More often than not, the presentation of our perspective is limited to terse quotes provided for "balance" in pro-assisted-suicide articles, in which we may be depicted as tight-lipped naysayers who have little empathy for the dying or understanding of human suffering.

So, why the big change? Why did the editors of the *New York Times Magazine* not only publish Johnson's article but make it a cover story?

I believe it was because Johnson's article can be construed as defending Peter Singer. Rather than being the "monster" she expected, Singer is described

as being kind and courteous. He doesn't avert his eyes from Johnson because of her disability. His intellect is so formidable, his approach so seemingly pure, that she is emotionally disarmed. "Even as I am horrified by what he says, and by the fact that I have been sucked into a civil discussion of whether I ought to exist," she writes, "I can't help being dazzled by his verbal facility. He is so respectful, so free of condescension, so focused on the argument that by the time the show is over, I'm not exactly angry at him."

Indeed, Johnson is so smitten with Singer's persona that after his public lecture in her hometown of Charleston, she transfers her fury at Singer's views to the *audience* that "listened [to Singer's arguments] with polite interest, when in decency, they should have run him out of town on a rail." This point is highly ironic, given that *Johnson* is the one who, in the Q & A following his talk, had the polite and courteous public exchange with Singer—which she then followed with an equally polite, civil, and respectful high-profile article. No wonder the article was embraced by the editors of the *New York Times*!

Does all of this mean that Johnson should not have written the article? Absolutely not. Did she do more harm than good? To the contrary. *No* harm was done, and potentially significant benefits were achieved.

This is the bottom line: Johnson *used* Singer to send a powerful anti-euthanasia and pro-disability-rights message in much the same way that scientists harness the force of planetary gravity to keep satellites orbiting the earth. Without Singer's looming presence, the article never would have been published. Had Johnson ranted and raved that Singer was the devil incarnate, the article never would have been published. Had the article never been published, the many thousands of people who read the piece might never have considered the ultimate inhumanity of Singer's views—which Johnson ably reveals lurking just beneath his genteel surface.

But didn't her article "legitimize" Singer and help spread his views? Not really. His views already receive tremendous coverage, both through the publication of his own writing and through the ubiquitous reportage of his activities. As for legitimizing him, well—legitimacy is a hard thing to define, but my sense is that, like it or not, he is *already* legitimate.

This is upsetting, I know. And I wish it weren't true. But Singer, if not yet mainstream, is certainly no longer fringe. Many consider his views to be eminently worthy of respectful consideration. No doubt, Johnson sensed this. Why else would she have felt compelled to engage Singer in courteous debate about a question as odious as whether people such as herself "ought to exist"? Indeed, it is *because* of his views—not in spite of them—that Singer

is a tenured professor at Princeton University. It is because of what he believes that his books have become commonly used in university and college philosophy courses. It is because his perspectives and insights are in demand that he travels the world lecturing and is the frequent subject of high-profile media interviews. Good grief—he wrote the essay on ethics for the *Encyclopedia Britannica*! If that isn't "legitimate," I don't know what is.

So, let's face some hard facts. We who resist the views of Peter Singer may be the ones who should worry about public legitimacy. *We* are the ones depicted in the popular media as being out of step. *We* are the ones whose views are often ridiculed in our most prestigious universities. *Our* perspectives are the ones that are virtually invisible in the popular culture.

Too often, this means that defenders of the sanctity and intrinsic equality of human life are left preaching to the choir. On those relatively rare occasions when we are asked to appear in front of general audiences, we may speak to more empty seats than people. In such a cultural atmosphere, not only is there little to lose by using the popularity of the moral outlaw as a means to further our ends—which is what I think Johnson did—but there may be much to gain.

This was precisely the approach taken last year by the Center for Bioethics and the Culture (CBC), a think tank located in Oakland, California. (I work frequently with the organization as a special consultant.) Its mission is to facilitate "the integration of traditional Judeo-Christian values in bioethical decision making."

Since the CBC is a new organization, and one based in the San Francisco Bay area—not exactly a hotbed of sanctity-of-life activism—one of its first priorities was to raise its public profile. Toward this end, the CBC decided upon a bold and unconventional strategy: It invited—and paid—Peter Singer to publicly debate its executive chairman, the Christian theologian Nigel Cameron.

When Jennifer Lahl, founder and executive director of the CBC, called and asked me what I thought of the idea, I was taken aback. I said that to pay him an honorarium would be to reward him for wounding the very ethical principles that the founders of the CBC were working so hard to defend. Moreover, I warned, the debate would provide Singer with a platform from which to spread his noxious brand of utilitarianism, perhaps to people who would otherwise remain unaware of it.

The decision makers at the CBC had considered those points, Lahl told me, but she believed there was another way to look at it: Singer's notoriety would almost guarantee a large audience—many or most of whom would already be familiar with Singer but might not otherwise ever hear the CBC's

side of the argument. Moreover, the debate might attract media attention, perhaps opening doors to the CBC's views being presented in subsequent stories about bioethics-related public controversies. To put it bluntly, the presence of Peter Singer could put the CBC on the map.

As Lahl now recalls her thinking at the time, "I was frustrated with the feeling that traditional views and values had become passé and old-fashioned, while extreme, radical, and even offensive views were 'in' and thought to be 'enlightened.' And I believed that by bringing Peter Singer to town, specifically in a public debate format, we would force the public to actually engage these issues, in the hope that some would wake up to the public consequences that would follow if they were ever actually carried out."

Organizing the debate proved to be a stroke of brilliance. Six to seven hundred people attended. The disability-rights community demonstrated against Singer, providing a compelling condemnation of Singer's philosophy on other than religious grounds. The media were attracted to the event, bringing attention to the CBC that might have been otherwise unobtainable. Videotapes of the Cameron/Singer encounter have since been sent by the CBC to universities around the world.

Thanks in large part to the debate, representatives of the CBC are now regularly approached by the media, and Jennifer Lahl is often interviewed on radio and television, including on NPR. "We are now perceived as a serious organization," Lahl says. "And the debate was so successful we are in the midst of planning our next large-scale public event, a public forum, 'The Face of the Future: Technosapiens,' in which both sides of the genetic-engineering debate will discuss the pros and cons of using biotechnology for the purpose of human custom design."

Those of us who stand against the Singer tide face daunting challenges. The media tend to be biased against our perspectives. Given that we don't have the moral outlaw's ability to "make news"—we don't assist suicides, we don't break the law, we don't propose outrageous analogies such as cattle ranching being akin to chattel slavery—we are generally stuck in the reactive mode. Actually, I am not sure whether this is cause or effect: Our biggest problem may be that most people find it easier to whistle past the graveyard than to look clearly at the open grave that is the culture of death.

This cultural atmosphere presents us with tactical difficulties, to be sure. But with imagination, they can be overcome. So bravo to Harriet McBryde Johnson and Jennifer Lahl, who with their clever advocacy-jujitsu used the power and energy of the adversary to further their own laudable ends.

Singer and the Song

Jo McGowan

My thirteen-year-old daughter eats very little. Moy Moy is nearly five feet tall and weighs only fifty-six pounds. For the last eight years, Moy has been regressing. Her developmental age is now that of a four-month infant. Part of her condition (a neurological degenerative disorder) is a slow dis-coordination of the muscles needed to chew and swallow, so that, although she wants to eat, the effort is simply too much for her.

It is one of life's little ironies that I read the article about Professor Singer's encounter with Harriet McBryde Johnson this week, while my husband and I are trying to decide whether the time has come for Moy to undergo a gastrostomy—a surgical procedure to insert a tube directly into her stomach so that we can continue to feed her now that she can no longer feed herself. Professor Singer would have no trouble making the decision.

Or so he thinks. Professor Singer doesn't know Moy Moy.

