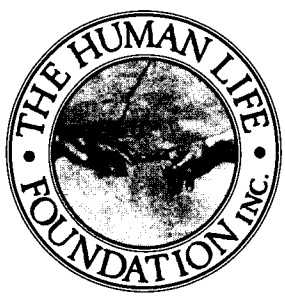
the HUMAN LIFE REVIEW



WINTER 2006

Featured in this issue:

GREAT DEFENDER OF LIFE AWARD DINNER

WILLIAM MURCHISON • WESLEY J. SMITH • NAT HENTOFF

Also in this issue:

Paul Greenberg • Julia Gorin • William F. Buckley Jr. • Wesley J. Smith
Joan Frawley Desmond • David S. Oderberg • Pamela R. Winnick and
Robert P. George & Gilbert Meilaender

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ABOUT THIS ISSUE . . .

. . . we begin our thirty-second year of publishing with a happy announcement: Mary Meehan, a regular presence in the *Review*, has graciously agreed to join Faith McFadden, Ellen Wilson Fielding and William Murchison as our new Senior Editor. Meehan, a Maryland-based freelance writer, has labored long and hard in the pro-life vineyard—her first article for us appeared in 1981. "Lessons from the Alito Hearings," which leads this issue, is but the latest installment of Meehan's invaluable contribution to the ongoing record of the abortion debate envisioned by our late founding editor, J.P. McFadden, when he launched the *Review* in 1975.

In addition to recognizing our longtime contributor, we'd also like to welcome two new ones: Alicia Colon, a weekly columnist at the New York *Sun* (the recently revived metropolitan daily for which readers are deserting the old gray lady in droves); and John Burger, news editor of the *National Catholic Register*, the country's oldest Catholic weekly. Ms. Colon's "Caring for Mildred" (p. 23) is a love letter of sorts, about the kind of love that transcends difficult familial relationships. Mr. Burger, a former reporter for the archdiocesan paper *Catholic New York*, profiles the late Bishop Francisco Garmendia and the "family" he shepherded in New York's South Bronx—a somewhat un-lovely place where there are nearly as many abortions every year as live births ("An Unsung Pro-Life Hero," p. 37).

Richard Nadler's "Judaism and Abortion: The Hijacking of a Tradition," which also appears in this issue, is drawn from his recently published book, *Feticide and the Birth Cycle in Me'am Lo'ez* (Richard Nadler writing as Reuben-Lev ben Herschel, Pakad Press, Overland Park, KS). "A stunning tour de force," writes Rabbi Daniel Lapin in the book's introduction, that "belongs in every believer's arsenal of intellectual ammunition."

Our Australian friend and sometime contributor, Melinda Tankard Reist, doesn't have an article in this issue but she does have a new book: *Defiant Birth: Women Who Resist Medical Eugenics* (Spinifex Press), an inspiring account of women who didn't listen when doctors recommended aborting their might-be "imperfect" unborn children. Nat Hentoff calls it "an invaluable book, all the more so because its information is ignored by the mass media."

Speaking of Nat Hentoff, this issue features a transcript and photographs from our Great Defender of Life Dinner at which he was honored last fall. We still have copies of *Insisting on Life*, the Hentoff reader we produced for that event. For ordering information, see page 75. And be sure to see page 16, to learn all about this year's honoree and dinner, which promises to be a jolly affair, indeed.

ANNE CONLON
MANAGING EDITOR

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the HUMAN LIFE REVIEW

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INTRODUCTION

On January 31, 2006, Samuel Alito was confirmed and sworn in as Supreme Court Justice, after an arduous grilling from the Senate Judiciary Committee. As Senior Editor Mary Meehan writes in our lead article, "Lessons from the Alito Hearings," though the Democrats on the Judiciary Committee "huffed and puffed" and threatened to blow his house in, they knew they didn't have the votes to stop the confirmation. Meehan gives us a smooth wrap-up of the proceedings—her account of the huffing and puffing is much more entertaining than was enduring the "windbaggery" of certain senators in real time. She also offers suggestions, in a continuation of her recent commentary for us on post-*Roe* confirmation hearings, as to how to improve the process, and, most importantly, how to work towards preparing a major case against *Roe*.

Meehan is emphatic: The Alito confirmation does not mean it is time for opponents of *Roe* to relax. Unless Justice Kennedy changes his mind, we "are still at least one vote short of overturning *Roe*," and "because of the growing weight of *Roe* as a precedent," we "cannot be sure that either Justice Alito or Chief Justice John Roberts will vote to strike it down." In the meantime, "a vast amount of educational work needs to be done—with the public, the media, and the legal community—on the key problems of *Roe*." Readers of the *Review* are well aware that there is widespread criticism of *Roe*, from both pro-life and pro-choice legal sources, but the general public remains largely ignorant of its weaknesses. *Roe* was a decision based on calculated lies (for example, Norma McCorvey, a.k.a. Jane Roe, was not raped), myths about abortion history, and outdated scientific and medical knowledge—should that entitle it to be upheld as a precedent?

Personal testimonies are an essential part of the *Review*'s record, and we have two riveting first-person accounts in this issue. First, *Review* contributor Stephen Vincent tells the story of his "pro-life life," from his pro-choice college days to his conversion to the cause. Touchingly for us, it was a copy of the *Human Life Review*, featuring the essay "Abortion and the Conscience of the Nation" by President Ronald Reagan, and a subsequent letter he sent to our founding editor, my late father J.P. McFadden, that set Vincent on the path to the pro-life activism he describes for us in vivid detail. Vincent recounts "special events in New York pro-life history"—some famous, like when Operation Rescue founder Randall Terry confronted Bill Clinton at the 1992 Democratic National Convention; some less well-known, such as peaceful prayerful gatherings outside of Manhattan clinics. He hopes his story will be an inspiration to young pro-lifers to become active. And he, like Meehan, warns that the battle is far from over. Even if *Roe* were overturned, "abortion will still be legal, as the issue returns to the states. As pro-lifers celebrate victory, babies will continue to be killed, in the same centers as before—and perhaps with even less of an outcry."

Our next real-life story is from Alicia Colon, columnist for the New York *Sun*, who shares a strikingly unvarnished account of her struggle in being a caretaker for her mother-in-law, who was disabled by Alzheimer's. Ms. Colon was at our Great Defender of Life Dinner last fall, and she listened as Wesley Smith talked about "mainstream bioethicists'" view that people suffering from diseases like Alzheimer's are not to be considered as "human persons." She asked me that evening if her experience with her mother-in-law might be appropriate for the *Review*—I assured her it would be. As Ms. Colon writes in her opening, "Being a pro-lifer sometimes means having to live up to the challenge of a tough set of principles"—yes indeed, and some situations are terribly difficult to accept. Bearing witness to the truth does not mean sugar-coating reality; you will appreciate, I am sure, Ms. Colon's honesty as much as you will admire her commitment to Mildred, and to the dignity of human life, especially when that life is distressingly handicapped.

I would call the next two pieces "Profiles in Courage": each tells the story of a Catholic prelate who stayed true to the defense of life with outstanding integrity. First, Richard J. Goldkamp reports on the "media storm" that followed the appointment of Raymond Burke as Archbishop of St. Louis—a storm which raged on for a full year. The media went ballistic because, soon after Burke arrived in St. Louis, he reiterated a pledge he had made as bishop of La Crosse, Wisconsin, to "deny Communion to Catholic officeholders who spurned their Church's teaching on abortion." This became a huge controversy when John Kerry campaigned in Missouri in early 2004; unsurprisingly, press accounts of his visit were full of distortions, "disgraceful, belittling" caricatures, and an abortion rights agenda-driven spin. Goldkamp "un-spins" the story to reveal the truth, and gives us an inspiring profile of Burke's leadership. The Archbishop's message, Goldkamp writes, is not just for Catholics—natural law is "one of the deepest wellsprings of Western civilization," and it would have all of us protect the lives of our fellow human beings.

The second profile is of a lesser-known prelate, Bishop Francisco Garmendia, the first Hispanic bishop in the Catholic Archdiocese of New York, who passed away last November. His territory: the South Bronx, a notoriously poor, crime-ridden area of the city—and one with an extremely high abortion rate. John Burger, a Catholic journalist who we welcome to the *Review*, has written a moving portrait of the aspect of this man's life *not* talked about, for some reason, in his eulogies: his commitment to the unborn and to their mothers. Though he was not a famous "pro-life star," like our late beloved Cardinal John O'Connor, he was a towering presence at pro-life prayer vigils outside of abortion clinics, and his unwavering, compassionate witness for life deeply touched those who knew him.

What does Jewish scripture and tradition have to say about abortion? In "Judaism and Abortion, The Hijacking of a Tradition," Richard Nadler seeks to re-claim Judaism's pro-life tradition, in the face of the sad fact that "in America today, Jews are the likeliest of all major religious groups to support abortion-on-demand." "The falsification of Jewish teaching on abortion," he writes, "is the result of a systematic

deconstruction undertaken by David Feldman and other non-Orthodox scholars." In this article, Nadler examines the work of Feldman, whose influential book, *Marital Relations, Birth Control and Abortion in Jewish Law*, can be found in the libraries of many pious Jews. Feldman "came to believe that abortion-on-demand was the culmination of rabbinic thought on abortion," and his is the best known of a "handful of books in English" surveying traditional Jewish sources on the subject of feticide. Nadler goes directly to the sources cited by Feldman, and refutes his "take" on them point by point, in an invaluable discussion of Jewish thought about the unborn.

What comes next is, we trust, a treat: a special section on last fall's Great Defender of Life Dinner. Our honoree was legendary journalist Nat Hentoff, longtime columnist for the *Village Voice*, author of many books, frequent contributor to our *Review* and a courageous, consistent defender of life in all its stages. He has long been a favorite of ours, but what became impressively apparent as we planned our event, and at the event itself, was just how *many* people look up to him as a hero. We had guests scrape money together to attend because they have been reading Nat Hentoff for many years and he had influenced them profoundly; we had two tables of Democrats for Life, who came because they consider Hentoff a champion; and, as you will read, both William Murchison and Wesley Smith spoke of how their own careers in journalism and advocacy had been mightily affected by him. We introduced a new Hentoff reader at the dinner, *Insisting on Life,* our own collection of his columns and essays which had appeared in the *Review*—(see page 75 for more information), and for the award, we presented Mr. Hentoff with his own Nick Downes cartoon (Nick being another enthusiastic fan!) in an engraved frame. We have reprinted all the remarks for you, and included some photographs to give those of you who could not attend a taste of what was a wonderful evening.

We close our articles with a powerful piece by Steven W. Mosher, "China's One-Child Policy: Twenty-five Years Later." Mr. Mosher is uniquely qualified to write on this subject. Over twenty years ago, he managed to become the first Western social scientist allowed to carry out fieldwork in rural China. The lead article of our Summer 1985 issue, titled "Forced Abortion and Infanticide in Communist China," drew from two books Mosher wrote about what he discovered in his year there—*Broken Earth: The Rural Chinese* (1983) and *Journey to Forbidden China* (1985). He has since published, among other works, *A Mother's Ordeal: One Woman's Fight Against China's One-Child Policy* (1993), and in 2000, *Hegemon: The Chinese Plan to Dominate Asia and the World.* His article for us is a rich, far-reaching look at the deadly Chinese program: its history, its coercive tactics, and the enthusiastic support it received from population control advocates in the West—who, despite China's abysmal human-rights violations, are using it as a model for programs in other countries. Chillingly, we have been reading recently about a proposed "two-child" policy bill in the Philippines. Though abor-

tion is still illegal in that country this bill, if passed, could punish those who refuse to use artificial birth control, and would offer financial incentives to families with two or fewer children.

* * * * *

March 31, 2006, marked the first anniversary of the death of Terri Schiavo. *Appendix A*, from our esteemed friend, Paul Greenberg, editorial page editor of the Arkansas *Democrat-Gazette*, reflects on her case and the amazing case of Donald Herbert, the New York fireman who was labeled, like Mrs. Schiavo, "PVS," but who woke up from his coma after 10 years. (Note: the article by Paul McHugh from *Commentary* which Greenberg cites was reprinted in the *Review* in our Summer, 2005 issue). Institutionalized killing of the disabled is also the subject of our next column, "Progressives Killed Corky," by Julia Gorin. Ms. Gorin focuses on the fate of Down Syndrome babies diagnosed before birth, and how the "right" to undergo prenatal testing and abort a disabled child is coming to be felt by some as a "duty to kill your disabled child" (sounds like China isn't too far away). Eighty to ninety percent of Down Syndrome children are killed in the womb.

Our next two appendices discuss legal developments in the life wars. First, columnist William F. Buckley Jr. writes about reaction to South Dakota's controversial law, signed on March 6th by Governor Michael Rounds, which outlaws abortion except in extreme cases. Abortion opponents are divided over the wisdom of this law as a legal tactic; some think it may backfire and lead to a "totalist reendorsement" of *Roe*. Nevertheless, Mr. Buckley admires the people of South Dakota for "resolving that unborn life is life notwithstanding." Wesley J. Smith, in "Nothing to Die Over," explains why the January 17th *Gonzales* v. *Oregon* Supreme Court ruling was "not as bad as euthanasia opponents might have feared." Smith argues that the ruling was not a "sweeping endorsement of physician-assisted suicide," and though it may put some wind back in the sails of the assisted suicide/euthanasia movement, it will be "a slight breeze, not a gale."

Appendix E is an article reprinted from *Crisis* magazine, which discusses possible alternate methods of obtaining stem cells that would not involve the destruction of an embryo. Author Joan Frawley Desmond gives the reader an invaluable guide to the facts up to this point. In 2004, William Hurlbut, a physician and bioethicist at Stanford University, and a member of the President's Council on Bioethics, proposed altered nuclear transfer, "an approach that might permit researchers to use 'embryo-like stem cells,'" without creating or destroying embryos. A "dream team of pro-life scientists and bioethicists" led by Robert P. George and Markus Grompe, a professor of genetics at Oregon Health and Science University and director of the Oregon Stem Cell Center, rallied around this idea. From this collaboration has come Grompe's variation of Hurlbut's proposal: oocyte-assisted reprogramming (OAR). As Frawley Desmond explains, this proposal is dividing religious leaders and bioethicists: some enthusiastically supporting these methods,

others finding them disturbingly problematic.

The remaining appendices include reactions to the recent scandal that rocked the scientific world: the revelations last fall that the "breakthrough" work on cloning by top Korean stem-cell researcher Hwang Woo Suk was fraudulent. In *Appendix F*, Gilbert Meilaender and Robert P. George criticize the argument, expressed in an Op Ed in the NY *Times*, that their colleague on the President's Council, Michael Gazzaniga, has made in favor of destroying embryos, and against their own efforts to investigate alternate, non-destructive methods. "Scientists also have their agendas," they assert, "they do not work in a values-free vacuum." The South Korean scandal has caused scientists like Gazzaniga to "scramble frantically" to find a theory "that does not blame their own agendas or hubris but the policy of the Bush administration."

Scientific hubris is the subject of David S. Oderberg's "The Unholy Lust of Scientists"—an eloquent essay on the corruption of morality in research due to the temptations of political acclaim and money (*Appendix G*). We treat scientists as holy men, in some ways beholden to no one—the very conditions that allowed situations like the Korean scandal to occur. In our final appendix, "Misadventures in Cloning," Pamela R.Winnick explores an interesting addendum to the scandal. Hwang Woo-Suk had an American collaborator, Dr. Gerald Schatten, of the University of Pittsburgh, who was the "senior author" of two articles in the renowned journal *Science*. Schatten, writes Winnick, has "managed thus far to come out of this mess unscathed." Although it was he who "first raised the alarm about Hwang, ostensibly taking the high road," it is unclear at best why he hadn't carefully evaluated the research before he signed on to the article.

There you have it, with the usual sprinkling of delicious cartoons by Nick Downes, as well as some political commentary from Jim Huber—whose cartoon, let's say, tells a million words.

MARIA MCFADDEN
EDITOR

Lessons from the Alito Hearings

Mary Meehan

"Little pig, little pig, let me come in," the hungry wolf called out to his potential dinner in the straw house.

"Not by the hair of my chinny-chin-chin," the little pig bravely replied.

"Then I'll huff and I'll puff and I'll blow your house in," the wolf roared. And he blew the house down.

This scenario worked well for Democrats on the Senate Judiciary Committee in 1987, when they defeated the nomination of Judge Robert Bork to the U.S. Supreme Court. But they have not defeated any Supreme Court nominee since Bork. The rise of conservative media, including television and radio talk shows, has done much to keep the hungry wolf away. So have the Internet websites, blogging, and e-mail campaigns of conservatives and pro-life activists. More helpful than anything else, though, has been the election of more pro-life members to the U.S. Senate. As many have said recently, elections do matter.

In the January 2006 Senate confirmation hearings for now-Justice Samuel A. Alito Jr., Judiciary Committee Democrats huffed and puffed as hard as they could. Alito, with enormous patience, sat and listened to them for three days, answering many of the same questions over and over again. Although the Democrats knew they didn't have the votes to stop him, some accepted poor advice from Massachusetts Senators John Kerry and Edward Kennedy to filibuster against confirmation on the Senate floor. The full Senate quickly stopped the talkathon by a walloping 72-25 vote, then confirmed Alito by 58-42. Much like the hungry wolf, the Democrats had let frustration do them in. Roaring to their latest target that "I'm coming down the chimney to eat you," they had fallen into the pot of boiling water in the fireplace.

The Democrats are not happy campers after their defeat, but they will survive somehow. Undoubtedly they, NARAL Pro-Choice America, the Alliance for Justice, and People for the American Way are trying to learn from their defeat in order to be more effective when the next Supreme Court vacancy occurs. If President Bush is able to place one more conservative on the Court within the next year or two, that should tip the balance on abortion and other key issues. Observers say another Bush nomination will trigger the "mother of all battles" over the Court's future.

Clearly, this is no time for opponents of *Roe* v. *Wade*, the Court's 1973

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decision that legalized abortion, to let down their guard. They are still at least one vote short of overturning *Roe*, unless they can persuade Justice Anthony Kennedy to change his mind. In fact, because of the growing weight of *Roe* as a precedent, they cannot be sure that either Justice Alito or Chief Justice John Roberts will vote to strike it down. So they, like their opponents, must review the Alito hearings in order to find lessons for the future. In a contribution toward that goal, I will review the *Roe*-related performances of Judiciary Committee senators, especially ones on the pro-life side. Then I will suggest a few ways to improve the confirmation process. Finally, I'll make a few suggestions about preparing a major case against *Roe*.

Rating the Senators and the Nominee

Senator Arlen Specter, the Pennsylvania Republican who currently chairs the Senate Judiciary Committee, is a feisty independent. A veteran *Roe* supporter, he had to promise—as a condition of his election as committee chairman—that he wouldn't use a "litmus test" against Bush nominees.[1] He certainly has kept his word. While undergoing cancer treatment last year, he shepherded the nomination of John Roberts for Chief Justice through the Senate. In early 2006, he ran the Alito confirmation hearings with courtesy, fairness, an occasional flash of humor, and much-needed moral support for Judge Alito and his family. After a rough day of questioning, the chairman remarked, "The crowd has pretty well emptied out, but the Alitos are all still here."[2] When the long interrogation was nearly over, he complimented Alito on his "remarkable patience."[3] And it was Specter who initiated powerful testimony on Alito's behalf by fellow appeals-court judges.[4]

The down side, though, is that Specter also pressed Alito to pledge allegiance to a constitutional "right to privacy" and to a strict form of *stare decisis*, the legal doctrine of "to stand by things decided," with respect to *Roe* v. *Wade*. Alito agreed to a constitutional right to privacy, but did not say whether it includes a right to abortion. He also expressed reverence for *stare decisis*—too much, in this writer's view—but suggested there are times when a constitutional precedent should be overruled. He mentioned *Plessy* v. *Ferguson*, the 1896 decision upholding segregation, as such a case. He resisted Specter's concept of "super-precedents" and "super-duper precedents," saying that reminded him of the size of laundry detergent. He acknowledged, without either recanting or reaffirming, his 1985 statement that the Constitution doesn't protect a right to abortion.[5] Specter's questioning, although on point, was less aggressive than the Democrats' interrogation. In a sense, perhaps, he inoculated Alito against the rougher treatment about to come.

Democratic Senator Charles Schumer of New York was relentless and

repetitive in his questions about *Roe*. At least, though, he was direct in using the word "abortion."[6] A visitor from Mars wouldn't have known what some of the others were talking about. Senator Kennedy spoke of "the choice issue."[7] Senator Herbert Kohl of Wisconsin referred to allowing "women to keep private medical decisions private." Senator Dianne Feinstein of California referred to that old standby, "a woman's right to choose." As the Washington *Post* later reported, "Heading into the 2006 elections, the last thing they [Senate Democrats] wanted was to look like a party supporting abortion on demand."[8] So they flailed around, using first one issue and then another.

Senator Kennedy provided a rare moment of drama when he demanded a subpoena for records in a manuscript collection at the Library of Congress. The records deal with Concerned Alumni of Princeton, a group Alito had some connection with long ago. If Chairman Specter denied his request to go into executive session for a subpoena vote, Kennedy declared, then "we're going to have votes of this committee again and again and again . . ." Specter, highly annoyed, remarked that he was chairman and told Kennedy that "I'm not going to have you run this committee and decide when we're going to go into executive session." Adding that he would consider Kennedy's request "in due course," he banged his gavel and moved on to another senator. During the lunch break, Specter arranged for committee staff to look at the records over at the Library. (There was no need for a subpoena.) After reading files until the early hours of the next morning, the staff reported that Alito's name did not appear anywhere in them.[9] This neatly punctured the hot-air balloon launched by the senior senator from Massachusetts.

One observer remarked that Kennedy seemed to have lost his fastball. The same might be said of the Judiciary Democrats in general. Several, including Kennedy, spent an inordinate amount of time in trying to make a mountain out of a recusal issue that looked like a molehill. Their efforts to discredit Alito's integrity on that issue, and their suggestion that his link to the Princeton alumni group implied a discriminatory attitude toward women and minorities, seemed unfair to many, including Alito's wife. After South Carolina's Republican Senator Lindsey Graham went to Alito's defense, mocking the Democrats by asking him, "Are you really a closet bigot?" Martha-Ann Alito left the hearing room in tears.[10]

Senator Kennedy and Senator Richard Durbin of Illinois were overbearing, Senator Joseph Biden of Delaware too wordy (as usual), and Senators Feinstein and Kohl refreshingly courteous.[11] In responding to Feinstein, Alito made an excellent statement about why a judge should be open to persuasion. It would be wrong, he said, to tell a litigant: "If you bring your case

before my court, I'm not even going to listen to you; I've made up my mind on this issue; I'm not going to read your brief; I'm not going to listen to your argument; I'm not going to discuss the issue with my colleagues. Go away. I've made up my mind."[12]

Senator Mike DeWine, an Ohio Republican, made a strong and helpful statement against Specter's concept of "super-duper precedents." Noting major and longstanding precedents that eventually were overturned, DeWine contended that *Roe*'s longevity does not mean "that it's entitled to special deference." He mentioned bipartisan criticism of *Roe* and said the decision is "not super-duper precedent or even super-precedent. It is precedent. Nothing more."[13]

Chairman Specter had used a chart showing 38 cases that built upon *Roe* v. *Wade*. Senator Sam Brownback, a Republican from Kansas, countered with a chart showing many precedents that built on *Plessy* v. *Ferguson*, the 1896 case that upheld racial segregation. Yet *Plessy* and its progeny didn't prevent the Supreme Court's finding, in the 1954 case of *Brown* v. *Board of Education*, that school segregation is unconstitutional. Brownback also described two precedents the Court has *not* overturned, but ones he believes to be "spectacularly wrong": *Buck* v. *Bell*, a 1927 case that upheld compulsory sterilization, and *Korematsu* v. *United States*, a 1944 case upholding the exclusion of Japanese Americans from the West Coast during World War II.[14] Then, as Brownback read quotes critical of *Roe* v. *Wade* from noted *supporters* of legal abortion such as Laurence Tribe, Justice Ruth Bader Ginsburg, and the late John Hart Ely, an aide held up charts that showed the quotes to the audience in the hearing room—and the much larger television audience.[15] This is precisely the kind of educational work so much needed in public forums.

Oklahoma Republican Senator Tom Coburn got Alito to acknowledge that *stare decisis* "is not expressly mentioned in the Constitution" and that the Founders didn't mandate its use. The Oklahoman went out of his way to note that Senator Durbin, an abortion supporter who had been giving Alito a hard time, used to be "adamantly pro-life." Coburn, an obstetrician, also introduced into the record information on abortion complications.[16] He had a tendency, though, to deal with too many topics in a short time, sometimes introducing an intriguing one but then failing to explain it. At one point, he referred to his care of "over 300 women who've had complications" from abortion, but didn't describe any of the complications. Elsewhere he mentioned that he "had a grandmother who came into this world as a result of rape," but didn't elaborate on that story, either.[17] Perhaps he could have given people troubled by hard cases something positive to consider.

Senator Lindsey Graham spoke of the many Americans "who are heartsick that millions of the unborn children have been sent to a certain death because of what judges have done." And if abortion were to become a reason to filibuster a Supreme Court nominee, he warned, either side could use that weapon—and some pro-life senators "would stand on their feet forever."[18]

Samuel Alito proved to be impressive and enduring in his confirmation ordeal. When asked about the specifics of opinions he had written as an appeals court judge, he was able to give persuasive answers. While he sometimes gave them in mind-numbing detail, his interrogators by and large got what they deserved. Certainly he proved to have the remarkable calmness and patience of a "judicial temperament." He is a clear writer, is extremely conscientious about his work, and has the potential to be an outstanding justice. One only hopes that he won't worry too much about *stare decisis*, but will instead focus on something he said in the hearings: "When you know that you are the court of last resort, you have to make sure that you get it right."[19]

Modest Steps to Improve the Confirmation Process

While not nearly as bitter as the confirmation battles over Robert Bork and Clarence Thomas, the one for Samuel Alito was still a major ordeal for the nominee and for his family and supporters. Too often, as Texas Republican Senator John Cornyn said, the process treats nominees "more like piñatas than human beings."[20] Yet some senators also managed to be very boring as they droned on, reading long statements and questions prepared by staff. Many asked the same questions other senators had asked. Often, and with good reason, observers used the term "windbag." The portion of the hearings I watched on television one day was so dull that I was grateful for Senator Kennedy's little subpoena tantrum and Senator Charles Grassley's striking red vest. They helped me stay awake.

Public hearings for Supreme Court nominees are a 20th-century innovation,[21] and some critics suggest we could do without them altogether. Senators would still have the nominees' records, and possibly answers to written questions, to evaluate. But those who believe this would lead to a less politicized process may be mistaken. Interest groups would still mount campaigns for and against nominees, and the latter might find it hard to defend themselves without the hearing process.

Two modest steps, though, might improve the procedure. First, nominees' pre-hearing visits with senators should be true courtesy calls, rather than opportunities for private interrogation by the senators. In briefing reporters,

senators put their own spin on the answers to such interrogation. Their spin is not always fair, but nominees have no chance to clarify matters until the hearings. Nominees might themselves make this change by saying in advance that they won't answer substantive questions before the hearings.

Second, the time allotted to hearings should be cut roughly in half. Senators' opening statements—a prime opportunity for windbaggery—should be omitted, and each senator should have just one round of questions. This could eliminate many repetitive questions and provide a sharp, clear focus on key issues. Verbose senators would not appreciate the change; but it might save them from themselves.

The anti-*Roe* side of the Judiciary Committee would be bolstered if a pro-life Democrat, such as Senator Ben Nelson of Nebraska, were to join the committee. Having pro-life women there, whether Democrats or Republicans, would strengthen the anti-*Roe* forces even more. There are able pro-life women in the House of Representatives; those with good statewide prospects should consider running for the Senate and joining the Judiciary Committee. (While most committee members are lawyers, that's not a requirement for membership. Grassley, for example, is a farmer; Coburn is a physician; Kohl is a businessman.) Senator Feinstein, a strong *Roe* supporter, is the only woman on the committee at present. It would be enormously helpful if she were outnumbered by two or three articulate women on the pro-life side.

Most of the men on that side are doing better on *Roe* than in the past. But it would be good to hear about it from Senator Grassley, an Iowa Republican and reliable pro-life voter who has neglected *Roe* in recent confirmation hearings. As a senior senator with a healthy streak of independence, Grassley has both institutional clout and respect from the media.

Getting Ready for the Big One

The Supreme Court may now have enough votes to uphold the federal ban on partial-birth (or D&X) abortion, an issue it will hear next fall. Votes to uphold it could come from Chief Justice John Roberts and Justices Antonin Scalia, Clarence Thomas, Anthony Kennedy, and Samuel Alito. They might uphold the federal ban despite *Stenberg* v. *Carhart*, the 2000 decision that struck down a state ban on D&X abortion. The Court traditionally shows more deference to Congress than to state legislatures, and it could accept congressional fact-finding that D&X abortion is never needed to protect a woman's health. Or it could require some type of health exception without striking down the entire ban. Which way it goes, and what Chief Justice Roberts and Justice Alito do, could say much about chances for overturning

Roe v. *Wade* further down the road.

While Justice Kennedy voted to uphold the state ban on D&X abortion in *Stenberg* v. *Carhart*, he also voted to uphold *Roe* in the 1992 *Planned Parenthood of Southeastern Pennsylvania* v. *Casey* decision. Pro-life attorneys hope the Chief Justice eventually will persuade Kennedy to vote against *Roe*. But if a reversal is to have more staying power than *Roe* itself, it would be immensely helpful to have a decisive majority for it—at least 6-3 and preferably 7-2 (the number *Roe* had). This underlines the crucial importance of the next one or two Supreme Court appointments.

Yet there is no reason to twiddle thumbs while waiting for those appointments. A vast amount of educational work needs to be done—with the public, the media, and the legal community—on the key problems of *Roe*. The educational campaign should emphasize information about abortion that was not readily available in 1973, including its legal history. At this writing, Carolina Academic Press is about to release a book called *Dispelling the Myths of Abortion History*, by Villanova University law professor Joseph Dellapenna. The book reportedly demolishes *Roe*'s account of the legal history.[22] If so, one hopes that Prof. Dellapenna will send autographed copies to all the Supreme Court justices. Other scholarship that should be stressed in educational efforts includes attorney Rebecca Messall's study of the eugenics influence on *Roe*; studies of malpractice suits over deaths from abortions since *Roe*; and medical studies of abortion complications.[23]

Sooner or later, another constitutional case on *Roe* v. *Wade*—possibly the new one from South Dakota—is likely to reach the Court. Attorneys handling the pro-life side should use the best of recent scholarship in their briefs. In his confirmation hearings, Justice Alito said there is "no such thing in general as bad knowledge, and I think that is relevant to the decision-making process that judges go through. They should be receptive to information that is relevant, that the parties want to bring to their attention . . ."[24] Attorneys should take him at his word.

The pro-life attorneys will have to be ready for two major challenges from the other side and from some justices during oral arguments. One will be an effort to save *Roe* by downplaying the privacy argument and emphasizing, instead, the equal-protection argument favored by Justice Ruth Bader Ginsburg and others. Here the pro-life attorneys can say the equal-protection argument treats the dispute as one between women and men alone—totally ignoring the interests of the third party, unborn children, whose lives are directly at stake.

The abortion side will say the Court should uphold *Roe* because of *stare decisis* considerations. In response, attorneys should emphasize the scholar-

ship that says *Roe* is deeply wrong on constitutional grounds. They should add that it does great injustice to an entire class of human beings—similar to the injustice of *Dred Scott*, *Plessy* v. *Ferguson*, *Buck* v. *Bell*, and *Korematsu* v. *United States*. By placing *Roe* in that group, the attorneys will provide a context that should give pause to justices who are inclined to uphold *Roe*.

Beyond that, the Court itself has said that *stare decisis* has less weight in constitutional cases than in others. In a 1944 case, it declared that "when convinced of former error, this Court has never felt constrained to follow precedent," emphasizing constitutional precedent in particular. In 1996 the Court cited a liberal justice of the early 20th century, Louis Brandeis, who had reminded his colleagues: ". . . in cases involving the Federal Constitution, where correction through legislative action is practically impossible, this Court has often overruled its earlier decisions." Brandeis had listed many examples in a lengthy footnote.[25]

Another liberal, Justice William O. Douglas, wrote in 1949 that a judge "remembers above all else that it is the Constitution which he swore to support and defend, not the gloss which his predecessors may have put on it."[26] That is certainly what judges should remember. They should also recall Justice Alito's above-noted comment: "When you know that you are the court of last resort, you have to make sure that you get it right."

NOTES

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3. Alito hearings, 11 Jan. 2006, part 3, 43.
4. Ibid., 12 Jan. 2006, part 2, 40.
5. Ibid., 10 Jan. 2006, 2-9 & 129-39; and Jo Becker and Charles Babington, "No Right to Abortion, Alito Argued in 1985," Washington *Post*, 15 Nov. 2005, A-1 & A-9.
6. Alito hearings, 10 Jan. 2006, 129-31; and 22 Jan. 2006, part 3, 11-15.
7. Ibid., 13 Jan. 2006, part 2, 3.
8. Ibid., 9 Jan. 2006, part 1, 32, 40 & 41; and Lois Romano and Juliet Eilperin, "Republicans Were Masters in the Race to Paint Alito," Washington *Post*, 2 Feb. 2006, A-1 & A-10.
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10. Ibid., 11 Jan. 2006, part 3, 4-5; and Sheryl Gay Stolberg, "Thrust into Limelight and for Some a Symbol of Washington's Bite," New York *Times*, 13 Jan. 2006, A-15.
11. These comments are based on watching a long stretch of the Jan. 11 hearing on television. I worked primarily from transcripts in writing this article. Also helpful were analyses by several attorney-bloggers on www.confirmthem.com.
12. Alito hearings, 11 Jan. 2006, part 2, 59.
13. Ibid., 10 Jan. 2006, 81-83.