Based on the facts—she cannot walk or speak or do anything whatever for herself and she seems to have no self-awareness—she would probably qualify for his definition of a waste of space. Our taking care of her is, in his words, “a little weird.”

But, as I say, he doesn't know her. He couldn't guess that her presence in our lives has transformed us, that she has brought us close to people we would never have known and now cannot think of life without. He couldn't imagine her magnetic charm, her delightful, adorable nature. He couldn't know that because of her, a school has been created in India which takes care of the needs of hundreds of children with special needs, employs nearly forty people, generates millions of rupees in donations and creates awareness and a sense of community in a way that no ordinary school ever could. She is a mini-Empire all on her own.

He also didn't know Shivani, one of Moy Moy's classmates. Shivani died last month, of starvation brought on by depression. Shivani had a severe mental and emotional disability. Her behaviour was erratic and often violent and she created chaos in her family. They were very poor and a year earlier, her father, an unemployed tailor, also suffering from depression, had committed suicide. Shivani was deeply attached to him and had been unable to adjust to life without him. She stopped eating gradually and slowly wasted away.

Jo McGowan is a columnist for *Commonweal* magazine. She and her family live in Dehra Doon, India, where she has founded Karuna Vihar, a school for children with special needs.

I tell both stories to make the point that, as Ms. Johnson insists, “disabled lives are not subject to debate.” Moy Moy is beautiful, easy and appealing (and well-off) while Shivani was beautiful, intensely difficult and poor; neither of them, however, need to justify their right to exist to Professor Singer, any more than he needs to justify his to me. His views offend me, but I don’t plan to suggest he be killed because he holds them.

In spite of his intelligence, Professor Singer has a limited understanding of the world and, it seems, little imagination. He has no idea of what the world would be like without Moy Moy and Shivani. None of us does, really, but those of us who, like me, once had only a peripheral understanding of disability and now have it as the centre of their existence, can testify to the before and after phenomenon with some authority.

My own “quality of life” has improved dramatically since Moy Moy’s birth, and not only because of the difference she herself has made to me, but also because of the many other people with disabilities I have met through her. I live differently now. I think I am a better person.

I agree with Ms. Johnson that people with disabilities are not here to provide awareness training to the rest of us. They are not here to inspire anything either: not love, not a sense of gratitude. Like the rest of us, they are just here. But, also like the rest of us, sometimes their presence *does* inspire: love, gratitude, generosity, kindness. I do not think I am being sentimental when I say that people with disabilities inspire, on average, more than people without. I have worked in the field of special needs now for nearly a decade. It used to amaze me that in every institution I visited, without exception, I would find a collection of truly wonderful people. Now I take it for granted.

While I admit that the profession attracts a certain type of person in the first place, it is also true that many character traits develop only through practice. People who make a habit of accepting others as they are, of valuing their efforts and championing their smallest achievements *become* people of depth and understanding. The world would be a poorer place without them.

In a recent column, Professor Singer says that he is not surprised by Catholic opposition to voluntary euthanasia and assisted suicide because Roman Catholicism is authoritarian, discouraging critical thinking in its followers. “Starting from the position that God has put us here on earth for a purpose, they see suicide as something like desertion from the military, except that the suicide is disobeying orders from the Supreme Commander. Voluntary euthanasia they regard as even worse than suicide, since it involves the intentional killing of an innocent human being.”¹ Whether I agree with his analysis of Catholic opposition or not, his criticism is a valid one. Many of

us do accept the teachings of the Church uncritically and it does no one any service. As a Catholic, I accept Singer's observation as a challenge to examine the assumptions I make, without even knowing I am making them. We all need to be called to account, to give reasons for things we profess.

In the same spirit, I challenge Professor Singer to look at his own assumptions. The moral validity of choosing abortion is a case in point. Abortion in some circles is such a sacred cow that it is difficult to honestly consider any proposal that questions its legitimacy. And if we accept abortion, as Professor Singer rightly points out, there is no reason not to accept infanticide. It's what we have been saying from the very beginning.

The problem here is in Professor Singer's *assumption* that the argument for abortion is so perfect as to admit of no further debate. This is far from being the case.

As it happens, however, I don't actually worry too much about Professor Singer's views. Whatever his reasons for propounding them—making his name in the world, a taste for controversy, a desire for excitement—when it came to the test, he couldn't practice them himself. His own mother, who was, by all accounts, a brilliantly intellectual woman and a physician with an active practice, has Alzheimer's. In spite of her expressed wish not to be allowed to live in such a state, should it ever come to that, Singer has not had her done away with. Instead he spends large sums of money providing her with round-the-clock nursing care, unassisted by Kevorkian or any of his colleagues.

However he justifies it in his own mind (he says "I think this had made me see how the issues of someone with these kinds of problems are really very difficult. Perhaps it's more difficult than I thought before, because it's different when it's your mother")², Singer cannot deny his generosity, his love, or his humanity.

Professor Singer is obviously a man of great sensitivity—he cares about his mother, about animals and about the environment. It seems inconceivable that he would not consider the possible consequences of his proposal to do away with handicapped infants, born or unborn. I would like to invite him to forget the fact that the lives we are discussing are human and simply think of them as mammals. As he well knows, ecosystems are nothing if not interdependent. The slightest disruption can have far-reaching and often disastrous effects. Usually these effects are things we would never have guessed.

In the Redwood forests of California, for example, large scale logging operations created havoc with the natural habitat of the spotted owl. The

spotted owl is what is known as a “keystone species”—an organism which plays a crucial role in its environment and whose removal results in massive ecological damage. As logging in the Redwoods continued and the spotted owl population declined, rodents increased, upsetting the delicate balance of the forest ecosystem and causing a ripple effect of destruction to other creatures and plant life. An interesting sidelight to this particular conservationist vs. big business battle is that the spotted owl’s habitat is also the home of the “Pacific yew,” a tree whose bark may hold the cure for ovarian, breast and lung cancer. Had conservationists not won the day for the owls, this potentially life-saving discovery for humans might never have been made.³

A more elegant example (if disabled babies are spotted owls, that makes Peter Singer a rodent) are the lichens, colonizing organisms which so enrich the soil that given their presence, even areas devastated by volcanic ash can eventually support life. Lichens are astonishing: they do not require nitrogen in the soil because they can get it from the atmosphere! Their fungus rots what biological matter there is, manufacturing the phosphorous that plants need to grow; they also hasten the disintegration of rock, yielding valuable nutrients in the process. Lichens are enormously important in arctic ecosystems and their destruction could have immense and catastrophic ecological impact.⁴

One of the interesting things about “keystone species” is their seeming insignificance to the unknowing eye. Spotted owls and lichens, forsooth! But it should come as no surprise. The stone which the builders rejected became the cornerstone.

Children with disabilities enrich our lives in ways we cannot begin to fathom. Those of us lucky enough to be ecologists in this particular ecosystem can make grateful lists of rocks they have disintegrated and nitrogen they have created from thin air; the rest—including Professor Singer—will have to take our word for it. These spotted owls are too important to do without. We don’t even know half of what we would be missing if they were not with us.

Life is wonderful and unpredictable and full of surprising twists and turns. Intellectual capacity and self-awareness are very well in their way, but they are not the beginning and the end. Brine shrimp, an endangered species whose habitat happened to be in the proposed path of a major railways project in California, were considered important enough that the railway was re-routed. No one was quite sure what might happen if they were eliminated and that doubt was what saved them.

Hooray for the conservative caution that errs on the side of life and

JO MCGOWAN

possibility. Three cheers for the brine shrimp who just might be another “keystone species.” And let’s hear it for babies like Moy Moy, about whom there is no doubt whatsoever. Damn everything but the circus!⁵

NOTES

1. *Free Enquiry*, 22 (2) 2002.
2. Interview by Michael Specter in *The New Yorker*, September 6, 1999.
3. *The Green Fuse: An Ecological Odyssey* by John Harte, University of California Press, Berkeley, 1993, pp. 93-94.
4. *Ibid*, p. 23.
5. e.e. cummings.