14. Ibid., 11 Jan. 2006, part 1, 19-22.
15. Ibid., 22-23; and author's notes on televised hearing.
16. Ibid., 30-31, 33 & 34.
17. Ibid., 9 Jan. 2006, part 2, 15; and 11 Jan. 2006, part 3, 37.
18. Ibid., 9 Jan. 2006, part 1, 52.
19. Ibid., 10 Jan. 2006, 30.
20. John Cornyn, "Alito Nomination Moves to Full Senate," press release, 24 Jan. 2006, accessed at www.cornyn.senate.gov.
21. See John Anthony Maltese, *The Selling of Supreme Court Nominees* (Baltimore: Johns Hopkins, 1995) for an excellent history of the confirmation process. Also useful is Stephen L. Carter, *The Confirmation Mess* (New York: Basic Books/HarperCollins, 1994).
22. See www.cap-press.com, accessed 23 Feb. 2006; and Susan Wills, "Refuting the Myths of Abortion History," *National Right to Life News*, Jan. 2006, 10 & 15.
23. Rebecca Messall, "The Long Road of Eugenics: From Rockefeller to *Roe* v. *Wade*," *Human Life Review* 30, no. 4 (Fall 2004), 33-74; Kevin Sherlock, *Victims of Choice* (Akron, Ohio: Brennyman Books, 1996); John M. Thorp, Jr., and others, "Long-Term Physical and Psychological Health Consequences of Induced Abortion: Review of the Evidence," *Obstetrical and Gynecological Survey* 58, no. 1 (2002), 67-79.
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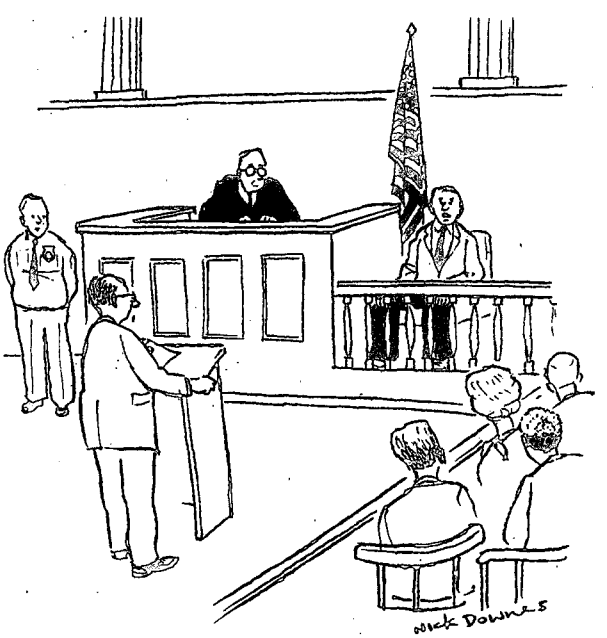
25. Smith v. Allwright, 321 U.S. 649, 665-66 (1944); *Seminole Tribe of Florida* v. *Florida*, 517 U.S. 44, 63 (1996); and *Burnet* v. *Coronado Oil & Gas Co.*, 285 U.S. 393, 406-07 & n. 1, 407-08 (1932) (Brandeis, J., dissenting).
26. William O. Douglas, "*Stare Decisis*," *Columbia Law Review* 49, no. 6 (June 1949), 735-55, 736. This was Douglas in his prime, long before he concurred in *Roe* v. *Wade*.



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Mary Kenny, the *Review*'s longtime European Editor, is an Irish author, journalist and broadcaster who lives and works in both London and Dublin. She is the author of many books on culture, religion, and social history, including *Abortion*: *The Whole Story* (1986), and *Goodbye to Catholic Ireland* (1997). She is also the biographer of William Joyce, Lord Haw-Haw—her "absorbingly elegant study" (*The Guardian*), titled *Germany Calling*, is now being made into a feature film. A regular columnist for the *Catholic Herald* (London) and the *Irish Catholic* (Dublin), Ms. Kenny also appears frequently on television and radio, debating current cultural, political and religious questions.

In the early nineties, Mary Kenny's spirited columns caught the attention of our late editor, J.P. McFadden, and he invited her to write for the *Review*. Her first article, which appeared in our Summer 1992 issue, was about "Ireland's Struggle" to remain a pro-life country. She has been an articulate, impassioned, and lively contributor ever since, as well as a valued ally in the fight to restore protection to the lives of the unborn. And she is a delightful and treasured friend. We are proud to honor Mary Kenny with this year's Great Defender of Life Award.

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My Pro-Life Life

Stephen Vincent

It began for me with Pope John Paul II standing on the infield of Yankee Stadium in 1979, echoing the enthusiasm of the young crowd with an unscripted "woo, woo, woo." Watching the magic moment on TV and turning to my brother—who, like me, was then 20-something and away from any formal religion—I said, "We have a Pope who says 'woo!'"

Suddenly, at the tail end of the Scarcity Seventies—which began with protests here and war abroad, and proceeded to Watergate, gas rationing, Gerald Ford's pratfalls and Jimmy Carter's self-made American malaise—there was a hint of hope, a strong beat of life pulsing from the Pope who said "woo!"

I didn't know much at the time about the 1973 *Roe* v. *Wade* decision. I grew up in a New York Catholic family with two older brothers, with habited nuns in grammar school and religious brothers in an all-boys high school; abortion was an abstraction for me. In freshman speech class at a nominally Catholic college, I took what I imagined to be the brave and original stand that the child in the womb was part of the woman and could be cut off like a fingernail. Rather than contemplating the world-shaping significance of a Pope from Poland and his revolutionary philosophy of the human person, I was reading Ayn Rand and debating with whoever would listen the ideas of certain property-rights absolutists—wondering whether, for example, I was allowed to break the handcuffs someone unjustly clamped on me. Even in this matter, I could have consulted the new Pope, whose own country had been handcuffed for decades by unjust powers. He would likely have said that you could break the handcuffs, and risk ruining your own wrists in the process—or you could unite with others in solidarity to shine a constant light on the injustice, and change the culture and the minds of the oppressors, who would eventually hand you the key.

Around this time, my eldest brother handed me a copy of *National Review*, which became my own key. In its pages I found the touches of laissez-faire economics I craved, combined with an engagement in practical politics—and with a politeness that didn't seem like a sellout of principles. In short: I had found conservatism. In the same year, Ronald Reagan was elected president. I read every back issue of *National Review*, from 1955 onward. I was a serious student again, seeking not simply to "find myself" but to find the truth.

Stephen Vincent writes from Wallingford, Conn.

John Paul II, *National Review*, Reagan, and my return to the Church were successive steps on my winding road to a pro-life mindset. My first look at the *Human Life Review*, which was advertised in *NR*, drew me into pro-life activism.

> The real question today is not when human life begins, but, *What* is *the value of human life?* The abortionist who reassembles the arms and legs of a tiny baby to make sure all its parts have been torn from its mother's body can hardly doubt whether it is a human being. The real question for him and for all of us is whether that tiny human life has a God-given right to be protected by the law— the same right we have.

I read these words in 1986, three years after President Reagan published them in *HLR* as "Abortion and the Conscience of a Nation." The article floored me—I still remember where I was sitting, and the sunny sky that filled my eyes as I read—and I wrote to the publisher, James P. McFadden, to report my conversion to the cause and to offer my journalist's skills. He sent back an encouraging note, typed out on an index card, suggesting that I read all I could and meet up with some pro-lifers. I was already reading every pro-life publication I could find, but where were these "pro-lifers"? A few years later, I found out.

At an all-night prayer vigil a priest invited me to at an East Side Manhattan church, I was surprised to meet a group of young adults amid the predictable array of older men and women. After the vigil, which ended at 6 a.m. on a frigid December Saturday, these young people asked me to join them for breakfast at a nearby diner, where they shared their plans for the morning. Instead of going home to bed, as I was anxious to do, they were heading to an abortion clinic to pray the rosary. Since my pro-life fervor was all in my head at the time, my first thought was—you mean there's an abortion clinic around here?

A few minutes later I was standing with a group of powerfully prayerful folks who were huddled against the fierce wind outside what one described as the busiest abortion "mill" in the city. Along the sidewalk I saw counselors holding rosary beads and pamphlets and approaching women as they headed for the doorway of an industrial-type building. Other people dressed in orange bibs jockeyed for position and held the door open for the women. It took me a few moments to realize what was going on; then—in my own St. Paul moment—scales fell from my eyes. Here in the New York I had grown up in, along a street I had walked down on occasion, was a battle I had never suspected. A few weeks earlier, homosexual activists had invaded St. Patrick's Cathedral, spitting hosts to the floor and stamping on them with their feet. And now I discovered that, in the heart of my home town, abortion

was a brisk business. I felt I had been AWOL in an important fight that was taking place at my doorstep. Whatever else I did in life, I knew I had to come back to pray with this group every Saturday.

After the rosary was finished and before a litany began, a man from the group approached me in the manner of a drill sergeant. "Do you love Our Lady?" he demanded. I nodded. He pointed to my jacket hood. "Well then take the hood off when you pray. A man always takes off his hat when speaking to a lady." I looked around and saw that all the men were bareheaded. Reluctantly, I pulled down my hood, and felt I had earned my first pro-life stripe.

Most women rushed by the sidewalk counselors with a curse or "get out of my face," hard of heart and manner. But the few women each Saturday who stopped to talk and take a pamphlet had tender, frightened hearts. They had stories of abusive boyfriends, drug addiction, AIDS babies, unpaid rent, joblessness, homelessness, and hopelessness. They would keep their baby if they could find financial help, emotional support, prenatal care, protection from a boyfriend, and maybe a shoulder to cry on. Most were Catholic or another form of Christian; most knew that abortion was wrong.

The sidewalk counselors would bring them to a pregnancy center, give them baby clothes, diapers, strollers, space in an apartment, and arrange for them to enroll in the state's free prenatal-care program. We were a grass-roots—or asphalt-roots—group if ever there was one: diverse in age, background, and economic means, from Lifeboat Louie—who lived on an abandoned boat, or the floor of anyone who would let him—to fine Park Avenue ladies. Ruby was one of the more memorable characters, by her own telling a reformed alcoholic who was picked out of a doorway by a couple of Franciscan priests, washed, fed, and put on the right path. She became a Catholic and one of the most fearless pro-life warriors, always present at the clinics and serving stints in jail for blocking clinic doors with Operation Rescue. "What about the *babies*?" she would shout, with pleading passion, to "pro-choice" politicians, bishops and priests who seemed indifferent, cops on the beat, and abortion-clinic workers.

With the rosary as a common language, the paths of the prayer-group regulars intersected at what one priest called "modern-day Calvary," where the lives of innocent unborn babies, the hope and future of the world, were extinguished. Some of us had well-reasoned arguments against abortion, based on the best science and medical texts. But when you stood at Calvary, with hired "deathscorts" playing perfectly the role of Roman soldiers while urging the women to the clinic doors, and police officers keeping pro-lifers from the judge-imposed "bubble zone," you realized that you were involved

in more than a political debate or philosophical joust about the meaning of life. You were at the crux of the battle between good and evil, the culture of life versus the culture of death. You had to believe, in a humble yet firm way, that God takes sides in the struggle; otherwise you could not withstand the sorrow of seeing pregnant women rushing inside and coming out limping, cramped and empty. You couldn't take week after week the barbed jibes and cynical laughs of the deathscorts, and the hostility or studied indifference of passersby. Most of all, you would be heartbroken by your own weakness and fear in the face of evil, your resistance to sacrifice and suffering, and your reluctance to look like an extremist for an unpopular cause. You would be crushed by the dissension within the pro-life ranks, the pettiness and jealousy that live even in the best of hearts, and the inability to work together at times. But you would come week after week to take your place in the latter-day Passion Play, to make a difference at least through prayer and presence, to say that when they were killing the innocents, as they have done in some form since the dawn of time, you didn't hide your face.

I was there in 1990 when Bishop Thomas Daily and Msgr. Philip Reilly held their first prayer rally in Queens for the newly formed Helpers of God's Precious Infants, a group that has since opened chapters in many countries. I raised my voice and clapped my hands that same year at the rally in Washington, D.C., when thousands of pro-lifers chanted "Tell the truth!" to the assembled press, at the prompting of the late pro-life giant, Cardinal John O'Connor of New York.

Two years later, I was among the faithful who filled the old St. Agnes Church, across from Grand Central Terminal, when Cardinal O'Connor celebrated Mass and led a rosary procession 13 blocks to Eastern Women's Clinic, with a solid police escort (he had received a death threat). That began a memorable summer for New York pro-lifers, with Operation Rescue and a horde of other activists coming to town for the abortion-fest in Madison Square Garden called the Democratic National Convention.

It was the summer of Bill Clinton and Baby Nathan. On July 4, Operation Rescue founder Randall Terry stood at the doors of a closed Eastern Women's, holding an aborted baby he called Nathan (after the Old Testament prophet who showed King David his sin) and declaring that he would present the baby to candidate Clinton before he left the city. Perhaps Terry naïvely thought, as did many others, that Clinton was a Bible-believing man who simply needed to be confronted with the truth of abortion. His crew amazingly managed to present Baby Nathan as Clinton left his hotel one morning for a jog. We all got a lesson in pro-abortion journalistic practice when the

mainstream media screamed—not about abortion, but about whether Terry had obtained the "fetus" legally, and whether he had broken the law by carrying human remains across state lines (failing to note the irony that the remains had to be *human* for charges to be brought).

It was a scary summer, one in which I no longer knew my New York. The city was filled with pro-abortion activists, advertisements, and delegates. An ad hoc clinic-defense coalition claimed to have signed up thousands of members to "protect" every clinic in the city from OR, and it appeared the number was accurate. They were everywhere, carrying walkie-talkies, following OR operatives through the streets and subways, staking out pro-life gathering places and apartments, and forming a ten-deep guard outside the doors of abortion clinics. Inside Madison Square Garden abortion reigned, and Democratic pro-life Gov. Robert Casey of Pennsylvania was denied a word from the podium—while pro-abortion Republicans *were* allowed to speak.

There were countless incidents of unbridled hatred and physical threats by the "defenders," who said they were out to stop OR violence. On the evening a pro-life rally was scheduled for the basement of St. Agnes Church, a horde of rowdy pro-abortion vigilantes blocked the doors to the church, shouting, "You block our clinics, we'll block your churches!" They were furious and frenzied, stomping their feet and howling like demons as the police slowly removed them from the church steps and loaded them into a police van.

At the delayed rally, Father Benedict Groeschel boomed in his unmistakable voice, "You saw the real stakes revealed here today. The clinic is their church and abortion is their sacrament."

Later there were assorted courtroom scenes before Judge Robert Ward, who imposed injunctions on almost any pro-lifer who moved, and wore contempt for the movement on his robes. Yet brave men and women stood before him and defended their actions and their cause, in the manner of the Apostles who declared to the authorities of their day that they must obey God rather than men: Randall Terry, Rev. Pat Mahoney, and the pro-life lawyer John Broderick showed a genuinely theatrical flair. Father Norman Weslin and his Lambs of Christ even sang songs in court while Judge Ward met in chambers with their lawyer. When the group was offered a plea deal to avoid jail time, Father Weslin said, for all to hear, "But that's what we do, go to jail."

A decade or more later, it is hard to believe that these things happened. Operation Rescue—broken up by federal law and draconian fines—is no longer a national force. The scene outside Eastern Women's is calmer, with

grey-robed Franciscan Friars of the Renewal taking over the sidewalk counseling. The compassion and prayerfulness of the friars appear to disarm the abortion escorts; the pro-life movement, generally, seems to have shifted from confrontation to addressing the underlying issues, from the "Women Deserve Better" campaign of Feminists for Life, to lobbying for pro-life legislation and judges.

I tell this story to document some special events in New York pro-life history that will be found in few other places, and to encourage some younger pro-lifers to witness in front of the clinics. I also write to warn. Pro-lifers have put enormous resources into getting Chief Justice John Roberts and Justice Samuel L. Alito on the high court. Yet even if *Roe* is overturned, our cause will be far from won. Abortion will still be legal, as the issue returns to the states. New York lawmakers will keep abortion-on-demand legal, and other states will follow suit. As pro-lifers celebrate victory, babies will continue to be killed, in the same centers as before—and perhaps with even less of an outcry. There will be a greater need for the faithful to pray and counsel at today's Calvary, to save babies, help women in crisis, and shine an unblinking light on the injustice. It would be a fitting tribute to the late John Paul II, who set so many of us on the path to life.

"That's what I love about New York—people leave you alone."

Caring for Mildred

Alicia Colon

Being a pro-lifer sometimes means having to live up to the challenge of a tough set of principles. Living out an ethic of respect for life can often be spiritually and emotionally rewarding; at other times, though, it requires a lot of patience, with rewards that are elusive. I wish I could say that I've always handled my own challenges with grace and spirituality . . . but, well, I can't.

My first grandchild was born in circumstances that were difficult but, ultimately, life-affirming. Actually, that last term is too mild. I fell in love with Edward the moment I laid eyes on him at the hospital nursery. He brought euphoria to his grandparents, and he and his siblings continue to do so every day. Whenever I read about a mother dragging her daughter to New York City so she can obtain a third-trimester abortion, I want to scream at her: "You *don't* know what you're doing. You may never have another opportunity to savor the richness of grandparenthood." I can scream these words only from my newspaper column, and hope that somehow they get the message. My daughter's friends had all advised her to get an abortion; I thank God every day that she hesitated and, in the end, listened to me.

In the case of Edward, it was easy enough for me to practice what I preach about respecting life. It's a lot harder, though, when the life belongs to an elderly woman who's not particularly fond of you, and the feeling is mutual.

I hadn't seen my mother-in-law, Mildred, in over 15 years. She and I had had a great relationship until she moved from Florida to New York, to live with my husband, myself and our three small children. I had no idea that her increasingly paranoid accusations about me were just the beginning of her mental decline. I realize in retrospect that she must have had some inkling of this and that may have caused her to live in constant fear of what was to come.

After two years with us, she got married and moved back to Florida. My husband made regular trips to Jacksonville, to visit her—and observed that she had difficulty concentrating and had developed speech problems. In August 1996, her husband told us he had put her in a nursing home. A few months later, he died; my husband and I decided to take Mildred in with us here in New York City.

When Mildred came to live with us, she had mobility and some speech

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Alicia Colon, mother of six and grandmother of five, is a columnist at the New York *Sun*.

left. She recognized me at first and smiled, her face lighting up in recognition. Years ago, Mildred had given us $10,000 to put down for our house in Staten Island. Without her help, we would never have been able to afford to move there from our Manhattan apartment, which we had outgrown with the arrival of our third child. As far as I was concerned, this was her house as well and I was determined to make her as comfortable as possible.

I had never had any familial experience with Alzheimer's and did not realize what we were in for when we decided to take over Mildred's care. Over the four years I took care of her, I watched my mother-in-law, an intelligent, handsome woman with a great sense of humor and a singing voice like Patsy Cline's, morph into an infant. In her final months, she had lost even her ability to hold a cup upright. She would always turn it over, and we were forced to give her liquids in a baby bottle. She didn't like being fed with utensils and preferred to eat with her fingers. She would laugh like a baby when I would clap my hands and sing a rhyming song.

Towards the end, she would have bouts of violence and strike at me while I was changing her diapers. I would yell at her, and cry out to God, "I can't take this any more." I'm no saint. I would get angry at her, calling her names because I knew she couldn't understand me. More often, however, I prayed for strength.

The few people who knew I was the caregiver for my mother-in-law would make comments, of the kind that indicated they thought me a paragon of virtue. I tried to dispel their illusion but I only succeeded in making them think I was being overly humble. The truth was quite different. I was merely a reluctant caregiver totally unsuited to the difficult task I was burdened with. I cared little for my mother-in-law, because I knew that she cared little for me. I did what I had to do, because I love my husband and he loved his mother.

Alzheimer's doesn't just destroy the brain; it also makes the body's immune system extremely vulnerable. As a result, Mildred suffered a number of ailments—minor ones in the early years, more formidable ones later. One of the worst was a case of shingles which left her with sores throughout her body—her groin, in particular. I watched my husband hold his mother, soothing her as I applied the medicated ointment to the affected areas. Tears filled his eyes as he sang her favorite country & western song to distract her from the indignity of what she was going through. I fell madly in love with him all over again—and realized that we were both capable now of loving each other in sickness and in health, until death us do part.

In the last month of Mildred's life, every day became more and more

difficult. I began to hate my own life, and I was sinking into a sea of self-pity. One evening I was watching a television news program that featured a Brazilian woman who suffered from stigmata. The program was scheduled to document such a phenomenon live and it did, in fact, occur. During a follow-up interview, the woman claimed to be able to see Jesus and told the reporter that Jesus is always around us. Not terribly interested, I switched off the TV. Later that evening, though, while preparing Mildred for bed, I found her to be particularly difficult: She kept rising from the portable-toilet seat before I could properly clean her, and I found myself screaming in frustration—until I thought of what the Brazilian woman had said. I then cried out loud, "Jesus, if you're watching this, help me out." Well, there was no miracle. Nothing about Mildred changed . . . but something about me did. I suddenly calmed down, and a feeling of love for this poor woman took hold of me. I smiled at her, and she returned my smile. I never did spot Jesus in that room, but I have a sneaking suspicion that He heard my cry.

Within a month, Mildred succumbed to pneumonia. When my husband and I went to see her body in the local funeral home, she looked absolutely beautiful, her classic features frozen in a mask of serenity. It was over; the cloud over our home and family had been lifted.

A strange idea came to mind. I remembered that when the film *The Exorcist* was first released and was being much written about, one school of thought held that the devil's real target was not the possessed individual, but rather those around that person. In the film, the priests—not the possessed child—were the ones really being challenged by the devil. I could observe something quite similar in Alzheimer's—a disease that can afflict the family and caregivers far more than the actual patient, who has, in the final stages, only very limited knowledge of what is happening to him or her. How we handle this challenge has a serious impact—positive or negative—on our lives.

I now consider the experience to have been a positive one: It taught me, among other things, to appreciate how extremely difficult is the job of caregivers for the infirm and disabled. Good nursing-home workers are simply not paid enough for the job they do.

And as for family caregivers, I'd like to share some pointers that may make their less difficult.

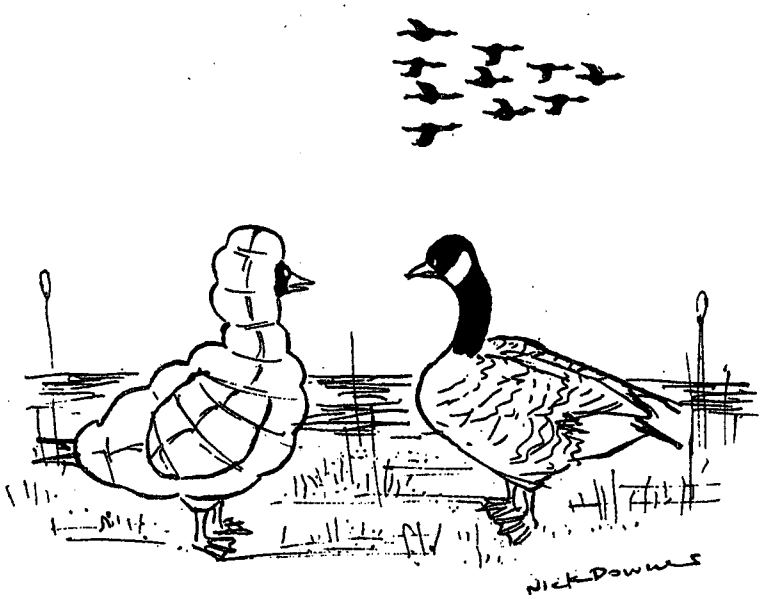
When I was looking for some kind of device that would make shampooing Mildred's hair easier, a worker at the Ocean Breeze pharmacy in Staten Island introduced me to the No Rinse hygiene products (*www.norinse.com*). These personal cleaning products are said to be used by astronauts in space to keep hygienically clean. I don't know if that's true, but they were a god-

send: I could keep Mildred fresh as a daisy without having to bathe her.

Also, we were going broke paying for diapers and disposable bed pads—until we discovered that the local Alzheimer's Association dispensed these supplies free. From this agency we also learned of a respite program at a local nursing facility, which would take Mildred for a week while we took a much-needed break. A church bulletin alerted us to a day-care program at Carmel Nursing program, which accepted Alzheimer's patients for a few hours during the week. I was writing a column for the *Staten Island Advance* at this time, which I simply could not have done but for this wonderful service.

I advise everyone dealing with this type of situation to get as much help as possible. Contact your local Alzheimer's Association for assistance, counseling, and supplies. I would also suggest, to anyone who knows an Alzheimer's caregiver: Please offer them a break from time to time.

Most important of all: Pray. It will not only save your soul, it will save your life.



"You head south without me. I'll be fine."

Blazing a New Trail For Life

Richard J. Goldkamp

In normal times, the appointment of Raymond Burke as archbishop of St. Louis would have been of interest almost exclusively to the people of his new archdiocese. But in a nation heavily burdened by a culture of death, these times are far from normal. Shortly after Burke's arrival in early 2004, the archbishop and his new city endured a media storm that lasted almost all year: The press was in a frenzy against Burke because of his commitment to the defense of innocent life.

In an interview with the *St. Louis Post-Dispatch* soon after he came to St. Louis, the new archbishop reiterated a pledge he had made as bishop of La Crosse, Wis., to deny Communion to Catholic officeholders who spurned their church's teaching on abortion. Critics were not shy in sharing their harshly negative reactions to Burke. In an early April letter to the *Post-Dispatch*, one reader assailed what he called Burke's "bellicose, loose-cannon actions" since his arrival in St. Louis. A Labadie, Mo., resident asserted in a letter to the *Post* a few weeks later that it was time for the Catholic Church to "forfeit" its tax-exempt status under U.S. law. While his reasoning for that assertion was far from clear, the writer let it be known he was keeping a close eye on Burke. Other letter writers echoed similar sentiments. During a late June appearance by the new archbishop on Charles Brennan's morning talk show on KMOX-Radio, the powerhouse CBS affiliate in St. Louis that reaches listeners in more than 40 states, one angry woman alleged the archbishop was trying to "blackmail" Catholic voters. She accused church leaders like him of crossing the line of separation between church and state.

The *Riverfront Times*—a St. Louis-based weekly entertainment tabloid with a flair for the sensational—ran a late-summer cover story accusing Burke of hiding "dirty little secrets" in his former diocese, concerning its response to victims' allegations of sex abuse by clergymen there. For readers alert enough to notice, however, the *Riverfront Times* had a dirty little secret of its own: Buried deep in this 5,000-word attempt at advocacy journalism was the damaging admission that all three of the report's victim-heroes remained anonymous. Their comments in the article came across as lacking in objectivity, and unconvincing in their assessment of Burke. The tabloid had tried to set the stage for Burke's accusers with a disgraceful, belittling caricature

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of the archbishop on its front page—but the unintended result was to create instead an odor of character assassination.

Meet John Kerry

Long before Burke's arrival, Missouri was known politically as a bellwether state: Its voters had picked the presidential winner in all but one election over the past century. That made it a natural campaign stop for Sen. John Kerry as he pursued the Democratic presidential nomination. When his first visit of 2004 nearly coincided with the archbishop's arrival, the visibility of both men rose instantly on the national scene—for one reason: In his *Post* interview, Burke made it clear he did not think Kerry's high-profile pursuit of the presidency should exempt him from being denied Communion over the abortion issue.

By March and April of 2004, the subject was turning up regularly on radio talk shows. Most of the barbs voiced by the random callers were directed, not at the senator, but at the archbishop: Initially, at least, Burke's detractors badly outnumbered his defenders. I had an eerie sense that the sheer heat of this controversy was generated by much more than Burke's handling of the abortion-Communion confrontation: The furor was a nasty reminder of the unwanted legacy of the sex-abuse crisis of 2002.

Belittling Catholic bishops in general, even on unrelated matters, has become quite fashionable—despite the fact that some of the bishops under attack had little or nothing to do with either causing or perpetuating the clergy scandal. I'm a native of the Show-Me State, so let me say up front: Like many Catholics, I've felt both sharply disappointed and, at times, deeply upset by what has taken place in the church in America in recent years. But culpability for the problems caused by poor leadership cannot be spread equally among all bishops.

This is the background against which Archbishop Burke made his stand in defense of human life. He would learn anew about the many rocks strewn in front of us as we move along the road to Calvary—and he would end up having to reach very deep, for a new level of courage to defend his principles.

Anyone who thought Burke was simply "meddling in politics" on a matter that shouldn't concern him simply wasn't paying close attention. Sen. Kerry was not a centrist Democrat willing to stand up for women's rights. He was one of the most ardent proponents in the U.S. Senate of keeping abortion legal—very much including the barbaric procedure known as partial-birth abortion. If the Supreme Court had tried to elevate "abortion rights" to the iconic status of a constitutional absolute, John Kerry was there to serve as one of the high priests of the culture that supported it.

Kerry was equally well known along the campaign trail, by choice as much as by chance, as the second Catholic senator from Massachusetts to run for president. A Spanish-language campaign ad, for example—carefully targeted at predominantly Catholic Hispanic TV audiences in key parts of the country—touted Kerry as "a man of faith . . . a man of family." If he was willing to traffic openly in his Catholic identity in a search for voter support, then the way he defined that identity was fair game for public scrutiny, among ordinary Catholics and church leaders alike.

Defender of Life

As a working member of the secular press myself, I found the negative media image of Burke irksome largely because it flowed far more from media attitudes than from the archbishop's own actions. The problem was rooted in the media elite's insistence on treating the legal right to kill an unborn child as one of the "landmark" accomplishments of our secularist era. A lengthy Associated Press feature that announced Burke's arrival in St. Louis painted him as a stiff-necked "hard-liner"—largely because, in his former diocese, he had challenged Catholic officeholders who supported abortion on their fitness to receive Communion. The story hinted at unwanted consequences for St. Louisans as a result. (Calling someone a "hard-liner" is one of the media's favorite putdowns for someone they don't like. They rarely refer to someone as a pro-abortion-rights "hard-liner.")

The AP usually strives to be a good deal more impartial than this story would suggest. But, in this particular case, it based an appraisal of Burke not on a fair sampling of Catholic opinion in his old diocese, or on something comparable; instead, the report's coolly massaged hostility to its subject rested heavily on the undisguised animosity of a single interviewee—theologian Daniel Maguire, longtime Catholic dissenter at Marquette University and a well-known critic of his church's defense of innocent human life. The hefty amount of space Maguire was given to sound off in this story must have struck the professor himself as remarkable. He milked his moment for all it was worth. No one should have been surprised: Anyone familiar with the elite end of the news trade knows that Daniel Maguire has become one of its quintessential "Catholic" mouthpieces for legitimizing the abortion industry.

So forget the honeymoon period a prominent religious or political leader in a new assignment might initially enjoy from the media. Burke's potential critics in St. Louis had been invited to pick up the "Maguire option" right away.

The archbishop no doubt found his reception in St. Louis a bit disconcerting at times; but winning a popularity contest was apparently not the uppermost

thing on his mind. Trained as a canon lawyer, he understood better than his accusers that he was on solid ground in calling attention to an urgent and long-neglected matter under the Church's Code of Canon Law: the centrality of the Eucharist to the Catholic faith. Canon 915 makes it clear that the reception of Holy Communion is not a religion-inspired civil right—a kind of "Catholic entitlement"—but a profound act of worship uniting the recipient directly to the Mystical Body of Christ. For that reason, its reception is normally reserved for those who fully accept the faith and are free from serious sin when they approach the Communion rail. And John Kerry's voting record on abortion had set him radically at odds with his church on the gravest and the most contested moral issue of our time.

What Burke's critics really objected to, I suspect, was less the specific policy on Communion than the fact that he was focusing attention on something they clearly wanted to ignore: He was dragging abortion out of the "closet of privacy" and onto the public stage for debate in a presidential election year. Bill McClellan, one of the more devoutly pro-choice members of the *Post-Dispatch* staff, wrote a snide column in early July that told us far more about the columnist and his employer than about the archbishop. Disguised as a lighthearted jab at the Burke-Kerry rift, the piece was in fact a disingenuous putdown of Burke, designed to trivialize the archbishop's stand on why a Catholic politician's support for the deliberate destruction of an unborn child rendered him unworthy to receive Communion. Abortion was undeniably the fuse that ignited this debate over Burke and Kerry; yet McClellan never found the courage to mention the hated A-word a single time in his entire 600-word effort to change the subject. The writer had carefully evaded the real issue.

The net effect of this head-in-the-sand journalism was to invite readers to join McClellan in keeping abortion off the table as an acceptable subject of public debate: out of sight, out of mind.

Scandal in the Public Eye

Burke's controversial emergence on the national scene exposed a subtle hypocrisy in the media portrayal of Catholic bishops. In the sex-abuse scandals, bishops were generally suspected of doing far too little to halt the abuse of children. Two years later, Archbishop Burke came under a similar cloud of suspicion, for precisely the opposite reason: It looked like he was doing *too much* to protect children from abuse—the particular form of abuse that involves killing the child before he's born. The noted study undertaken by the John Jay College of Criminal Justice showed that more than 10,000 children and teenagers over a period of several decades had had their lives grievously

disrupted by criminal Catholic priests. But here's another sobering fact: The lives of nearly half that many children get snuffed out *every day* in the "safe and legal" abortion chambers of America.

Yet Archbishop Burke was suddenly targeted, by critics both inside and outside of the media, as an intrusive Catholic clergyman for publicly challenging why some Catholic politicians were in open complicity with what pro-lifers have called the "ultimate child abuse." The media have done those politicians no favor by encouraging the self-delusions that guide them. To this day, the elite media have avoided facing the journalistic dilemma implied by all this: One scandal was caused by morally deviant priests and misguided bishops shuffling them around in the vain hope that a change of scenery would solve the problem. The other was authorized by a nine-judge federal court—but then perpetuated by a morally obtuse media establishment willing to look the other way.

The *Riverfront Times* had its own devious reason for browbeating Burke. As a longstanding and fanatical proponent of abortion rights, the *Times* knew its best chance of neutralizing the archbishop on that issue was to try to smear him with the sex-abuse scandal—despite its remarkably flimsy evidence for the notion that he played any significant role in it.

Echoes from the Past

In another time and place, another Catholic leader found himself caught in a moral struggle similar to the one faced by Burke. Much like the St. Louis archbishop, he had to ask himself: Should I risk speaking up for change in the search for a more just society, or should I avoid disrupting the status quo and continue to defend the social order and political culture passed down to us for decades?

He, too, opted for change. In doing so, he not only upset some members of his constituency, as Burke has done. He also sparked the ire of some public officeholders in his area, several of them influential Catholics. He took action, as a matter of conscience, because he saw that an entire class of people in his region—much like preborn children across the country in our own time—were being denied full legal personhood under the law, and the equality and respect that goes with it.

The man in question, Archbishop Joseph Rummel of New Orleans, actually went a step further than Archbishop Burke has done: Rummel excommunicated several Catholic leaders for their adamant refusal to accept change in the moral climate of the late 1950s and early 1960s. It was the aftermath of the Supreme Court's *Brown* decision, and the archbishop knew that the only way to honor and respect black New Orleanians was to desegregate the

schools of his archdiocese. The media treated it as a historic moment. The New York *Times* praised Rummel for adopting what it described as a courageous stand "founded on religious principle."

Catholic dissenters who rejected their church's stand against the evil of segregation soon became the pariahs of their time. But Catholic dissenters who today reject their church's stand against the evil of abortion are all too often treated as public heroes by the media, and honored for their defiance of authority. So what happened between then and now, to spark the corrosive wave of public skepticism that confronted Burke in St. Louis?