*The author, Jo McGowan, and her family:
(standing) husband, Ravi Chopra; children, Anand and Cathleen;
(seated) mother-in-law Karuna Chopra; Jo, and daughter Moy Moy*

Announcing . . . A Special Event



JAMES PATRICK MCFADDEN

The Human Life Foundation will host a fundraising dinner to support the *Human Life Review* on Friday, October 17, 2003, at the Union League Club, in New York City.

The date marks the fifth anniversary of the death of our founding editor, J.P. McFadden. We can think of no better way to honor his memory than by fostering support for the *Review*, which is his legacy.

We hope you will consider joining us for this special evening. William F. Buckley, Jr. will present a *Great Defender of Life* Award to the Honorable Henry J. Hyde, a friend of Mr. McFadden's, and a great friend of the unborn. Others who will toast the *Review* include Edward A. Capano, Nat Hentoff, Monsignor Eugene Clark, Michael Uhlmann and Mary Ward. For more information, please contact us at 212 685-5210.

Individual Tickets - \$200

Sponsor Table (listed in program) - \$2,000

Benefactor Table (listed in program) - \$5,000

APPENDIX A

[*Ned Rice is a staff writer for Real Time with Bill Maher. The following appeared on National Review Online on June 16, 2003 and is reprinted with permission.*]

The Great Compromise of 2003

Ned Rice

Fetal rights have been much in the news ever since either Scott Peterson or some unknown assailant in a brown van brutally terminated the lives of Laci and Conner Peterson at 324 and 8 months of gestation, respectively, last Christmas Eve. No longer can a vicious attack on a pregnant woman be dismissed with an airy, “Well, she’s dying for two now.” Instead, staunch abortion-rights activists are reluctantly acknowledging that the unborn might have certain rights—to a smoke-free environment, for example—while diehard pro-lifers, as it were, are said to be reconsidering embryonic research.

Abortion used to be such a simple decision. On one side of the birth canal you were a fetus, a blob of cells, a growth. On the other side of the birth canal—a distance of only a few centimeters, ideally—you were Junior, the blessed event, or our next contestant on *American Idol* with all the legal rights, privileges, and obligations thereof. The only thing missing was a velvet rope and a Eurotrash bouncer with a clipboard and a list on which your name either did or did not appear, depending on your degree of viability. As if even a full-term, healthy baby outside of the womb would be “viable” without being fed, burped, and changed every two hours.

Plus the pro-choice crowd had a fallback argument in defense of abortion-on-demand which could be filed under “Live and Let Live” if that weren’t so ironic: If you don’t like abortion, read their bumper stickers, then don’t have one. Which made about as much sense to the pro-life side as a bumper sticker reading, “If you don’t like rape, then don’t rape anybody.”

The birth of the fetal-rights movement roughly coincided with the era during which fetal alcohol syndrome and crack babies started showing up in America’s hospitals and pre-schools. In a world where an entire village might feel duty bound to raise a single child, it occurred to some that even a blob of protoplasm has the moral, if not the legal right to gestate in an amniotic environment relatively free of Jack Daniel’s.

But even this realization was slow in coming, as numerous hospitals learned when a federal court ruled against them in a privacy case last year. Nurses and doctors were informed that by law they could not notify the police when a woman arrived to deliver her baby more coked up than Gary Busey at his last three bachelor parties, regardless of the condition in which their newborns emerged. Then there was the case of the pregnant woman who decided to induce a miscarriage by going on a weeklong drug, alcohol, and cigarette-smoking binge which culminated in the poor creature throwing herself down a flight of stairs. Her self-inflicted mayhem failed to have the desired effect, although the other girls in the

sorority said it was the best Rush Week they'd ever been to. Rather than being tried for attempted murder, as some might have preferred, the woman was charged with a misdemeanor and later gave birth to a normal, healthy child she's currently raising in a loving and secure atmosphere just steps away from a major freeway.

Meanwhile, several state legislatures have ruled that compensation for the negligent death of a pet—due to an auto accident, say, or to a veterinarian's error—need not be limited to the purchase price of the pet, but can be a considerably higher sum. This is based on the understandable belief that a pet is not mere property, but an actual family member. With that in mind a number of state and federal lawmakers have begun to introduce new legislation regarding fetal rights. Their apparent, controversial goal is to create a legal environment in which an unborn human baby enjoys the same legal rights as does a dog.

Having secured the family pet's rights to life, liberty, and the pursuit of cars, what have state legislatures accomplished to date on behalf of the unborn? As of today 28 U.S. states have laws which regard a homicidal act involving a fetus to be a crime. Within this pro-life confederacy some 14 states have fetal-homicide laws which apply from the moment of conception. The inconvenient fact that such statutes are irreparably at odds with current abortion law is explained by Congresswoman Melissa Hart (R., Pa.), who tells us that the Unborn Victims of Violence Act only applies in cases where the mother-to-be wants the child. Which is to say, if two identical fetuses at the exact same stage of development are killed, one of whose mother's desires a live birth and the other whose does not, the first act would be considered murder and the second a routine medical procedure. Asked to account for this gaping deductive leap, pro-choice advocates tend to respond, "Hey, if you don't like abortion, don't have one."

Thus the debate over fetal rights has placed pro- and anti-abortion forces on a collision course which threatens the very bonds of our great nation. Reasonable people (at least on this side of the birth canal) can find merit in each of their arguments, yet it seems inevitable that one side or the other must prevail. Especially as advances in embryonic technology and prenatal medicine, respectively, yield new insights such as the recent discovery that extremely young fetuses can feel pain (which led to the perfectly serious suggestion that perhaps the unborn could be anesthetized prior to being aborted).

It would seem that some compromise between the two sides will have to be forged in order for the peculiar institution known as abortion to be retained. One in which the unborn fetus is not granted full personhood, which would preclude its termination, but rather some fraction of legal personhood in recognition of its right to gestate in relative safety until such time as its mother either A) gives birth or B) terminates the pregnancy. This would seem to satisfy abortion abolitionists and abortion proponents to the fullest extent possible within current law.

For the sake of simplicity, let us agree upon some arbitrary fraction of full personhood—say, three-fifths—to be assigned to each unborn fetus. This should ensure that the unborn—and can we please start calling them "pre-persons"?—

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will be able to exist relatively free from the deleterious effects of drugs, alcohol, tobacco, amusement-park rides, X-rays, and wayward haymakers from common-law dads-to-be with half a bag on. By the same token, what reasonable person could object to the termination of a living entity which, however adorable, is a mere three-fifths of a potentially reasonable person?

Granted, every fetus is the result of reproductive activity between either a man and a woman or two lesbians, a gay guy who lives down the hall, and a turkey baster. Also, an unborn fetus shares the same D.N.A. and other physical characteristics as each of its undoubtedly human parents. In fact, it could even be argued to some effect that an unborn fetus is more or less a real person in a relatively early stage of development.

Even so, it's not as if we're talking about an actual human being here, is it?



"Once again, this is no job for Cowardman."

APPENDIX B

[Cathleen A. Cleaver, Esq. is Director of Planning and Information for the Secretariat for Pro-Life Activities of the U.S. Conference of Catholic Bishops. The following is reprinted with permission from the March 23-29, 2003 issue of the National Catholic Register.]

In Hillary Clinton vs. Santorum, the Babies Won

Cathleen A. Cleaver

“Where are the swollen heads?” asked Sen. Hillary Clinton.

This was a rhetorical question by which the senator from New York intended to make a point on the floor of the U.S. Senate during the debate over the partial-birth abortion ban. Clinton was accusing Sen. Rick Santorum, R-Pa., of trying to deceive the public by showing a “perfect” (her word) baby in his color sketches depicting the gruesome procedure.

“Where are the brainless heads?” she went on. “Where are the hearts and lungs growing outside of the body?”

We owe a great debt of gratitude to Santorum for the way he handled this offensive line of questioning and, indeed, the entire debate. With a brilliant mix of force and grace, he first reminded Clinton the sketches represent the typical partial-birth abortion case, where there are no health issues for either the mother or the baby. The “vast majority” of these abortions are done in the fifth and sixth months of gestation and beyond on “healthy mothers with healthy fetuses,” in the words of Ronald Fitzsimmons, the executive director of the National Coalition for Abortion Providers. It would be deceptive to present visual aids suggesting otherwise.

But then Santorum took up Clinton’s challenge, saying he’d be happy to produce new posters that depicted the atypical case, where the baby being killed by partial-birth abortion had obvious physical defects. These children, too, fall within the protections of his bill, he said. It is not only the “perfect” children who deserve to be protected from intentional death during birth. Why, he turned the question on her, would she suggest children with disabilities be appropriate candidates for this procedure? Do their disabilities make them less human? Would her distinction fly under the Americans with Disabilities Act?

Hillary Clinton was hoist by her own petard, as they say. It was a beautiful thing.

But the argument is made again and again that partial-birth abortion is a necessary evil—necessary because of the minority of circumstances where a pregnancy has gone tragically wrong, where a woman learns her child is diagnosed with a severe or lethal abnormality.

What of these cases? First, genetic or other abnormalities in the fetus pose no threat to a woman’s life or health. This is true for hydrocephaly, anencephaly, polyhydramnios, trisomy and other abnormalities that have been used to justify a need for partial-birth abortion. In all these cases, the pregnancy can be brought to term and the child delivered, whether by induction or C-section, with no long-term adverse health effects to the mother. With the advances in perinatal medicine this is simply established medical fact.

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But there is another argument that can appear compelling: Why make a woman carry a pregnancy to term only to prolong the anguish of knowing that her child will die at birth or shortly thereafter? Isn't it kinder to her to allow the abortion? Studies—preliminary though they may be—say No. When looking at psychological complications of so-called therapeutic abortions, a disproportionate number of complications were related to abortions that were sought for fetal abnormalities. Psychological stress related to fetal anomalies is significantly greater for women who abort than for those who wait and deliver their babies, even if death soon follows.

So, far from relieving the anguish, this type of abortion appears actually to prolong it. The argument that partial-birth abortion provides some benefit in these tragic cases is false, and women should not have to bear the psychological burden that is the result of such flawed reasoning.

There is a better way. Physicians and nurses committed to authentic care can provide a genuine alternative to the destruction wrought by partial-birth abortion. Perinatal hospice provides the time and resources needed to support the family and infant through the ambivalence and anguish associated with bringing the pregnancy to term. It is a form of care that emphasizes the value of these children, even if they are destined for an early death, with very positive results.

Partial-birth abortion promises nothing but pain, for everyone involved. It is not disputed that babies at this stage of development are extremely sensitive to pain. One neurological expert testified that a partial-birth abortion was a “dreadfully painful” experience for the unborn child.

Women who undergo partial-birth abortions experience the physical pain of days of forced dilation and the psychological pain of being present at the destruction and disposal of their baby. No compassionate person wants to see a woman suffer the personal tragedy of abortion, and those who experience an abortion later in pregnancy are especially vulnerable to post-abortion trauma.

Not one single abortion is prohibited by law today—not one. The Supreme Court in *Doe v. Bolton*—the case decided on the same day as *Roe v. Wade*—ruled that state laws cannot prohibit abortions, no matter when in pregnancy, if sought for a health reason. The court defined “health” to include: “all factors—physical, emotional, psychological, familial and the woman’s age . . . relevant to the well-being of the woman.” It is the quintessential exception that swallows the rule.

The United States has the most radical abortion laws in the world, short of China, which forces women to abort their children. Banning partial-birth abortion is a modest but important step—a step Americans in overwhelming numbers want their government to take, as polls have shown again and again. With the Senate’s recent passage of the ban, we are one step closer to this goal.

APPENDIX C

[*Nelson Lund is a professor at the George Mason University School of Law. The following first appeared on National Review Online April 28, 2003 and is reprinted with permission.*]

Roe v. Wade & Bush v. Gore

Nelson Lund

Senate Democrats have decided to filibuster the president's nomination of Priscilla Owen to a federal court because they believe her to be a conservative "activist," especially on the issue of abortion.

Sounds scary, but have you seen the judicial *mainstream* lately? Sen. Dianne Feinstein (D., Calif.) has; here's what she says about its importance: "President Bush did not have a large mandate. There is no mandate, in my view, to skew the courts to the right. And so I think you're going to see a Judiciary Committee that's really going to be looking for mainstream judges . . . There are points that many of us feel passionately about, one of them being *Roe v. Wade*."

One can hear in these words a muted echo of Yale professor Bruce Ackerman's remarkable suggestion that the Senate should refuse to confirm *anyone* nominated to the Supreme Court by President Bush. Why? Because he was illegitimately installed in office by a conspiracy of right-wing justices in *Bush v. Gore*, the decision that stopped the controversial Florida recount.

There is a real connection between *Roe v. Wade* and *Bush v. Gore*. It's common knowledge that abortion politics has played a huge role in judicial-selection battles for many years. Justice Byron White (appointed by President Kennedy) could not be nominated by a Democrat today—he called *Roe* an improvident and extravagant exercise of raw judicial power. What is less well-known is that much of the academic legal establishment is making a determined effort to discredit *Bush v. Gore*, and to vilify the five justices who joined the majority opinion. The demand for blind obeisance to *Roe* and the assault on *Bush* are both part of an Orwellian project: To recast judicial fidelity to the law as "right-wing politics," while also redefining extreme forms of judicial activism as "the mainstream."

The stakes in the battle are high, and go beyond the fate of any one nominee. They even go beyond the issue of abortion. The real question is whether we are to get judges committed to applying the law, or judges who treat the law as a game in which the winner gets his policy views enacted as judicial decrees. If the Democrats' filibuster strategy succeeds, judicially created abortion rights will certainly be safe for the moment, but no rights—and no laws—will long be secure from cynical judicial manipulation.

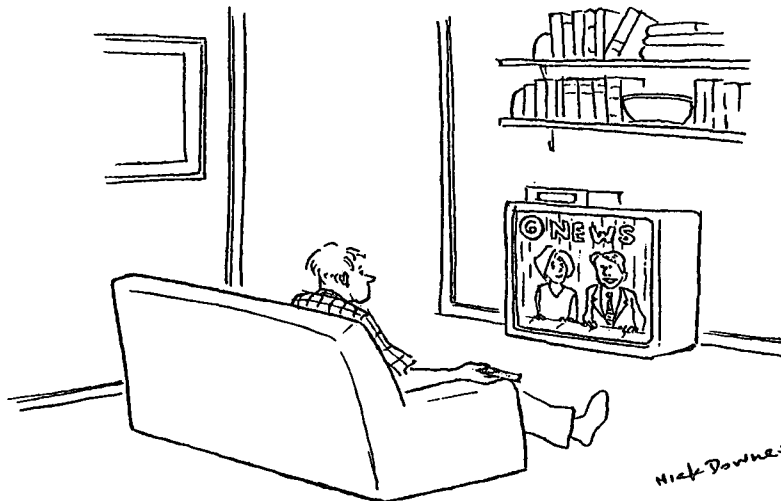
Bush v. Gore provides an illustration. The majority opinion applied well-settled precedents from the Warren Court in a perfectly straightforward fashion, and none of those dissenting could explain why those precedents were inapplicable. Instead, they criticized the majority on *political* grounds. Justice Breyer, for example, admitted that the Florida recount was unconstitutional, but argued that the U.S. Supreme Court should have let it proceed anyway. Why? "Above all, in this highly

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politicized matter, the appearance of a split decision runs the risk of undermining the public's confidence in the Court itself."