It wasn't the Catholic Church's willingness to defend the defenseless that had changed, but rather our nation's media elite—and the culture they embraced and promoted in the latter part of the 20th century. This bizarre new culture has given rise to some genuinely strange events. When Archbishop Burke first spoke out in St. Louis about applying a religious restriction to some of Catholicism's errant sons, the media quickly invoked the political nightmare of a breach in America's sacrosanct "wall of separation." Yet when Sen. Kerry took to the pulpit of a North St. Louis church barely two months later, and quoted from Scripture in his push for support from the black Baptist congregation, the senator's supporters were conspicuously silent about any breach in the wall. (Some of Kerry's local supporters, including Rep. William Lacy Clay, were also among the archbishop's more fevered critics.)

Cultural Elites and Double Standards

The wall of separation had mysteriously disappeared, because one of the culture's most important double standards had gone to work on John Kerry's behalf. That double standard had emerged from a long series of Supreme Court rulings, and from a massive cultural shift over recent decades. Even as pop culture and the sexual revolution of the 1960s were raising sex-as-recreation to a level of public acceptance that obscured sex's natural link to procreation, the cultural elite were seeking to codify these new ideas in our nation's fundamental law. From *Griswold* v. *Connecticut* in 1965, through *Roe* v. *Wade* in 1973, to *Lawrence* v. *Texas* in 2003, the Supreme Court increasingly sought to sever civil law completely from its roots in natural law and a universal moral code. (We are regularly told that "you can't legislate morality": This half-truth makes the rounds of prestigious law schools in an effort to draw a helpful distinction between civil and moral law. But to test whether these two can be severed absolutely from each other, just ask yourself the question: Where would our nation's homicide laws be without any moral foundation?)

Individual autonomy was swiftly being glorified at the expense of communal values. *Griswold* empowered a married couple acting together to use the latest medical technology to frustrate the very possibility of bringing a child into the world. *Roe* empowered a woman, acting alone, to seek a doctor's assistance in "terminating" the life of an unwanted child who was already in this world. *Lawrence* converted sodomy into a civil right, in effect, by empowering two persons of the same sex to pretend that an essentially sterile sex act is a declaration of love. Not only did *Lawrence* open the door to unisex "marriage"; it made it all but pointless to try to protect traditional marriage and family in the eyes of the law.

The shift in the high court's focus was epitomized by a concurring opinion in *Planned Parenthood* v. *Casey*, a 1992 ruling in which Justices O'Connor, Kennedy, and Souter joined forces to defend the growing secularist trend in court thinking. "At the heart of liberty," they wrote, "is the right to define one's own concept of existence, of meaning, the universe, and of the mystery of human life." Three justices had thus crafted a bizarre new legal principle for the post-*Roe* era, one that could rationalize the killing of a child in the womb. In their minds, presumably, neither the God of Judeo-Christian tradition, nor the Creator whose providence was acknowledged in our own Declaration of Independence, had anything to do with the law of the land.

Burke Steps In

For that reason if no other, Archbishop Burke felt obliged as a religious leader to bring Catholic principles back into play in the abortion debate. Despite his critics' more promiscuous accusations, what he did had less to do with influencing a specific election than with the need to start correcting the long-simmering scandal of Catholic (or other) officeholders' thumbing their noses at the defense of truly defenseless human life. Most of the offenders, clearly, were Democrats; but the GOP has increasingly had to deal with prominent Catholic defectors in its own ranks who embrace the new culture of death.

Burke's action was defensible not only from a Catholic perspective, but in terms of basic American principles. A persuasive case can be made that a rigidly separationist interpretation of our Constitution was by no means what its authors had in mind. Consider this admonition, for example: "Where is the security for property, for reputation, for life, if the sense of religious obligation deserts the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that Morality can be maintained without religion."

The starched-collar advice of some meddlesome but long-forgotten 18th-century cleric? By no means. You don't have to be a scholar of colonial American history to recognize that admonition as coming from George Washington's Farewell Address—a key part of his legacy to the American people. (It's easily accessible on the Internet.) John Adams, our second president, would later echo his predecessor with his own observation that our Constitution was "made only for a moral and religious people." (Ironically, as former Sen. Daniel P. Moynihan of New York once pointed out, the idea of a "wall of separation" was not even intended as an act of jurisprudence: It was an adroitly poetic but legally imprecise metaphor, however memorable, coined by Thomas Jefferson in private correspondence to a group of Baptists in Danbury, Conn.)

Examining the wisdom passed on to us by our first two presidents, it's easy to conclude that both envisioned separation of church and state as more of a jagged line than an immovable wall. The authors of the First Amendment took care to avoid any establishment of a national religion; but they never sought to silence the voices of religious leaders in the new nation. And since abortion was a moral and spiritual issue before it became a political one, it should be equally clear that an archbishop has as much right as any senator to tackle the subject in the American marketplace of ideas. In short, the archbishop of St. Louis was not the real issue in the 2004 election season: The Issue was still the issue.

The *Post-Dispatch* started out signaling the best of intentions with its January 2004 interview of Burke. On a personal level, reporters Patricia Rice and Tim Townsend made an honest effort early on to treat the new archbishop with an even hand. But at an institutional level, *Post* coverage began zigzagging downhill from there, driven by a secularist suspicion of Burke's motives that not only shaped its editorial outlook, but at times skewed its news judgment as well. The left-leaning daily resorted to a pronouncedly anti-Burke spin designed to isolate him from mainstream America.

A prime example hit print in the last month before the election. On October 11, the *Post* commentary page carried three guest columns. The first two columnists assailed Burke for outlining the responsibilities facing Catholic voters in a pastoral letter that stressed abortion as the "foundational" public issue of our time. The third commentary did not mention the archbishop by name, but the two bylined columnists who co-authored it didn't need to do so. What they said made it clear they were opposed to a Burke-style perspective on election-year issues. The *Post* let its ideological stripes show in its studied choice of the four contributors, none of whom was a cultural conservative. Three were spokesmen from various Protestant congregations, who

were clearly more comfortable with a liberal view of election-year issues; the fourth was a former Catholic seminarian who did his best to reshape the normative teaching authority of the church on questions of conscience—especially with regard to abortion. By shoving Burke supporters to the sidelines, the *Post* was systematically trying to distance the shepherd from his flock.

Exactly ten days later, a front-page *Post* headline for a story by Tim Townsend hyped a "controversial" new voters' guide issued by San Diego-based Catholic Answers. The guide, distributed throughout the St. Louis archdiocese, made a strong pitch to Catholic voters on five non-negotiable issues. On life issues, they were urged to oppose procured abortion, embryonic-stem-cell research, and assisted suicide. While many individual parishes around the country ordered the guide in bulk, dioceses generally shied away from it. The *Post* story noted that a few bishops even chose to ban its use for fear of jeopardizing their tax-exempt status. (That fear had little foundation. Both Burke's pastoral letter and the San Diego voters' guide clearly complied with the Internal Revenue Service code by carefully avoiding any endorsement of specific candidates for office. Neither of the two major political parties or presidential candidates, in fact, showed up by name in either document.) Many bishops preferred to go along with the official voters' guide of the U.S. Conference of Catholic Bishops—which actually did not contradict what Catholic Answers had to say. The San Diego guide simply addressed the right-to-life issues in much bolder terms, showing why they outweighed other issues of 2004 in importance, from a moral perspective.

Of one thing, there was increasingly little doubt: The *Post-Dispatch* wanted its readers to believe St. Louis's new archbishop was a leader out of touch not only with America's mainstream, but with mainstream Catholicism as well. Its hyperactive campaign in 2004 was designed to isolate Burke as a kind of religious oddball—perhaps even a dangerous clerical deviationist where church-state relations were concerned.

A broader and far more accurate picture had emerged in the Catholic press. The *National Catholic Register*, for instance, reported that at least a dozen other bishops offered a public witness strikingly similar to Burke's on the key church-state controversy of 2004. While U.S. bishops were divided on how best to respond to straying Catholic politicians, there was remarkable unity among those who closed ranks with Burke in calling attention to the radical clash in values between a Catholic officeholder's public support for abortion and the reception of Communion in church. The pro-Burke group included archbishops from at least five major cities: Portland, Ore.; Denver; New Orleans; Atlanta; and Newark, N.J.

Perhaps the best refutation of the *Post*'s spin occurred exactly a week after Election Day, when Archbishop Burke addressed a banquet meeting of nearly 300 guests at the Radisson Hotel in suburban Clayton, Mo. His warm reception there directly contradicted the illusion that he lacked public support for his leadership, even among members of his own flock. In his presentation, Burke stood his ground on the abortion-Communion debate, and defended both the timing and content of his pastoral letter. He also traced the origin of today's Catholic defections on the abortion issue back to John F. Kennedy's famous 1960 speech to a Protestant ministerial alliance in Houston. Faced with a resurgence of nativist suspicions of a Catholic in the Oval Office, Kennedy made a strategic decision to divorce his religious faith completely from his politics. As Burke pointed out, it was not only an act of political expediency that has haunted Catholics pursuing high office ever since; it opened the door to the new secularism of today and its jealous guardians in the media elite.

The sound and fury of the media's reaction to Burke mattered little to his audience at the Radisson Hotel. His talk was repeatedly interrupted by enthusiastic applause. Two lay Catholic fraternal organizations that co-sponsored the event may have missed a golden opportunity by not alerting the media in advance to Burke's talk. It's a good guess the *Post*'s Tim Townsend would have been favorably impressed, had he been there.

The plain truth of the matter is that it wasn't the archbishop who was out of touch, either with America or with his church. It was the *Post-Dispatch* that had lost touch with one of the deepest wellsprings of Western civilization: the natural-law tradition. It's a tradition based on a law written deeply in the human heart, prodding people and nations of every age to recognize and protect what the archbishop called "the inviolable dignity of all human life"—from conception to natural death. Much to his credit, Burke refocused our collective memory on that law, not for the benefit of Catholics alone but for that of all Americans.

There's little persuasive evidence the Founding Fathers ever intended to exempt our country from the natural-law tradition. Archbishop Burke seeks to revivify it, by reminding us all that we are indeed "our brother's keepers."

Our brother's keepers: That rich Judeo-Christian phrase betokening the intimacy of human relationships dates all the way back to the Book of Genesis. But its meaning still applies, to our tiniest brothers and sisters growing in their mothers' wombs. This is the witness in which Archbishop Raymond Burke perseveres, in the face of bile, abuse, and misunderstanding. He is acting with great courage, for a principle that stands in the highest tradition not just of Catholicism but of humanity itself.

An Unsung Pro-Life Hero

John Burger

When Bishop Francisco Garmendia was laid to rest last November, eulogists and obituary writers focused on the fact that he was the first Hispanic bishop in the Catholic Archdiocese of New York. They described his social concern—he had founded a social-services agency—and noted his pastoral care for families after a fatal nightclub fire. They spoke about his holiness, his gentleness, his humility, and his low-key personality. He was vicar of the South Bronx at a time when it was a veritable hell on earth; they mentioned the regular religious processions he led through a major park in the Bronx.

But there was one aspect of his life that was completely overlooked by the eulogists in St. Patrick's Cathedral, and by writers of tributes in the Spanish- and English-language press: his great concern that women were aborting their children, and doing so at an extraordinary rate.

As a bishop, Garmendia took seriously the implications of being a "shepherd." He was not a pro-life "star" as New York's Cardinal John O'Connor was during the same era—but as a Catholic and as a priest, he was devoted to Christ and His Blessed Mother, and he brought his concerns about the abortion catastrophe to them.

Francisco Garmendia was a native of the Basque region of Spain, born in Lazcano in 1924. He was one of eleven children in a devout Catholic family; they were led by their parents in daily recitations of the rosary. Two of his sisters would enter religious life. Francisco experienced a call to the priesthood at an early age and entered the seminary in his adolescence.

As a member of a religious order called the Canons Regular of the Lateran, he soon found himself in South America. Based in Salta, Argentina, he would ride his horse into the mountains several times a week to bring the sacraments to the Indians.

Around the same time, thousands of miles away in the New York suburb of Yonkers, Betty Cleary and fellow members of the lay evangelization movement the Legion of Mary went knocking on doors. It was 1964, and they were discovering more and more Spanish-speaking Catholics in the neighborhood of St. Peter's parish—immigrants who were not, for some reason, coming to church. Word traveled up the hierarchy that St. Peter's needed a Spanish-speaking priest.

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That word translated into a new mission for Padre Francisco Garmendia, who soon became known to Miss Cleary and others at St. Peter's as Father Francis.

"I remember the first homily he gave when he arrived," Miss Cleary said: "'Your joys will be my joys, and your sorrows will be my sorrows.'"

Father Francis arrived in New York on Sept. 8, celebrated by the Church as the birthday of Mary.

After 13 years of working with immigrants in New York, Father Francis was named an auxiliary bishop for the archdiocese. Archbishop Fulton Sheen, well known to Catholic television audiences in the 1950s and living his final years in New York City, wrote to him on the occasion: "Welcome to the greatest fraternity on earth!" Bishop Garmendia's devotion to the Blessed Virgin Mary was apparent in the motto he took as a bishop: "I am all Thine, My Queen and My Mother, and all that I have is Thine." Cardinal Terence Cooke named Bishop Garmendia his Vicar for Spanish Pastoral Development; in 1986 Cardinal John O'Connor appointed him Vicar of the South Bronx.

There were two other priests, native New Yorkers, consecrated bishops in the same ceremony as Bishop Garmendia in 1977. One would go on to become the archbishop of Newark, N.J., and later Washington, D.C.: Cardinal Theodore McCarrick. The other was Bishop Austin Vaughan, a longtime auxiliary bishop of New York who, like Bishop Garmendia, had a grave concern about what America was permitting to be done to unborn lives. He was the first Catholic bishop in the United States to be arrested for his pro-life activities: He took part in Operation Rescue blockades of abortion businesses.

Bishop Garmendia was concerned too, but he took a different approach. "He was concerned that innocent babies were being killed, and that was an injustice," recalled Msgr. Philip Reilly, founder of the Helpers of God's Precious Infants. "He was concerned that mothers were being exploited. He was aware of his responsibility to reach out to the Spanish so they wouldn't be taken in by false promises."

A Man and His Mission

Garmendia's territory, the South Bronx, has long been viewed as a lawless place. There have been periods of its history when buildings burned and crime reigned in the streets. It's an inner-city place of high-density population, with many people living in low-income housing projects. There are high concentrations of minorities and immigrants, particularly Latin Americans. Gangs and the illegal drug trade plague some neighborhoods.

There is also a particularly high abortion rate. In 2001, the year Bishop Garmendia retired, there were 21,706 live births in the Bronx, 20,356 abortions, and 2,289 "spontaneous terminations," according to New York City's Health Department. In the city overall that year, there were 91,792 abortions—including 29,684 by Hispanic women, and 44,213 by black women. In 2004, the latest year for which statistics are available, there were 20,854 live births in the Bronx, 20,594 induced abortions, and 2,139 spontaneous terminations.

Bishop Garmendia agreed to participate in a prayerful vigil outside a clinic organized by the Helpers of God's Precious Infants. The Helpers attempt to provide a witness against abortion by assembling a group of people to stand outside a clinic during the time babies are killed. They gather for Mass in a church close to the clinic. The priest preaches a homily that amplifies the fact that abortion is a great moral evil and that it is necessary to pray for the conversion of those undergoing, practicing, or assisting abortion. Most vigil participants then process to the clinic, praying the rosary. Some, particularly the elderly, stay behind in the church, where the Blessed Sacrament is exposed prominently on the altar: It is a time for the devout Catholic to focus on the Passion Jesus underwent, leading up to His death on the cross. Those taking part in the vigil might think about the fact that at this very moment, babies are undergoing a similar ordeal at the hands of the abortionists.

And that is the idea of the Helpers—to stand at the foot of a cross of Christ that has taken the form of abortion. As Jesus was accompanied in His death by only a few—His Mother, St. John, and others—so too are these babies largely abandoned by society, even by many members of the Church. Here can a few disciples of Christ stand in prayer as babies are crucified. And, perhaps, a woman going into the clinic will be impressed by the sight of several people (or a dozen, or a score, or several score) praying for her; perhaps the kind word of one of them will cause her to reconsider, to realize that there is another way out of what she perceives as an impossible situation.

Msgr. Reilly, a priest of the Diocese of Brooklyn, N.Y., conceived of the Helpers of God's Precious Infants in the wake of Operation Rescue, the movement that blockaded abortion clinics to temporarily halt the killings. Rescue's high-profile activities led to legislation that provided for exorbitant fines and long prison sentences: "You needed to be single or have no assets," said Raymond Mylott, a New York attorney who assisted Msgr. Reilly. "That excluded pro-life families. Therefore Msgr. Reilly saw the need for peaceful prayer led by the Shepherds."

Msgr. Reilly's dream was to have the bishops of the United States lead the Helpers vigils, Mylott said. The first to agree was Bishop Thomas Daily

of Brooklyn; the second was Bishop Garmendia.

"Bishop Garmendia saw the value of what Msgr. Reilly was trying to do," Mylott said. "He saw it as an important witness: Christians on the street, Christians directly confronting evil, Christians helping the most innocent and helpless members of the human family." Bishop Garmendia, he added, saw himself as a shepherd protecting his flock: "When we asked him to go to the street, he didn't hesitate. We had bishops refuse us outright. We had bishops who had to consult with their lawyers first. We had bishops who waited a year before they came out with us."

One gets the sense that for Bishop Garmendia, waiting was tantamount to cooperating with evil. "No matter what he was doing, he made sure he had time for it," said Ishmael Rodriguez, a veteran pro-life counselor who was coordinating Helpers vigils in the Bronx at the time. "For two years, we had a vigil every month—every month at a different mill. We were trying to raise awareness in the parishes. Bishop Garmendia was very open to it. He wanted to come every month, and he did."