Justice Breyer's attitude should not be confused with judicial restraint. Just a few months before *Bush v. Gore*, for example, Breyer himself had authored an opinion in which the Court considered an effort by Nebraska to ban "partial-birth abortions" without violating the dictates of *Roe v. Wade*. Thirty states and both houses of Congress had passed similar laws, because millions of American citizens (including the late Daniel Patrick Moynihan) regarded this practice as verging on infanticide. Breyer and four of his colleagues frustrated their efforts by adopting an interpretation of the statute that had been rejected by Nebraska's attorney general and was never adopted by its courts. Using this far-fetched interpretation, the Court manufactured a phony conflict between Nebraska's law and *Roe v. Wade*. Presto! Partial-birth abortion was protected, and the judicial "mainstream" took another lurch toward the outer limits of civilized conduct.

Breyer's approach is based in a theory deeply embedded among sophisticated legal elites. That theory essentially holds that the law is whatever judges say it is, and that judges should "improve" the laws that have actually been adopted in the Constitution and in the statutes enacted by our elected representatives. This idea—that the validity of judicial decisions depends on the merits of the policy outcomes to which they lead—is already the mainstream view in American law schools. Senate Democrats appear determined to ensure that it becomes the mainstream view among American judges as well. If they prevail, our judicial institutions will stop being courts in anything but name. At that point, we should really start asking why these politicians-in-robles should enjoy life tenure and why they should get the last word on so many important policy issues.



"For more information on this story than it merits, log on to our website, at . . ."

APPENDIX D

[Kathryn Jean Lopez is the editor of National Review Online (www.nationalreview.com) and an associate editor of National Review. A version of this appeared in the May 18-24 issue of the National Catholic Register and is reprinted with permission.]

Conner on Our Minds—and in Our Laws

Kathryn Jean Lopez

We're all innocent until proven guilty, including Scott Peterson.

Now that the Iraq war is over, press attention has turned to him and his culpability in the murder of his wife, Laci, whose body was discovered on Good Friday after she had been missing since Christmas Eve. The story has been unanimously assumed by most of the media and most Americans. But what about Conner, the Petersons' already-named unborn son, whose fully developed body was also discovered by police washed up on a California shore?

By California law, Conner is as much a person as his mother, Laci. Because of the Golden State's fetal-homicide law, Scott Peterson could face capital-murder charges in the killing of both his wife and unborn son. But Conner would not be considered a legal person in every state. Currently only (but at least) 26 states have laws on the books that recognize the non-abortion-related killing of an unborn child as a homicide.

While Americans—or at least the media—have their attention fixed on the Peterson case in California, Congress should act on the Unborn Victims of Violence Act, now known as Conner's Law, making Conner the poster-child of a federal law recognizing the legal lives of future Conners. Passage of the Unborn Victims of Violence Act would ensure unborn children killed in the commission of a federal crime against pregnant women would be treated as legal persons by the law.

Sen. Mike DeWine, R-Ohio, in the Senate and Rep. Melissa Hart, R-Pa., in the House of Representatives have already reintroduced the bill. The president has asked that Congress pass the legislation this year.

"The president does believe that when an unborn child is injured or killed during the commission of a crime of violence, the law should recognize what most people immediately recognize, and that is that such a crime has two victims," White House Press Secretary Ari Fleischer said in April.

But there is no guarantee of smooth sailing to passage for the Unborn Victims of Violence Act.

Pro-abortion groups, who at least will take a stand against violence against pregnant women, are vociferously opposed to legislation that would allow unborn victims of non-abortion-related homicides any legal status. Such laws—the Unborn Victims of Violence Act, specifically—"threaten women's rights" National Abortion and Reproductive Rights Action League (recently renamed NARAL Pro-Choice America—or, Our World Revolves Around Abortion, But We'll Never Admit It) has said.

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But the pro-abortion groups are not too enthusiastic to rally in opposition to the Unborn Victims of Violence Act right now—which is precisely why they should be made to face their own positions.

In regard to the Peterson case, in the days immediately after the two Peterson victims' bodies were discovered, separately, a National Organization for Women chapter head from New Jersey blurted out her true feelings—and the party line. Marva Stark told the press, protesting a possible Peterson double-murder charge: "If this is murder, well, then any time a late-term fetus is aborted, they could call it murder," she said.

Stark's position was wholly consistent with everything her gals support—they're against fetal-protection laws, they've long avoided using the words "pregnant mother." They very clearly oppose the Unborn Victims of Violence Act. Never give an inch to protecting innocent life from death.

But in the Peterson case, the pro-abortion sorority did not want to be so obvious, with the image of Laci and talk of Conner on television sets and news stories—and makeshift memorials dedicated to them both. However much they agreed with her sentiments, Stark's sisters in pro-abortion feminism quickly fell silent, therefore, knowing the emotion surrounding the Peterson case would make their political position simply untenable.

After all, as one poll recently revealed, 84 percent of registered voters nationwide agree that a double-homicide charge is appropriate in the Peterson case. Most people see the homicide of a pregnant woman as a crime with two casualties. That's too much for the pro-abortion movement to handle. So much for Laci's right to choose.

In a letter supporting the legislation, the family of Laci Peterson—Conner's maternal relatives—writes: "As the family of Laci Peterson and her unborn son, Conner, this bill is very close to our hearts . . . Knowing that perpetrators who murder pregnant women will pay the price not only for the loss of the mother but [also] the baby as well will help bring justice for these victims and hopefully act as a deterrent to those considering such heinous acts."

To use the Peterson case as an opportunity for passage of the Unborn Victims of Violence Act this year would not be the scoring of a cheap political point for the pro-life movement but would be an opportunity to codify a life-affirming law. We owe it to the late Conners of the world.

APPENDIX E

[Lawrence B. Lindsey, former director of the White House National Economic Council, is president and CEO of the Lindsey Group. The following originally appeared in the April 28, 2003 issue of the Weekly Standard and is reprinted with permission. © Copyright 2003, News Corporation, Weekly Standard, All Rights Reserved.]

The U.N. vs. Adoption

Lawrence B. Lindsey

It's been several months since I last thought about Benjamin and Elizabeth. It hit me as our older children were headed off to school. Elizabeth would have been in first grade in our local elementary school and Ben would be getting on the bus in September headed to kindergarten.

Had it not been for the United Nations, Benjamin and Elizabeth would have been my children. Now that the United States is considering letting the U.N. run social services in postwar Iraq, perhaps their story should be told.

Benjamin and Elizabeth (our legal names for them had we been successful in adopting them) were orphaned by the fighting in Kosovo. Although American and other allied forces manage the political and security arrangements in Kosovo, the United Nations is responsible for social and humanitarian services. When it comes to child welfare, this means UNICEF.

We have a close friend, a nurse, who was supplying medicine and equipment to the village hospitals and clinics in Kosovo back in 1998. She happened upon Ben and Elizabeth in an orphanage in Pristina, the capital. Most orphaned children in that conflict were adopted by family and other clan members, but there were thousands of such children, and some like Ben and Elizabeth had no close relatives. Others were the product of rapes committed by Serbian soldiers during their brutal occupation of the country, whose parentage made them outcasts and unadoptable.

Our nurse friend approached the doctors in the orphanage and the local town leadership about these children. Given the children's bleak prospects, they were enthusiastic about adoption by an American couple, and helped petition the administrators of the orphanage.

The head of the orphanage, a French national in her late twenties, made her objections quite clear. "As long as I am in charge of this orphanage, no Americans will adopt any of the children here. These children will remain in country." The "in country" she preferred to America for these children was a poor, war-ravaged nation policed by foreign soldiers.

At first we thought this attitude simply reflected the prejudices of yet another of the left-wing European bureaucrats who staff most of the United Nations. So we began calling UNICEF officials in Geneva and New York, and writing letters to any seemingly appropriate official we could find on the U.N. website. As Americans we take for granted the process of accountability known as "petitioning for redress of grievances."

Never mind that ordinary Americans provide the overwhelming majority of

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non-governmental support for UNICEF. The “power of the purse” does not exist. Nor are basic notions like accountability and the democratic rights of ordinary people part of the U.N. bureaucracy’s worldview. It took eight months and serious behind-the-scenes pressure for us to get our first, and only, response.

As it turns out, the French head of the orphanage was not merely enforcing her own anti-American prejudice. It is the official policy of UNICEF and the United Nations to permit no transnational adoptions wherever the U.N. has jurisdiction. This is the reality of U.N. “humanitarianism.”

The ravages of Saddam Hussein and the Iraq war have doubtless left thousands of orphaned Iraqi children. Ideally, family members and other Iraqis able to support these children will take them in. But the realities of a poor, war-torn country mean that many will not find loving homes in Iraq. There are countless families in America and elsewhere who would be thrilled to adopt these orphans. These include Iraqi-American families. But they will not be allowed to if the United Nations has any say in the matter.

Things worked out well for our family. In December 2000 we adopted Thomas Lindsey on his first birthday. He was also a product of the war in Kosovo. But because his mother walked across the border to Macedonia while nine months pregnant, she and baby Thomas escaped the clutches of the U.N. bureaucrats. Thomas is now 3 and thriving. Last week when we were watching the news he said that he wanted to see President Bush again. When we asked why, he said, “He looks like he needs a hug.”

Thomas was lucky; Benjamin and Elizabeth were not. Official United Nations policy needlessly condemns thousands of children to difficult futures in poor and war-ravaged countries. Some feel that it is necessary to give the U.N. a humanitarian role in postwar Iraq in order to rehabilitate that organization. Given the reality of its allegedly “humanitarian” policies, not to mention the widespread corruption and arrogance that accompanies its administration, it is fair to ask whether rehabilitation is possible.

Our government must decide whether geopolitical objectives require us to turn part of the administration of postwar Iraq over to the U.N. At a minimum, we should ask Prime Minister Blair and others who advocate this policy whether they really want to condemn thousands of Iraqi children to the same fate as Benjamin and Elizabeth.

APPENDIX F

[William L. Saunders is senior fellow and director of the Center for Human Life and Bioethics at the Family Research Council. The following appeared in *Building a Culture of Life: 30 Years after Roe v. Wade*, published in 2002 by FRC. Reprinted with permission.]

Cloning in Light of the Nuremberg Code

William L. Saunders

On February 13, 2002, President George W. Bush's Council on Bioethics (which was established to advise the president on bioethical issues that may emerge as a consequence of advances in biomedical science and technology) held its second round of meetings. The topic was cloning. The principal witness was Irving L. Weissman, M.D. Professor Weissman teaches biology at Stanford University and is a prominent researcher working with adult stem cells. He is also the main author of a recent report published by the National Academy of Sciences on human cloning. The report came to two conclusions: First, that "Human reproductive cloning should not now be practiced. It is dangerous, and likely to fail." Weissman himself refers to bringing a cloned human being through the embryonic and fetal stages to live birth as "reproductive cloning." For our present purpose I will refer to this as "live-birth cloning." Secondly, that "The scientific and medical considerations that justify a ban on human reproductive cloning at this time are not applicable to nuclear transplantation to produce stem cells."¹ I will refer to this as "experimental cloning." Here, a human embryo is created from whom stem cells are "harvested," resulting in the death of the embryo.

Nazi Research v. Experimental Cloning

During questioning by members of the council, Professor Weissman stated that he opposed "live-birth" cloning because to support such cloning would violate the Nuremberg Code.² The Nuremberg Code is, of course, a body of ethical norms enunciated by the Nuremberg Tribunal, which, following World War Two, had the responsibility of judging the actions of the Nazis and their allies. The point of the code was to restate and apply the established ethical norms of the civilized world. It is universally accepted today.³

As we know, the Nazis killed from six to nine million people, most of them Jews, in extermination or "death" camps. Nazi laws had "defined" Jews and other "undesirables" as nonpersons. Eventually, these undesirables were sent to the camps for extermination. However, before the killing in the camps began, the Nazis had engaged in an extensive campaign of euthanasia against the mentally and physically handicapped, which not only foreshadowed but also prepared the way for the extermination camps. Robert Jay Lifton, in his book *The Nazi Doctors*, notes that the crucial work in that process was *The Permission to Destroy Life Unworthy of Life*:

[It was] published in 1920 and written jointly by two . . . German professors: the jurist Karl Binding . . . and Alfred Hoche, professor of psychiatry at the University

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of Freiburg. Carefully argued in the numbered-paragraph form of the traditional philosophical treatise, the book included as “unworthy life” not only the incurably ill but large segments of the mentally ill, the feebleminded, and retarded and deformed children. . . . [T]he authors professionalized and medicalized the entire concept; destroying life unworthy of life is “purely a healing treatment” and a “healing” work.⁴

Nazi officials announced that “under the direction of specialists . . . all therapeutic possibilities will be administered according to the latest scientific knowledge.”⁵ The result of this therapeutic treatment of “inferior” lives was that “eventually a network of some thirty killing areas within existing institutions was set up throughout Germany and in Austria and Poland.”⁶ Essentially, the Nazis were determined to “cleanse” the genetic pool simply to produce “better” Aryans. In their book *The Nazi Doctors and The Nuremberg Code*, George J. Annas and A. Grodin reveal that:

At the same time that forced sterilization and abortion were instituted for individuals of “inferior” genetic stock, sterilization and abortion for healthy German women were declared illegal and punishable (in some cases by death) as a “crime against the German body.” As one might imagine, Jews and others deemed racially suspect were exempted from these restrictions. On November 10, 1938, a Luneberg court legalized abortion for Jews. A decree of June 23, 1943, allowed for abortions for Polish workers, but only if they were not judged “racially valuable.”⁷

Later, the Nazis created the extermination camps for the Jews and other “inferior” races. In the camps, Nazi doctors engaged in inexplicably cruel experiments on the Jews, gypsies, Poles, and others. They exposed them to extreme cold to determine the temperature at which death would occur. They injected them with poisons to see how quickly certain elements (lethal to the subject) moved through the circulatory system. They subjected twins to all manner of disabling and brutal experiments to determine how genetically identical persons reacted to different conditions.

Were these experiments “inexplicable”? After all, some of the experiments were designed to preserve life—not the lives of the subjects but, for example, of pilots who were forced to parachute into freezing ocean waters. The purpose of such experiments, in other words, was to yield a human good. The end justified the means.

Professor Weissman, undoubtedly, does not believe his views have anything in common with those of the Nazis. Indeed, he would most certainly be offended at the suggestion that they might. But do they?

If human embryos are human beings, then human embryonic stem cell research (during which the stem cells of embryos are “harvested” and the embryos are killed) violates one of the cardinal principles of the Nuremberg Code—there is to be no experimentation on a human subject when it is known a priori that death or disabling injury will result.⁸ Likewise, experimental cloning, which creates embryonic human beings but destroys them in the process of removing their stem cells, violates the Nuremberg Code. Regardless of the good that might be produced by such

experiments, the experiments are of their very nature an immoral use of human beings, and justify the opprobrium of the civilized world. We should not use the results of such experiments any more than we would use the results of the Nazi experiments on the Jews, gypsies, and others. To hold otherwise is, effectively, to repudiate the Nuremberg Code, the very standard upon which Professor Weissman and the National Academy of Sciences rely to reject live-birth cloning (which they judge to be too dangerous for the cloned subject).⁹

The only way that Professor Weissman can attempt to distinguish the two cases of Nazi research and experimental cloning is to maintain that the latter does not destroy human beings. Is that persuasive?