"He was always flexible so he could accommodate us," said Msgr. Reilly. "It wasn't like pulling teeth. On the contrary, it was more like 'How can I help you?' He'd always ask me, 'When are we going to do the next one?'"

It wasn't that Garmendia had a lot of time on his hands. Betty Cleary, the Legion of Mary member from St. Peter's in Yonkers, eventually became the bishop's secretary. She attests to his full schedule: early rising, followed by private prayers, morning Mass, and appointments. "If I showed you some of his agenda books you'd ask, 'How could he do it?'"

Rodriguez said there were times when only a couple of people showed up for the vigil. "I wanted to cancel," he said. "The bishop said, 'No, we'll do the vigil.'"

Winning the Battle for Life

Bishop Garmendia would celebrate Mass and lead the procession. Rodriguez remembers a time when the procession led through the middle of Pelham Parkway, a broad boulevard in the Bronx with a park-like divider. It had been raining heavily the day before, and the lawn was wet and muddy. "He was already in his 60s then," Rodriguez said. "It was cold out. And here was this bishop, trudging through the mud. He just wanted to pray the rosary. He never complained. He offered it up."

"He'd offer meditations on life before each mystery of the Rosary—loud, so the people could hear it," Msgr. Reilly said.

Bishop Garmendia once described—to Mother Angelica, on her live show on Eternal Word Television Network—what sometimes happens at the vigils:

"When women see us, because of the power of prayer, they decide not to go into the clinic."

Garmendia also sought to influence the broader culture. In early 1991, he and Msgr. Reilly headed to a busy Planned Parenthood clinic at 149th Street and Third Avenue in the South Bronx, an intersection known as "the Hub." Dr. Irving Rust, an early abortion advocate in New York State and a medical director of that clinic, was the lead plaintiff in a U.S. Supreme Court case, *Rust* v. *Sullivan*. Rust and his cohorts challenged the so-called "gag rule" for recipients of federal Title X "family planning services" funding. The "gag rule" prohibited Title X projects from engaging in counseling concerning, referrals for, and activities advocating abortion as a method of family planning. The projects had to maintain independence from such abortion activities by using separate facilities, personnel, and accounting records.

"The first time the missionary image of Our Lady of Guadalupe was brought to an abortion mill, it was when Bishop Garmendia and I brought it from [nearby] Immaculate Conception Church, which is run by the Redemptorists, to that mill," Msgr. Reilly said. *Rust* v. *Sullivan* had been argued the previous fall. "A month [after the vigil], the Supreme Court ruled in our favor."

Providential? Bishop Garmendia would probably believe so. He was convinced of the power of the rosary: He and his assistants at St. Thomas Aquinas Church in the Bronx, where he was pastor for years, gave out thousands of sets of rosary beads. Betty Cleary insists the number is a million or more. When the supply ran low, they'd order more from a Louisville, Ky., group called the Rosary Makers of America. "Mother Teresa recommended them to him because he was interested in spreading the rosary," Miss Cleary said.

Perhaps it was the successes he saw in front of the clinics, while he and scores of witnesses prayed the rosary and held up an icon of Our Lady of Guadalupe, that led him to correct someone who referred to the South Bronx as the "Devil's Playground." "No," the bishop said. "It's the Blessed Mother's playground."

The Virgin Mary was, for this bishop, not only the Mother of God; she was also a "mother for life," the new Eve whose acceptance to bear the Christ Child reversed the curse brought about by Adam's disobedience. He felt as offended as any Catholic when popular culture dragged Mary and Her Son through the mud. In 1999, a Chris Ofili painting of the Blessed Mother—intentionally splattered with elephant dung—engendered controversy when it went on display at the Brooklyn Museum. This display occasioned a three-story mural of Our Lady of Guadalupe on the side of a South Bronx building occupied by a New York religious order that took a special interest in the

protection of human life: the Franciscan Friars of the Renewal.

This area of the Bronx is home to many immigrants, including a growing number of Mexicans, who love the Blessed Mother under the image of *la Virgen de Guadalupe*. Our Lady of Guadalupe is often considered as the patroness of the pro-life movement. She is the only apparition of Mary to be shown as an expectant mother, and her appearance to the Indian St. Juan Diego in Mexico in 1531 is said to have converted millions of Aztecs from their practice of human sacrifice to the faith of the one sacrifice offered on Calvary.

Bishop Garmendia was invited to bless the mural and to say a few words at its unveiling. Some 200 to 300 people gathered in the adjacent parking lot. A state representative whose district office was nearby and whose voting record was spotty when it came to protection of unborn life took it upon herself to organize a reception for the event, according to Franciscan Father Bernard Murphy. "The bishop led us in prayer and gave a homily," Father Murphy recalled. "The legislator got up and started to hand out drinks. The bishop's talk was fairly non-descript, but all of a sudden . . . boom, he started saying, 'Never, never, *never* vote for anyone who does not support life. Our Lady is a lady of life.' I'm not sure he knew this legislator was there, but she just dropped the tray she was carrying. He was fired up. He went on and on like this for ten minutes. It's the only time I've heard him take a political stance."

"He was one of very few Hispanic religious leaders who were visible in the movement," said Mario Paredes, who for many years directed a Church coalition to coordinate pastoral care of Spanish-speaking Catholics in the Northeast. "He was moved by the incredible challenge of being the vicar for Hispanic affairs and vicar of the South Bronx, where poverty is so rampant, and the sacredness and reverence for human life is so often dismissed."

Bishop Garmendia did not go out of his way to counsel women in front of abortion clinics, as "sidewalk counselors" do. But, as far as his office would allow, he was present at the foot of the abortion "cross." And he did have occasion to invite women, men, and couples in difficult situations to the church for counseling. And when he did, said Betty Cleary, "he'd send them immediately to the Blessed Sacrament."

Judaism and Abortion:

The Hijacking of a Tradition

Richard Nadler

It is quite common to find, in the libraries of pious Jews, a copy of David M. Feldman's book *Marital Relations, Birth Control and Abortion in Jewish Law*. Its subtitle reads: "An examination of the rabbinic legal tradition that underlies Jewish values with respect to marriage, sex, and procreation, with comparative reference to Christian tradition." On the cover of my Schocken Books edition, 1974, one finds a glowing endorsement from Dr. Alan F. Guttmacher, the founding president of Planned Parenthood Federation, who calls it "a splendid, readable volume."

Now, Dr. Guttmacher spent decades advocating sexual liberation through contraception, sex education, and legalized abortion. His "Planned Parenthood" became the largest abortion advocacy organization in the United States. So the question naturally follows: How does a book that purports to represent rabbinic tradition on sex, marriage, and procreation win the enthusiastic endorsement of a lord of the sexual revolution? What did Dr. Guttmacher, who headed the nation's largest abortion provider, applaud in David Feldman?

The simple answer is that Feldman, a luminary of Conservative Judaism, came to believe that abortion-on-demand was the culmination of rabbinic thought on abortion. But the influence of his tome in circles that reject that doctrine is rather more complex. Feldman's study is the best known of the handful of books in English that survey traditional Jewish sources on the subject of feticide. It is extensively researched and heavily annotated. It cites scripture, Mishnah, Gemara, Tosafot, Rishonim, Aharonim, and the major Orthodox law codes (although Feldman himself is not Orthodox).

The major English-language Orthodox source on abortion law is *Contemporary Halakhic Problems, Volume 1*, by Orthodox scholar J. David Bleich. Bleich's meticulous survey is studied primarily by Yeshiva students and rabbis; its copyright belongs to Ktav Publishing House, and it is published by the Yeshiva University Press. Feldman's book, on the other hand, was published by Schocken Books, then a subdivision of mighty Random House (it has been re-released by Jason Aronson). In the journals of Reform, Conservative, and Reconstructionist Judaism, one is hard pressed to find an article on abortion that fails to reference Feldman's tome, or to build on his

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conclusions. The primary reason for its widespread circulation in Orthodox circles, as well as Conservative and Reform, is that it is the only book on the topic that most English-speaking Jews have ever seen.

Feldman's case for abortion-on-demand is based on two premises: first, that the fetus lacks an independent, juridical personality in rabbinic law; and second, that as a consequence, no Jewish law definitively forbids abortion where a pregnant woman requests it.

But both of these claims are unsupported in the rabbinic tradition from which Feldman ostensibly derives them.

The Personhood of the Fetus

Feldman asserts that the fetus lacks a personality independent of that of its mother in Jewish law. As he puts it, "The special set of laws governing the abortion question begins with an examination of the foetus' legal status. For this, the Talmud has a phrase, *ubar yarekh imo*, which is a counterpart of the Latin *pars viscerum matris*. The foetus, that is, is to be deemed a "part of its mother" rather than an independent entity."[1]

"The designation," Feldman continues, "defines ownership." He cites several examples:

- When an animal is purchased, its fetus is purchased as well.
- In regulations of levitical (priestly) impurity, the embryo is part of the mother.
- When a pregnant woman is converted to Judaism, her unborn child is converted with her.
- A fetus cannot inherit property, except through its father.
- A fetus cannot acquire gifts, except through its father.

These cases, Feldman admits, do not establish whether abortion is, or is not, permissible. But they define the legal status of the fetus. "[T]he foetus," he writes, citing legal analyst Ya'akov Milklishanski, "has no 'juridical personality' of its own."

The problem with Feldman's proofs of *ubar yerekh imo* is that they are either flat wrong or misleadingly incomplete. A fair reading of Talmudic literature on the status of the fetus vis-à-vis its mother is that it is treated as a part of her body in a few limited contexts, and as a separate entity in most.

The phrase *ubar yerekh imo* means, literally, that the embryo is the thigh of its mother—i.e., a part of her. Feldman cites the Babylonian Talmud, Hulin 58a, as his primary proof text. This text deals with the status not of a human fetus, but that of a cow. It chronicles a debate between two sages, "R. Eliezer maintaining that the embryo is part of its mother, and R. Joshua maintaining that the embryo is not part of its mother." In Jewish law, an

animal that is *terefah* is ritually impure. Such an animal cannot be eaten as food, nor offered as a sacrifice to God. In the case of a terefah cow, Rabbi Eliezer claimed that the calf in utero was part of its mother, and thus shared her impurity. Rabbi Joshua claimed that the calf was not part of its mother, and thus did not inherit her impurity.

Now, rabbinic Judaism does not derive human status from animal analogies. But what makes Feldman's citation doubly odd is that *Jewish law follows Rabbi Joshua, not Rabbi Eliezer.* The calf borne by the terefah mother is *not* assumed to be part of her, nor to inherit her status.

The next instance cited by Feldman is hardly more compelling. The Jewish priesthood is strictly banned from contact with the dead. In a Talmudic discussion of the impurity caused by contact with a corpse, a dead embryo and its dead mother are indeed deemed one entity. It is absurd to infer the juridical status of a live fetus from that of a dead one. But even so, Jewish law does not support Feldman's claim. Another law of priestly impurity specifies that a formed, miscarried fetus must be given a cemetery burial—implying its separate human existence. The rabbis have a general principle that "what emerges from the human womb is human."

The fact that a pregnant woman's child inherits her religious status is indeed an assumption of Judaism. But this is not a "proof" that the fetus has no identity. Inheritance implies transmission between persons, not the definition of one person. Does Feldman contend that the woman and her child are the same Jew?

Inability to inherit would be a powerful indicator that the fetus lacked a "juridical personality." But in fact, a fetus *can* inherit. This is indicated both by the texts that Feldman cites, and by some that he does not. Feldman admits that an embryo can inherit from his father in a natural manner—i.e., without specific gift or bequest—when his father dies before he is born. Feldman admits that the embryo can acquire gifts or transactions made on its behalf by its father (although not by someone else). In other words, a fetus, like other offspring, has property rights defined in Jewish law. At least, Feldman maintains, an embryo cannot inherit from its mother—but here he's wrong again: An embryo whose mother dies on the birth-stool can inherit from her, too (Tosafot, Niddah 44a-b).

So far I've dwelt solely on the citations Feldman himself brings to "prove" his thesis that the embryo is part of its mother and lacks a "juridical" status under Jewish law. But the core proofs of fetal "personhood" in Jewish law are contained in rabbinic citations that Feldman ignores or dismisses. And many of these proofs are embodied in rulings that ban or restrict abortion.

Anti-Abortion Rulings in Jewish Law

In *Marital Relations, Birth Control and Abortion in Jewish Law*, Feldman concludes that absent a "juridical personality," the fate of a fetus is ultimately a matter for the mother to decide. "A firm and direct legal basis in the classic sources has not yet been found which would unequivocally label abortion on request as impermissible," he opines. Later, he adds: "The principle that a mother's pain 'comes first,' however, is the most pervasive of all factors in the consideration of the abortion question."

As a summary of rabbinic thought on abortion, these statements are absurd. Judaism has issued rulings against induced abortion, voluntary or involuntary, since the giving of the Torah. But in one respect, Feldman is correct: There is no *single* "firm and direct" basis in Jewish law forbidding abortion on demand. In fact there are *ten*. Orthodox authorities have forbidden or restricted abortion on the following bases:

- *Retzicha*—that abortion is murder.
- *Abizraihu*—that abortion, by destroying a hereditary line, is akin to murder, sharing some of its "appurtenances," or consequences.
- *Pr'u ur'vu*—that abortion violates the obligation to people the earth with God's servants.
- *Hash-hatat zera*—that abortion unlawfully wastes male seed, which contains potential human life.
- *Chabbala*—that abortion is the wrongful wounding of the mother, the fetus, or both.
- *Nezikim*—that abortion unlawfully deprives the parents of a value in property.
- *Bal tash'chith*—that abortion unlawfully deprives the community of something of value.
- *Pikuah nefesh*—that the affirmative responsibility to protect and preserve human life applies to the fetus.
- *Chalell Olov Shabbat Echad Kiday SheYishmor Shabbatot Harbeh*—that the developing human life of the fetus requires its preservation, overriding other laws, as in the case of "violating one Sabbath so that many Sabbaths may be kept."
- *Siyog*—that abortion is banned preventatively, as a hedge against other sexual sins that might flow from it.

I will summarize each of these rulings in order.

Retzicha

Abortion is clearly defined as murder in the Talmud, Sanhedrin 57b, which describes the fetus as a "man-in-man." The passage prohibits all homicide,

including feticide, on the basis of Genesis 9:6: "Whoever shed the blood of man, by man shall his blood be shed; for in the image of God He made man." This ruling is the basis of the universal, or Noahide, law against feticide. The general prohibition against feticide is applied explicitly to Jews as well as Gentiles in the commentaries known as the *Tosafot*, which are printed in the margins of all standard Talmud texts.

Abizraihu

Some rabbinic authorities hold that abortion—induced miscarriage—cannot be called equivalent to murder, because the Torah punishes it under tort law rather than as a capital crime (Exodus 21:22); but that nonetheless, feticide is "akin to murder," in that it destroys a human soul and all its potential descendants. As such, it is strictly prohibited. In modern times, a Chief Rabbi of Israel, Rabbi Isaar Unterman (1886-1965), endorsed this view.

P'ru ur'vu

The commandment to "be fruitful and multiply" was assumed by many *poskim*—rabbinic legal authorities—to imply a prohibition against conscious interference with natural procreation. An ancient teaching by Rabbi Ben 'Azzai states, "Whoever does not engage in reproductive sexual relations, lo, such a one sheds blood and diminishes the divine image, since it [*the Torah—RN*] says, 'For in the image of God he made man.'" One of the Hasidic poskim, Rabbi Aryeh Leib Lifschutz (1767-1846) held that the commandment to procreate included a prohibition against abortion, which frustrated its fulfillment.

Hash-hatat zera

Rabbinic Judaism treats semen as sanctified even prior to its implantation in the womb. "Human sperm," wrote Rabbi Jacob Culi (1689-1732), "contains in it the potential for a human being." The crime of onanism—emission of semen outside the reproductive order—is described in Genesis 38:6-10. Some poskim, most notably Rabbi Yair Chayim Bachrach, ruled against elective abortion on this basis. Although the sin applied directly to men only, R. Bachrach extended the prohibition against abortion to women as well, on the basis of Leviticus 19:14: "Do not place a stumbling block before the blind." An action that aborted implanted seed caused semen to be emitted in vain.

Chabbala

One famous rabbinic edict *against* abortion is based on the definition that Feldman uses to justify it: *ubar yerekh imo*. Jewish law regards the human body as God's possession. As such, assaults directed against it are illegal.

Self-wounding is included in this ban. The Maharit—Rabbi Josef Trani (1568-1639)—ruled on this basis that abortion was an unlawful wounding. In this decision, the fetus is protected *because* it is part of its mother.

Nezikim

Exodus 21:22, which describes financial compensation for a pregnant woman who aborts after being struck, has been celebrated by pro-abortion writers. What they tend to forget is that what is described therein is a *punishment* for a *prohibited act*. The body of Jewish law that derives from this verse requires the compensation of the woman, her husband, or both on the basis of the value of the child as measured in the market for human labor. The intention of the person who causes the abortion is irrelevant to the liability that the abortive act incurs.

Bal tash'chith

The worth of the fetus formed the basis of not one financial penalty for abortion, but two. Jewish law forbids the destruction of valued property. The claimants are not restricted to the immediate owners. The Tosefta explains, "He who deprives the public is liable to restore [what was taken] to the public. A more strict rule applies to taking from the public than from individuals. For he who deprives an individual can satisfy him by restoring the value of that which he took, but he who robs the public cannot possibly satisfy them all by an act of restoration."[2] Both Flavius Josephus and Philo record that the Jewish *beit dins* (courts) in the days of the Second Temple treated abortion as a social crime as well as a crime against the family. A second damage payment, independent of that awarded to the parents, was levied by the court against abortionists for their crime of "diminishing the multitude."

Pikuah nefesh

The legal requirement to preserve a human "soul"—*nefesh*—is marbled into a variety of Jewish laws. A pregnant woman's trial is delayed so as not to endanger the life of her fetus. Sabbath restrictions on the practice of medicine are waived when fetal life is endangered. Ritual austerities, such as fasting, are restricted when a conceptum is endangered thereby. Even the ruling that *authorized* abortion to save a mother's life recognized and protected the human status of the fetus. Moses Maimonides, whose *Mishneh Torah* formed the basis of Orthodoxy's most authoritative law codes, permitted abortion where the fetus acted as a *rodef*—a "pursuer"—but *only* to save the gravid female's life. In Jewish law, a "pursuer" may be killed preventively. But the rodef has rights as well as liabilities:

◦ To be so classified, the rodef must constitute an immediate threat to the life in question.

◦ If the first condition is met, the pursuer must be stopped, even at the cost of its life.

◦ However, one who stops it must use no more violence than necessary to preserve the threatened life.

By defining the fetus in a life-threatening pregnancy as a rodef, Maimonides codified its human status. Subsequent law codes rejected therapeutic abortion except where the mother's life was at stake. And abortion was thereby criminalized in instances where the mother's life could be preserved by expedients less extreme. Prominent modern poskim who forbid abortion on the basis of "*pikuah nefesh*" include Rabbi Chayim Soloveitchik and Rabbi Moshe Feinstein.

Chalell Olov Shabbat Echad Kiday SheYishmor Shabbatot Harbeh

In Torah law, work is banned on the Sabbath. Violation of this restriction incurs the penalty of death by stoning. But a Jew is allowed—no, required—to "violate for him [*the fetus—RN*] the Sabbath, so that he remain alive to keep many Sabbaths."[3] A Jew must exercise all efforts necessary to preserve the life of a conceptum, from the earliest phase of a pregnancy. This law applies to a fetus whose mother has died in childbirth (thus belying the notion that it is merely "part of her body"). Many poskim consider this a principle separate from *pekuah nefesh*, because it establishes protections for a fetus based on its *potentiality* as a member of the Covenant.

Siyog

The earliest traditions of Judaism associate abortion with sexually immoral behavior. Midrash teach that the generation of the Great Flood practiced abortion to conceal sexual immorality; that the wicked laws of Sodom protected men who aborted fetuses while brutalizing women; and that feticide was among the abominations of Egypt that the captive Hebrews shunned. Some poskim hold that the availability of abortion encourages forbidden sexual behavior, and forbid it on this basis, independent of its status as a crime.[4] In modern times, a Chief Rabbi of England, R. Immanuel Jakobovits, was an eloquent exponent of this view.

The Jewish Theology of Procreation

The "complexity" of these multiple rulings on abortion is more apparent than real. They are all interrelated postulates of a unified Jewish worldview that interpreted procreation in a sacramental and covenantal framework. The sacerdotal nature of procreation derives from man's inborn status as the being

created "in God's image," and set aside from the rest of creation for God's special use. The covenantal nature of procreation derives from the Jew's intergenerational obligation to keep the Torah, establishing God's Kingship on earth through worship and the performance of mitzvoth (commandments).

These two concepts—sacerdotal and covenantal—explain the Jewish rulings that protect the fetus at all stages of gestation, and even the exception to the general rule. The sacerdotal nature of the conceptum is expressed in the universal, or Noahide, prohibition of feticide as murder. The covenantal nature of reproduction is expressed in the numerous practical laws that protect the conceptum as an object of value, as an inheritor of value, and as a human soul worthy of protection. The single circumstance where therapeutic abortion is sanctioned occurs when a pregnancy directly threatens the life of the mother, a practicing member of the Covenant.

Because the fetus is created in God's image, feticide is the desecration of that image. The same rationale explains why the conceptum must not be injured, nor its development arrested; and why active steps must be taken for its preservation. The unborn child, the "man-in-man," has value as property because it is God's consecrated property; and it has value for the community because it is part of God's consecrated community.

The Hijacking of a Tradition

Virtually alone among the ancients, the Hebrews regarded abortion as a crime, associated with murder, greed, sadism, prostitution, and genocide. In Jewish lore, the practitioners of abortion, and the users of abortifacients, included the worst criminals of Torah history—the Sodomites, the descendants of Cain, the generation of the Great Flood, and the Egyptians of Pharaonic times. By contrast, Jewish tradition universally praises those who resisted abortion.[5]

In Temple days, Jewish *beit dins*—courts—punished abortion as a crime. Philo (20 BCE to 50 CE), who died *before* the destruction of the Second Temple, reports in *De Specialibus Legibus* that the *beit dins* of Alexandria treated induced miscarriage as a tort crime during the first forty days of a pregnancy, and as a capital crime thereafter. In *Against Apion*, Flavius Josephus, explaining Jewish practice in Jerusalem, wrote, "The [Jewish] Law orders all the offspring to be brought up, and forbids women either to cause abortion or to make away with the foetus; a woman convicted of this is regarded as an infanticide, because she destroys a soul and diminishes the race." Both authors chronicle the dual basis of the monetary fines levied against offenders. Abortion was both a crime against the family and a crime against society.

In the ages following the destruction of the Temple, the "Oral Law" was compiled in written form in the Talmud, and codified in the works of its expositors. Maimonides' formulation of abortion law summarized the norms of rabbinic Judaism. Therapeutic abortion was justified if the mother's life was endangered, and unjustified otherwise. Feticide was a last resort, to be employed when no other expedient could alleviate the mother's peril.

Even in modernity, the Jewish aversion to feticide was widely acknowledged. In "A Study of Abortion in Primitive Societies" (1955), ethnographer George Devereux compared prevalent attitudes on feticide in 400 preindustrial societies. Of the Hebrews, he says, simply, "The Jews . . . considered it [abortion] a heathen abomination."

But over the past two generations, all that has changed. In America today, Jews are the likeliest of all major religious groups to support abortion-on-demand. The Zogby Religion Polls provide a snapshot:

Abortion Attitudes by Religious Affiliation

	Jewish	Catholic	Protestant	Muslim	Other Christians	average
Pro-abortion, always	61.30%	22.90%	23.30%	12.20%	18.10%	27.60%
Pro-abortion, except late term	17.60%	19.40%	18.80%	41.10%	13.00%	22.00%
Pro-life, always	3.50%	11.60%	11.20%	9.20%	16.70%	10.40%
Pro-life, rape/ incest exceptions	5.10%	19.50%	17.70%	10.80%	20.60%	14.70%
Pro-life, life of the mother exception	9.90%	24.10%	26.30%	24.60%	29.00%	22.80%

Source: The Zogby Religion Polls, June 2000

The falsification of Jewish teaching on abortion is the result of a systematic deconstruction undertaken by David Feldman and other non-Orthodox scholars from the middle of the 20th century. Chronologically, this movement coincided with the political agitation for liberalization of abortion laws. Prior to the 1960s, one is hard-pressed to find "pro-choice" positions anywhere in the Jewish world.

For Reform Jewish leaders, the deconstruction was simple: These Jews rejected the authority of Orthodox teaching. But for Jews unwilling to reject rabbinic authority wholesale, the deconstruction of a pro-life tradition so strong, and of such long duration, required a theory as well as a goal. Somewhere in Jewish tradition, a basis for feticide must be extracted.

Jewish teaching on abortion was (and is) a minor subset of a broader theology

of procreation, based on the sacerdotal nature of man, and the covenantal nature of Jewish life. Each traditional ruling against abortion presupposed the religious world-view of Judaism, and embodied some part of it. But no single ruling encompassed it all.

By replacing the sacerdotal and covenantal basis of Jewish law with presuppositions that were individualistic and humanistic, scholars like Feldman attacked the Jewish pro-life tradition piecemeal. The multiplicity of Jewish rulings *against* abortion became a tool to deconstruct their theological basis. One might cite one of the poskim, who championed one ruling *against* abortion, to discredit those poskim who championed others. The sage who forbade abortion as self-wounding could be paired against the sage who forbade it as "diminishing the multitude." The sage who forbade abortion as a deprivation of value could be brought against the sage who condemned it as the deprivation of life.

The various bans against abortion carried various penalties. Comparing the severity of these sanctions, the moral status of feticide could be called into question. For instance, the penalty for *Retzicha* is death. But the penalties for *nezikim* and *bal tash'chith* are monetary. The prescribed penance for *hash-hatat zera* is a cycle of austerities. And a voluntary *chabbalah*—self-wounding—although prohibited, is not punished at all.

Absent Jewish theology, the progressive scholar might deconstruct Judaism's magnificent 5,700-year pro-life tradition into a squabble among advocates of conflicting theories and conflicting punishments. Adjudicating among these with standards individualistic and humanistic rather than sacerdotal and covenantal, he might eventually conclude that Judaism had no pro-life tradition at all. And his views, disseminated through the seminaries of liberal Judaism, might inform a whole generation of rabbis and their congregants.

That is the point that most—not all—American Jews have reached in the abortion debate. But that is *not* what traditional Judaism teaches.

NOTES

1. Feldman, *Marital Relations, Birth Control and Abortion in Jewish Law* (Schocken, 1974), p. 253.
2. Tosefta, Babba Qamma, 10:14a-d.
3. Babylonian Talmud, Shabbat 151b; and Nachmanides, Torat Ha'Adam.
4. This by no means implies that these poskim do not raise other objections as well.
5. A fuller exposition of these traditions is contained in the author's book *Feticide and the Birth Cycle in Me'am Lo'ez*, © 2005 by Americas Majority, published by Pakad Press.

The Human Life Foundation
Honors

NAT HENTOFF
October 27, 2005

Also featuring remarks by Wesley Smith and William Murchison

Winter 2006/53

Great Defender of Life Award Dinner

FAITH McFADDEN:

My late husband, James Patrick McFadden, creator of the Human Life Foundation and Founding Editor of the *Human Life Review* would be—*is*, I believe—very pleased that we are carrying on, and especially pleased that this year's awardee is a journalist Jim greatly admired: Nat Hentoff. You'll hear from him soon.

And now, keeping an eye on the time, please permit me this brief rhyme:

Among our many distinguished guests tonight,
there's one we would especially like to mention.
We hope he won't mind the attention.
Once again we have with us
a brilliant professor emeritus
of political science at Fordham U.
Author of books and articles too.
He's Father Francis Canavan, SJ,
whose eighty-eighth birthday is today!
And now I'd like to give the mike to my daughter
whose Dad would surely laud her:
Maria James McFadden Maffucci,
wife of Bob and Mom of three,
Editor of The *Human Life Review*.
So here's Maria now for you.

MARIA MCFADDEN:

Thank you Mom. My mother, Faith, is Senior Editor of the *Review*, of course, as well as the author of the book *Acts of Faith* and the pun-laden *Eyeview* section of the newsletter *Catholic Eye*.

I, too, would like to welcome you all.

As we begin the evening, I would like to thank, first and foremost, the supporters of the Foundation. We have some of our most loyal and generous supporters here tonight. As I say often in my fund-raising letters—and it really is no exaggeration—we would not be here without you. We would not be able to publish the *Human Life Review* or offer matching grants to crisis pregnancy centers without those of you who make sacrifices for us. And there are no words adequate to thank you, though I do try.

Tonight I would also like to thank those of you who have made this evening possible, especially the generous benefactors and table sponsors listed in our program.

We are here tonight to honor Nat Hentoff, a man who has insisted on life. He has been, throughout his career, consistent in defending life at all stages; and he has been a champion in defense of the rights of the disabled. He writes the truth as he sees it. He does not tailor his message to his audience, or flinch in the face of sometimes hostile opposition.

My late father founded the *Human Life Review* because, he said, "good writing can win battles; great writing, whole wars." Nat Hentoff's powerful words have been a great part of our arsenal. We are so proud to honor him.

We have some special new friends here tonight. Democrats for Life are here in force, and they have brought with them New York State Senator Reverend Reuben Diaz, who is on their Advisory Board. Welcome, Senator. Senator Diaz has spoken out eloquently against abortion and against embryonic stem cell research. He recently took scores of New York City Hispanic clergymen to Washington, D.C. to rally in support of the nomination of John Roberts for Chief Justice.

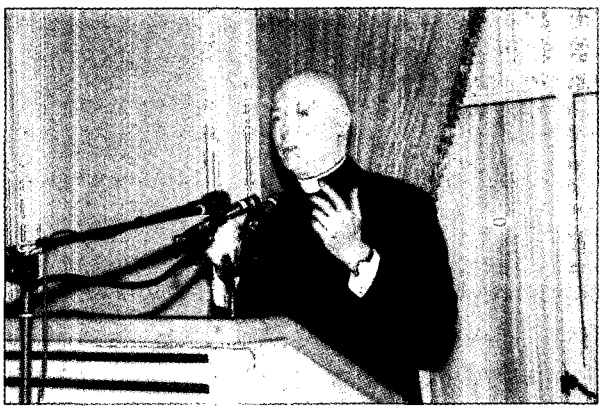
Many of you will remember that Mary Meehan, who is also here tonight, wrote a wonderful two-part series for us on Democrats for Life in 2003.

As we prepare to ask God to bless our meal, I also want to ask for your prayers. Our Senior Editor, John Muggeridge, who was expected to be with

us this evening is ill, and must stay in Toronto; and he asks for our prayers. And very sadly, we have lost two friends, two fellow Great Defenders of Life, who were here together in this room last year: Mr. Dick Reeder, who was dedicated to the pro-life cause, and most recently worked with Christopher Bell and Good Counsel Homes, passed away suddenly last July. His wife, Sheila, and two of their children, are here tonight.

And just two days ago, we lost another great man, Wellington Mara, whose dedication and generosity in the cause of life was boundless. We remember them and pray for their families. And now I would like to ask Father George Rutler, Pastor of the Church of Our Saviour here in Manhattan, and Rabbi Joseph Potasnik, Executive Vice President of the New York Board of Rabbis, to say the blessing.

FATHER GEORGE RUTLER:



I stand before you in two capacities: Pastor of the Church across the street, and also member of the Hanging Committee of this club. Not as dire as it sounds. We're in charge of the pictures.

My first encounter with Mr. Hentoff was indirect. I think it was about 1992 when I read his column, "The Perennial Face of Fascism," about how people who spoke most glibly about freedom of speech are the most censorious themselves. Around the same time I met an elderly woman who walked with me in a pro-life march. We were going down Madison Avenue. Cardinal O'Connor was with her and various other people. And as we were saying the Rosary—and she was Jewish—people began blowing whistles and banging drums, trying to drown us out.

And she said to me, "Father, I've heard that sound before. I grew up in Munich and in the 1930's, whenever we tried to speak against the govern-

ment, the young boys would blow whistles and bang drums. They had nothing to say; they could only make noise. Well, nothing has changed."

So we're very happy now to be able to honor this evening a champion of reasonable discourse and natural law. We gather to do so, Christians and Jews together. My first theological crisis in my life was at the age of ten and involved Judaism. My father decided I should learn Hebrew. We were Episcopalian at the time. I was only ten and I spoke very few languages then. I was sent to go to Synagogue on Friday nights with the Jewish undertaker in town. He told me that Jesus was Jewish. I remember asking my father, if Jesus was Jewish, why were we Episcopalians. And shortly after I became even more confused when I learned that our Lord's Mother was Roman Catholic.

All of us may invoke the Prophet Jeremiah: "Before I formed you in the womb, I knew you." And that's not an opinion; that's a Prophecy of God. And Isaiah: "Can a mother forget her infant and be without tenderness for the child in her womb; even should she forget, I will never forget you. See, upon the palms of my hands I have written your name." *Barku et Adonai, ham'vorakh. Baruch Adonai ham'vorakh L'Olam va'ed. Baruch attah Adonai eloheinu melech haolam, asher bakarbanu mikol hamin, v'natanlanu et torahto. Baruch attah Adonai, notain hatorahh.* That's Anglo Saxon Hebrew. Blessed be the Lord, Blessed art Thou O Lord our God, King of the Universe who has given us his truthful scriptures. Blessed art Thou, Giver of the scriptures.

Of course, the Prophet is speaking of Holy Israel, Our Lord's child. But we are all Our Lord's children. And so I would pray a prayer, actually written by Archbishop John Carroll, first Catholic Bishop of this country. His cousin was the Catholic signatory of the Declaration of Independence. He prayed this in 1791. It could have been written today.

And as we pray we also remember our benefactors, James McFadden, Founder of the Foundation, all those we've invoked this evening. This afternoon I was with Anne Mara. And one had to wait almost an hour to pay respects at the body of Wellington Mara. His life saw many achievements, the most generous of which is that he was the father of eleven children, grandfather of forty; and he was to them a great man.

And also today in Rome, Cardinal Keeler of Baltimore, a friend of many here, had an audience with the Pope Benedict XVI.

And they are together now, today, in Rome with Rabbis from around the world, celebrating the fortieth anniversary of *Nostra Aetate*, the document of the Second Vatican Council on the Church and Judaism. So I think we can all bask in that kind of blessing extended by the Holy Father.

Archbishop Carroll prayed: "We pray Thee oh Almighty God and Eternal

God to endow with heavenly knowledge those who are appointed to exercise amongst us the functions of the holy ministry, and conduct Thy people into the ways of salvation. We pray Thee, oh God of might and wisdom and justice, through whom authority is rightly administered, laws are enacted and judgment decreed.