The Debate over the Status of the Human Embryo

It does not take an advanced scientific degree to know when human life begins.¹⁰ It begins in one of two ways: either in the normal way, or sexually (that is, when a female oocyte, or egg, is fertilized by a male sperm cell) or, as with cloning, asexually (that is, when the nucleus of an oocyte is removed and is replaced with a nucleus from another cell, after which an electrical stimulus is applied).¹¹ In either case, from that moment forward, there is a new human organism. It is genetically complete. From the first moment, the new single-cell organism directs its own integral functioning and development. It will proceed through every stage of human development until, one day, it looks like we do. It will grow and develop, and it will change. But it will undergo no change in its nature. In other words, there is no chance it will grow up to become a cow or a fish. It is a living human being—its nature is determined—from the first moment of its existence.¹² As the renowned ethicist Paul Ramsey observed, “The embryo’s subsequent development may be described as a process of becoming what he already is from the moment of conception.”¹³

This is the fundamental scientific truth upon which all our moral analysis must be built. If we obscure this fact, it is impossible to think clearly about these issues. Sadly, many proponents of cloning and stem cell research are engaged in an enterprise to do just that—to obscure the fact that the human being begins as a single-cell zygote, grows through the embryonic stage and through the fetal stage, is born and grows through the infant stage, develops through childhood, matures through adulthood, and then dies. It was the same being at every stage, though it looks different at each stage. Professor Weissman admitted as much when testifying before the President’s Council on Bioethics. Council-member Robert P. George asked: “Would it be fair to say that before [the adult stage and before the adolescent stage and before the fetal stage] Dr. Kass was in the blastocyst stage?” To which Dr. Weissman replied: “For sure.” Think of your own “baby pictures”—you don’t look like that today. But you are still the same person. As Dr. John Harvey from the Georgetown Medical School’s Center for Clinical Bioethics observed, “a human being is unchangeable and complete only at the moment of death”!¹⁴

Nevertheless, cloning advocates pretend that the embryo prior to implantation in the mother's womb is somehow fundamentally different—different in its very nature—from the embryo after implantation. In doing so, they continue a long and unhappy chapter in which, I am sad to report, ethicists, scientists, and medical doctors played a role. It started with abortion.

Development of the Term “Pre-embryo” to Undermine Human Life

In 1970, *California Medicine*, the then-official journal of the California Medical Association, argued in an editorial titled “A New Ethic for Medicine and Society” that in order to advance abortion, it was necessary to change traditional Western ethics. The article acknowledged this was a difficult task, and argued that “semantic gymnastics” were necessary: “The result [of separating the idea of abortion from the idea of killing] has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death.”¹⁵ In other words, the principal strategy to advance abortion was, from the beginning, to deny the basic scientific facts about when life begins.¹⁶

This same strategy has long been evident in the debate over the status of the human embryo. A few decades ago, the idea of the “pre-embryo” was advanced. This is a very odd term, since an embryo is an embryo from the first day of its single-cell existence. Before implantation, of course, one might say the embryo was “pre-implantation.” But, does implantation in the womb—which provides the tiny embryo with a safe home and nutrition—effect a change in the nature of the thing that implants? Experts in embryology are agreed that it does not. For instance, renowned authority on embryology, Ronan O’Rahilly, notes, “The term ‘pre-embryo’ is not used . . . for . . . it may convey the erroneous idea that a new human organism is formed at only some considerable time after fertilization.”¹⁷ So why was the term “pre-embryo” invented? O’Rahilly provides the answer, “[The term] was introduced in 1986 largely for public policy reasons.”¹⁸

Biologist Lee Silver of Princeton University notes:

The term pre-embryo has been embraced wholeheartedly by IVF [in-vitro fertilization] practitioners for reasons that are political, not scientific. The new term is used to provide the illusion that there is something profoundly different between a six-day-old embryo and a sixteen-day-old embryo. The term is useful in the political arena—where decisions are made about whether to allow early embryo experimentation—as well as in the confines of a doctor’s office where it can be used to allay moral concerns that might be expressed by IVF patients.¹⁹

Thus, we can see in the history of the term “pre-embryo” that it was developed and used largely, if not exclusively, to mislead; to hide scientific facts about the beginnings and unity of human life; to bolster support for a new reproductive technology; and to gain funding for experiments on human embryos.

Though the term “pre-embryo” is dead and gone, its “spirit,” one might say, lives on. We find it today in the cloning debate, as we found it a few months ago in the debate over human embryonic stem cell research.

Semantic Gymnastics Aside, Cloning Is Cloning

As the debate began over human embryonic stem cell research, proponents claimed they did not wish for human embryos to be created in order to be destroyed during experimental cloning (called “special creation”). Rather, they wanted to extract stem cells from “excess embryos,” those locked in freezers in IVF clinics with little likelihood of being implanted in a woman’s womb.²⁰ Today, those who wish to subject newly created cloned human embryos to destructive experimentation must confront their prior claim. If they meant what they said during the stem cell debate and did not wish to create embryos specially to destroy them, they cannot support experimental cloning, for that is exactly what experimental cloning does.

What, then, did the cloning proponents do? First, they claimed a difference between “therapeutic cloning” and “reproductive cloning.” As we saw above, however, all cloning, by producing a new human embryo, is reproductive. “Therapeutic cloning” is the very opposite of therapeutic. If it were “therapeutic,” it would, by definition, have to be beneficial, or potentially beneficial, to the subject of the experiment. However, since “therapeutic cloning” results—every time—in the death of the cloned human being who is the subject of the experiment, it is the very opposite of “therapeutic.” It is, indeed, non-therapeutic.²¹

Cloning proponents, who had hoped that the use of the adjective “therapeutic” would confuse the public, were disappointed when opinion polling demonstrated that the public rejected cloning—for whatever reason and despite the adjectival modifier “therapeutic.”²² So what did they do? They shifted tactics. Since the public did not like “cloning,” cloning proponents decided, with breathtaking audacity, simply to call it something else. At first, they renamed it “somatic cell nuclear transfer,” hoping no one would notice that “somatic cell nuclear transfer” was the very definition of cloning. Of course, it was noticed; so they shifted again. Now they call cloning “nuclear transplantation to produce stem cells.” Notice how misleading this is. Cloning involves a process by which the nucleus of an egg cell is removed and a nucleus from another cell in the human body (a somatic cell) is transferred into the egg. Again, as with “somatic cell nuclear transfer,” nuclear transplantation—i.e., the transfer of a nucleus from a somatic cell into the enucleated egg cell—is simply another name for cloning. To pretend that the term “nuclear transplantation” involves something different from cloning—when the process results, and is intended to result, in a new, living human embryo who is the genetic duplicate of another—is simply dishonest. Worse, cloning proponents added the modifier “for the purpose of producing stem cells.” But, as shown above, the purpose is irrelevant—the process produces a cloned human embryo. Stem cells will only be “produced” by the subsequent and deliberate destruction of that embryo.

APPENDIX F

The semantic gymnastics of the cloning proponents is not a new tactic. In another context, George Orwell, the author of *1984* and *Animal Farm*, spoke about this kind of deliberate obfuscation in his essay, "Politics and the English Language:"

In our time, political speech and writing are largely the defense of the indefensible. . . . [P]olitical language has to consist largely of euphemism, question-begging and sheer cloudy vagueness. Defense-less villages are bombarded from the air, the inhabitants driven out into the countryside, the cattle machine-gunned, the huts set on fire with incendiary bullets: this is called pacification. Millions of peasants are robbed of their farms and sent trudging along the roads with no more than they can carry: this is called transfer of population or rectification of frontiers. People imprisoned for years without trial, or shot in the back of the neck or sent to die of scurvy in Arctic lumber camps: this is called elimination of unreliable elements. Such phraseology is needed if one wants to name things without calling up mental pictures of them.²³

Guarding Ourselves Against Committing "Inhuman Acts"

I submit that this "defense of the indefensible" through misleading euphemism is precisely what cloning proponents are engaged in. Recall how the Nazis subverted the meaning of the word "healing." Recall how they used the term "therapeutic" to describe not the helping of suffering people but the killing of them. Can we be blind to the parallel use of "therapeutic" to describe the deliberate killing of embryonic human beings today? Does it matter that cloning is undertaken for the "greater good" of curing illnesses or infirmities? Recall that the Nazis eliminated those "unworthy of life" in order to improve the genetic stock of Germany. Recall how the Nazis undertook lethal experiments on concentration camp inmates in order, in some cases, to find ways to preserve the lives of others. Nevertheless, would anyone deny that such actions were absolutely unethical? Suppose a cure for cancer had been discovered by those lethal experiments in the death camps. Would anyone assert that the experiments were therefore justified?

Is there any essential difference between these Nazi experiments and "therapeutic" or experimental cloning? As we have shown, each case involves a living human being. Cloning proponents might try to distinguish the two cases by saying that the cloned human being has no "potential." But what "potential" did the inmates of the Nazi death camps have, each already marked for extermination? Did that make them less human? Of course, many of the inmates did survive the camps when the allies rescued them. Just as miraculously, frozen embryos, which some claim are destined to be discarded, have been implanted in women's wombs and brought to healthy births.²⁴

Every embryo is, as we have shown, not merely "potentially" a life, but a human being from the first moment of existence. Furthermore, any living human embryo has the inherent "potential" to develop into a healthy baby. How disingenuous it is for some supporters of cloning to claim the cloned human embryo is only "potential

life” because they will mandate by law that it be destroyed before it can come to birth. (For that is what the Specter-Feinstein bill S. 2439 would do.) Regardless of its location, the human embryo, by its nature, is full of potential—unless the actions of adult human beings deprive it of the opportunity to realize that potential.

It is easy to think of the Nazis as evil, as demonic, as not really human. It is easy to think of the Nazis as if they were somehow different—different in their very essence—from us. But that is to miss the one essential point.

Alexander Solzhenitsyn, a man who chronicled and suffered under another ideology that denied the dignity of each and every human being, observed that, “gradually it was disclosed to me that the line separating good and evil passes not through states, nor between classes, nor between political parties either, but right through every human heart, and through all human hearts. This line shifts. Inside us, it oscillates with the years.”²⁵ Communist Russia killed perhaps as many innocent people as did Nazi Germany. However, Solzhenitsyn did not regard the perpetrators as inhuman monsters. Rather, he saw the essential truth—they were human beings engaged in immoral acts. They engaged in those acts by dehumanizing the persons on whom their brutality was inflicted, and they did so in the name of (perhaps passionately believing in) a greater good. But Solzhenitsyn reminds us that, unless we are willing to admit that we are also capable of inhuman acts, for the best as well for the worst motives, we will have no guard against committing them.

This is the lesson to be drawn from the gulags and the concentration camps. No one is safe from brutality so long as we think that it is only others who are capable of inhuman acts. Rather, we will only be secure when we are willing to look honestly at the objective reality of our acts, realizing that we, too, are capable of acts that violate the inherent dignity of another. We will only be secure when we refuse to engage in such acts despite the good we believe would result from doing otherwise. In the debate over the cloning and destruction of embryonic human beings, this essential truth must be our guide.

NOTES

1. *Scientific and Medical Aspects of Human Cloning*, National Academy of Sciences (NAS) Report (2002), 94.
2. From the third meeting of the President’s Council on Bioethics, April 13, 2002, at www.bioethics.gov/meetings/200202/0213.html
3. Ibid. Dr. Weissman himself stated: “The Nuremberg Code, with which I am in full agreement, outlines those kinds of things you would not simply [do] for the sake of knowledge that involve human subjects.”
4. Robert Jay Lifton, *The Nazi Doctors: Medical Killing and the Psychology of Genocide* (New York: Basic Books, 1986), 46.
5. Ibid. 54.
6. Ibid.
7. George J. Annas & A. Grodin, *The Nazi Doctors and The Nuremberg Code* (Oxford University Press, 1992), 22.
8. Nuremberg Code, Article 5.

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9. Ibid. From the third meeting of the President's Council on Bioethics, April 13, 2002, Weissman said: "So what we are reporting to you is that human reproductive cloning is dangerous. It is a dangerous medical practice. It contravenes the Nuremberg Code."
10. For more on the science of the beginnings of human life, see, William L. Saunders, Jr., & Charles A. Donovan, *The Whole Truth about Stem Cell Research: What Hollywood, Biotechnology, and the News Media Leave Out* (Washington, D.C.: Family Research Council, 2001), 3-5; and Dr. John Collins Harvey, MD, "Distinctly Human: The When, Where, and How of Life's Beginnings," *Insight 244* (Washington, D.C.: Family Research Council, 2002).
11. The cloning procedure supplies the oocyte with a complete set of chromosomes, all of which are contained in the nucleus which is transferred into the denucleated oocyte. With sexual reproduction, half of the chromosomes are supplied by the sperm and half by the oocyte.
12. In Robert George, "The Ethics of Embryonic Stem Cell Research and Human Cloning," *At the Podium 87* (Washington, D.C.: Family Research Council, 2002). Professor George offers a cogent critique of the view that the human embryo prior to possessing a brain is not yet a person.
13. Paul Ramsey, *Fabricated Man: The Ethics of Genetic Control* (New Haven: Yale University Press, 1970), 11.
14. Dr. John Collins Harvey, MD, "Distinctly Human," 6.
15. *California Medicine: The Western Journal of Medicine*, Editorial, September 1970, 67.
16. On December 6, 2001, I submitted a letter to Senator Orrin Hatch (R-Utah) drawing his attention to the article from *California Medicine* urging him to consider how this tactic was being employed to dehumanize the embryo in the cloning debate. Alas, Senator Hatch subsequently supported S. 2439, a bill that would ban only "live-birth" cloning, not experimental cloning. It is troubling that he did so based largely on the view that the cloned human embryo while it is outside a woman's womb is not a human being.
17. Ronan O' Rahilly & Faiola Muller, *Human Embryology and Teratology*, 3rd ed. (New York: Wiley-Liss, 2001), 88.
18. Lee M. Silver, *Remaking Eden: Cloning and Beyond in a Brave New World* (New York: Avon Books, 1997), 39.
19. Ibid.
20. For example, Senator Arlen Specter (R-Pa.) at one point said: "Private companies are creating embryos specifically for stem cells, and I think that's a very bad idea. The legislation which I have proposed . . . would stop the risk of cloning and would use *only the embryos which are already in existence*. I'm not saying we ought to create embryos for scientific purposes, which gets on the path of cloning." (Emphasis added.) Quoted at <http://cloninginformation.org/info/cloningfact/fact-02-04-16.htm>
21. This is not to deny that the aim of the experiment is to identify cures for sick or injured people. But it is to assert that such an aim is wholly irrelevant as to whether the experiment is therapeutic.
22. See the complete Gallup poll analysis at <http://www.gallup.com/poll/releases/pr020516.asp#rm>
23. For the complete text of the essay, please see www.resort.com/~prime8/Orwell/patee.html; emphasis in original.
24. Mona Charen, "Another Kind of Adoption," *Jewish World Review*, Feb. 28, 2001, <http://www.jewishworldreview.com/cols/charen022801.asp>
25. Found at <http://www.spartacus.schoolnet.co.uk/russolzhenitsyn.htm>

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