Assist with Thy Holy Spirit of counsel and fortitude the President of these United States, that his administration may be conducted in righteousness, and be eminently useful to thy people over whom he presides. By encouraging due respect for virtue and religion; by a faithful execution of the laws in justice and mercy, and by restraining vice and immorality.

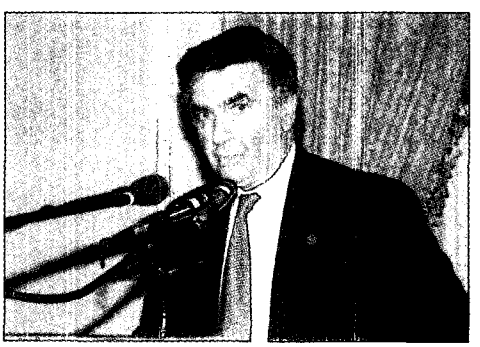
That the light of Thy Divine Wisdom direct the deliberations of Congress, and shine forth in all the proceedings and laws framed for our rule and government.

We pray for all judges, magistrates and other officers who are appointed to guard our political welfare, that they may be enabled by Thy powerful protection to discharge the duties of their respective stations with honesty and ability.

And we commend, likewise, to Thy unbounded mercy all our brethren and fellow citizens throughout the United States, that they may be blessed in the knowledge and sanctified in the observance of Thy most holy law. That they may be preserved in union, and in that peace which the world cannot give. And after enjoying the blessings of this life, be admitted to those which are eternal.

And finally, we pray Thee, oh Lord of Mercy, to remember the souls of Thy servants departed, who are gone before us with the sign of faith; and repose in the sleep of peace the souls of our parents, relatives, and friends. For their claim is great on our grateful and charitable remembrance. To these, oh Lord, we pray that you will give them a place of refreshment, light and everlasting peace through our Lord and Savior, Amen."

RABBI JOSEPH POTASNIK:



Reverend Rutler, since you spoke of your love for Judaism, I'm more than willing to make you an honorary member of the Jewish people. There is one procedure which I would discuss with you in the kitchen, tonight. Secondly, I want to thank all of you here, seriously—especially Mary

Ward, whom I have come to know and love over the years—for making special arrangements for us to have kosher food. I've never had Kosher food under the strict supervision of Father Jim Lochran.

In the famous play *The Andersonville Trial*, one of the commanding officers was charged with violating the lives of innocent people. When asked why, he simply said: "I was following orders." Whereupon the prosecuting attorney said to him, "you could have said no." Tonight, we recognize someone who clearly and courageously comes forward and says no; says no because of principle, rather than saying yes, because of popularity.

In Latin we would refer to Nat Hentoff as *primus inter pares*, first among equals. In Yiddish we would say of him, "a mensch is a mensch." A decent person is a decent person, regardless of position or persuasion. We thank you, Mr. Hentoff, and we ask: May all of your wishes be fulfilled, the wishes of your heart—*l'chaim* for life, *l'tovim* for good, *ool'shalom* for peace. Amen.

MARIA MCFADDEN:

Ladies and gentlemen, I would like to take a moment to introduce our staff. Along with my mother and myself, we are: Rose Flynn DeMaio, who is our business manager. A business manager at a non-profit institution is a very stressful job indeed. Yet Rose not only manages amazingly well, but she has an abundance of energy, patience and good cheer. Christina McFadden, my sister, who, with her affinity for computers and top-notch organizational skills, has really revved up our efficiency, and keeps us laughing besides. Our dedicated volunteer par excellence, Patricia O'Brien. And I would now like to introduce to you Anne Conlon, the *Review*'s managing editor as well as the sharp mind and wit behind *catholic eye's* "In the News." Anne?

ANNE CONLON:

Thank you, Maria, for those kind words. One of Jim McFadden's great virtues as an editor was his respect for the unique voice of each author he published. Whether by nature or nurture, happily it is a virtue Maria shares with her father. Under her guidance the *Review* has continued to offer readers not only a variety of arguments in defense of life—philosophical, legal, scientific, religious—but also a variety of voices to articulate them—literary, meditative, scholarly, journalistic.

Over the past thirteen years William Murchison's voice has formed a unique and invaluable part of the *Review's* ongoing record of the abortion debate. A long-time columnist for the Dallas *Morning News*, Bill reports from the vital intersection of politics and culture. He has written nearly forty articles for us, beginning with *Choice Is for Voters*, which appeared in our Spring, 1992 issue, just as that year's Presidential contest was getting underway.

Here's what Jim McFadden said in introducing Bill's article: "A quarterly journal like ours rarely enjoys the luxury of running news. Events distort realities; ours is a long view. But Murchison's reportage will remain perceptive even if, by the time you read it, some facts may already be outdated."

Rereading that article yesterday, I was struck by my late boss's prescience. "Good reporter Murchison," Jim wrote, "fills you in on all the as-we-go-to-press stuff, the kind of thing historians will ponder; a snapshot of how it looked way back *now*."

Three years ago, Mr. Murchison, who still writes a syndicated weekly column, moved on from the Dallas *Morning News* to become Radford Distinguished Professor of Journalism at Baylor University where, no doubt, he is nourishing young voices we may one day wish to publish alongside his own.

Ladies and gentlemen, please welcome our senior editor and very good friend, William (Bill) Murchison.

WILLIAM MURCHISON:

Thank you indeed, Anne. Thirteen years! I must be getting older than I think I am. I have to say in beginning what a distinct honor it is to be here as a guest of this illustrious enterprise, and particularly of the McFadden family and of those who have made this enterprise possible. My friend Faith, my friend Maria and blessed Jim McFadden who was an inspiration to me, even before there was a *Human Life Review*, through his presiding over various enterprises at *National Review*.

I'm distinctly honored to be here, and I do thank you for the invitation. I'm especially honored to be here tonight to salute my hero, Nat Hentoff. Why is Nat Hentoff my hero? For various reasons; not least having to do

with his literary prowess, and the stunning variety of topics to which he addresses himself from jazz to human life. On all of these matters I listen to him with great attention, and allegiance.

But why is Nat Hentoff my hero? Nat Hentoff is my hero because he is an honest journalist. Now you might think that's a contradiction in terms; an oxymoron. I want to show you that it can be done. And it is done about once or twice about every half a century.

One of my favorite instances of honesty in journalism occurred in the early part of the twentieth century—I want to assure you first of all that this is absolutely true: I have seen the hard copy for this—occurred in a small South Carolina newspaper in the year of grace 1929. And it concerned a wedding in that town. I will withhold the name of the couple it concerned in case anyone here is of South Carolina extraction.

But the story read this way: So and so, and so and so, were united in Holy Matrimony Saturday at First Presbyterian Church. The Reverend P.E. Riley officiating. The bride is a skinny little idiot who has kissed every boy in town, and paints her face like a Sioux Indian, while riding in her Dad's car and drinking much moonshine. By the way, as Anna Russell would say, I'm not making this up.

The groom is a lazy young bum who hasn't done a lick of work since he got out of college, and has come back here to sponge on his Dad and live at home. The couple will continue to sponge off the old man until he dies, and then she will take in washing.

And then a few more paragraphs of like import, until the conclusion: This may be the last issue of the *Tribune*. But it has been my ambition all my life to write up one wedding and tell the unvarnished truth. Now that it is done, death can have no sting.

Well there are varieties of truth, needless to say. There are higher varieties and lower varieties; and the practitioner of the kind of variety in which we are—whose honor we gather tonight—is a practitioner of the highest standards of the profession. As is the journal which is proud—the *Human Life Review*—to print his contributions.

Human Life Review tonight salutes an honest journalist and his identification with the *Human Life Review*. Honest journalism: I want to say a word about that, because that is what *Human Life Review* is all about. It's the mission, it's the passion, it's the DNA of *Human Life Review*. You're here to pay tribute to Nat Hentoff, but you have to understand that Nat Hentoff hangs around the *Human Life Review* for a very specific reason, which is *Human Life*'s commitment. Its strong, its firm, its abiding, its enduring commitment to the truth, and to honesty.

Let me raise the stakes for just a moment. Honesty, yes. But honesty to what? Honesty concerning what ideal? Honesty about the greatest moral and intellectual fraud ever foisted on the good people of the United States of America, to wit: that human life is just an optional commodity, that it has no integrity of its own, that it is not entitled to special protections on account of its transcendent importance in the created order. These are the intellectual fictions that have been perpetrated in our time, in front of us, in our hearing, in the hearing of our children who will imbibe these things as they drink water, or stronger vintages. And which they will appropriate unto themselves, unless, unless, unless, unless: lonely voices of truth ring out in the intellectual darkness of this time.

I want to tell you what that extraordinary virtue of honesty, as practiced in terms of the *Human Life Review* and its mission go in conjunction with; and that is that rarest of virtues which is courage. Courage. Because the telling of the truth can land you in big trouble. It can land you in the arena, or it can land you in venues that to the people who occupy them are of even more extraordinary importance, such as the faculty room where people refuse to shake your hand, or to greet you, on account of the extraordinary things that you say in terms of the truths by which we live.

Oh yes, courage can land you in all kinds of trouble. And yet, where would we be without it? Where would we be without courageous publications like the *Human Life Review*, with which I am so proud to be associated for thirteen years?

From Dallas to New York is a journey of about three hours and some fifteen or sixteen hundred miles. It's a long way to go for dinner. But dinner's not what I was after here on this particular occasion; rather the opposite. Rather the opportunity to mingle with the honest and the brave; with the cast of characters at *Human Life Review*; with Maria McFadden, with Faith, with Nat Hentoff whom I'm shaking hands with tonight for the first time. But we have met so many times via the printed page.

You see why I came from Dallas? Was it worth it? It was worth it to me. [APPLAUSE]

We in Dallas are a funny lot. We like football; we like the wide-open spaces. We even like money more than many people are alleged to like money. But I do think that we have the capacity, the ability to salute courage and honesty where we see them. And this place is where I see them tonight, and to them I pass my salute. Thank you very much.

MARIA MCFADDEN:

Thank you. I would like to point out, before we move on, that we have several of our *Human Life Review* authors here tonight: William Murchison, of course. Thank you for your wonderful speech. Also in our audience, Professor George McKenna, Mary Meehan, Sandi Merle, Ross Blackburn, Pat Mullaney and, of course, Nat Hentoff and Wesley Smith. I would like also to thank Sandi Merle and to point out that this is the first year that the New York Board of Rabbis has come to this event. And I would like to say how much we appreciate that, and thank you Rabbi Potasnik.

Wesley Smith is a frequent contributor to the *Human Life Review*, a tireless advocate for life. He is attorney for the International Task Force on Euthanasia and Assisted Suicide, a Senior Fellow at the Discovery Institute, and a consultant to the Center for Bioethics and Culture.

He was an electrifying speaker at our dinner last year. When we asked Mr. Hentoff who he would like to be introduced by, he immediately said, Wesley Smith. And so we were very excited to ask Wesley back.

So now I introduce to you Wesley Smith.

WESLEY SMITH:

Thank you all and good evening. What a great honor and a great thrill it is to be back again, especially to be able to introduce Nat Hentoff who is not only a great man, but I'm really thrilled and honored to say is my friend.

You know as I look around—I started working on some of these issues back in 1993, it soon became very clear to me that if you want to see what's going wrong in this country, all you have to do is look at the professional

journals. And I brought a couple of examples tonight to share with you, to show you the problems, and to also allow Nat Hentoff to show how his advocacy is the solution.

This is from the *New England Journal of Medicine*, February 24, 2000. To set up the reason why this article was written, as most of you, if not all of you know, euthanasia is legal in the Netherlands. And some studies came out that show that rather than being the "gentle landing" as it is often depicted, that there were serious consequences and "side effects"—I mean beyond death—to euthanasia.

People would go into convulsions, nausea, and not, perhaps, die, but instead go into extended comas. Sherwin Nuland, who is one of our most famous public intellectuals in the medical arena, a bioethicist and a doctor who wrote *How We Die,* which was a New York *Times* best seller, then decided to write an article in the *New England Journal of Medicine* in response to this idea of the side effects of euthanasia, again, other than death.

And his answer was, astonishingly, that we need to train doctors better how to kill people more effectively. And what he wrote was this, and this I have pulled out because I think it's quite important: "Many opponents of these practices [euthanasia] point to the Hippocratic Oath and its prohibition on hastening death as reasons to oppose euthanasia. But those that turn to the Oath in an effort to shape or legitimize their ethical viewpoints, must realize that the statement has been embraced over approximately the past two hundred years far more as a symbol of professional cohesion than for its content. Its pithy sentences cannot be used as all-encompassing maxims to avoid the personal responsibility inherent in the practice of medicine. Ultimately, a physician's conduct at the bedside is a matter of individual conscience."

Well, think about this. If a physician's ethical responsibility at the bedside is merely a matter of individual conscience, then the practice of medicine is no longer a profession. Because the point of being a professional is that you have obligations above and beyond what you may think are important in terms of your own personal belief system.

If you are a professional, a physician, your first duty is not to your own conscience, it is to your patient. And you are to do no harm under Hippocratic medical values.

I saw some research that said that today only thirteen percent of all physicians take the Hippocratic Oath. And it tells you what is wrong with medicine, because the Hippocratic Oath is not primarily for the physician, it is for the protection of patient.

Now let me turn to something that was published in the *Kennedy Institute of Ethics Journal.* The *Kennedy Institute of Ethics Journal,* as most of you

know, is a bioethics journal, one of the most important bioethics journals in the world. It is housed at the Georgetown University campus. And this is written by John Harris, Ph.D., the Sir David Alliance Professor of Bioethics and Research; Director, Center for Social Ethics and Policy and a Director of the Institute of Medicine Law and Bioethics, University of Manchester, England.

If an article is in the *Kennedy Institute of Ethics Journal*, it is considered respectable in establishment bioethics; I mean this is not Joe's Bioethics Journal on the Internet. Harris wrote about a bioethics belief that is sometimes called personhood theory. Under personhood theory, being a human is not what gives moral value, it is being a "person," which individuals earn by possessing certain cognitive capacities.

And here's what he wrote: "Many, if not most, of the problems of health care ethics presuppose that we have a view about what sorts of beings have something that we might think of as ultimate moral value."

Yeah, human beings. But if you said that, then a lot of Ph.D.'s couldn't earn a living. Or if this sounds too apocalyptic, then we need to identify those sorts of individuals who have the highest moral value or importance. Think about what Dr. Harris is saying.

If he were saying we have to identify the race that has the highest moral value or importance, we would say sir, you are a bigot. And we would be right. But this is the same kind of invidious discrimination; just different victims.

Realize that in the bioethics mainstream view—not all bioethicists, but mainstream, utilitarian bioethics—to assert that human life has intrinsic value simply and merely because it is human, is deemed speciesist, that is, discrimination against animals. And this is something that the bioethics movement shares with the animal liberation movement, which also is attacking the concept of human exceptionalism, which I believe may become the great moral crisis of the twenty-first century.

Back to Harris: "Personhood provides a species-neutral way of grouping creatures that have lives that it would be wrong to end by killing or by letting die. These may include animals, machines, extraterrestrials, gods, angels and devils." You see, the issue is to have a consistent standard of measure for everything. Thus, if it's a redwood tree, does it have sufficient consciousness? No, it's not a person. How about a dog? Does it have sufficient measure of consciousness? Yes, some might say. So it's a person. If it's Terri Schiavo, does she have sufficient cognitive capacity? No, so she's not a person.

In bioethics mainstream thinking, in personhood theory, there is such a thing as the human non-person. All unborn human lives are denigrated as non-persons. Newborn infants are also non-persons because a newborn infant may not be self-aware over time, or may not be able to value his or her

life. People like Terri Schiavo: non-persons. People like Ronald Reagan when he had Alzheimer's: non-persons. People like my Uncle Bruno Micheletti, who is dying of Alzheimer's disease and whose cognitive capacity has utterly collapsed, would be denigrated as non-persons.

Well, let me tell you, they are not going to take my Uncle Bruno and turn him into a thing or an object! [APPLAUSE] Dr. Harris proceeds to say, "Persons who want to live are wronged by being killed because they are thereby deprived of something they value. Persons who want to live are not, on this account, harmed by having the wish to die granted through voluntary euthanasia for example. Non-persons, or potential persons, cannot be wronged in this way because death does not deprive them of anything they can value. If they cannot wish to live, they cannot have that wish frustrated by being killed."

So let us be blunt. Personhood theory tells us who we can kill and get a good night's sleep. But it gets worse. Tom Beauchamp, also in the *Kennedy Institute of Ethics Journal,* December, 1999—and he's important because he is the co-author of the bioethics textbook called *The Principles of Biomedical Ethics,* which is taught in all university bioethics courses, as far as I know—wrote this: "Because many humans lack properties of personhood or are less than full persons, they are thereby rendered equal or inferior in moral standing to some non-humans. If this conclusion is defensible we will need to rethink our traditional view that these unlucky humans cannot be treated in the ways we treat relevantly similar non-humans."

Pay close attention to this sentence: "For example, they might be aggressively used as human research subjects or sources of organs."

So now we see where this leads when we say that human life doesn't have intrinsic value simply because it's human: We start to think of some humans not only as killable, but as harvestable crops, as natural resources, as things to be used. And bioethics is leading this charge. And this leads us to some very terrible places.

It leads us to partial-birth abortion. It leads us to assisted suicide and euthanasia. It leads us to dehydrating people like Terri Schiavo to death, merely because she had a severe cognitive incapacity. It leads to the idea of harvesting the organs of people like Terri Schiavo.

This is from *Critical Care Medicine* (2003, Vol. 31, No. 9), written by two Harvard doctors: "We propose that individuals who desire to donate their organs, and/or are either neurologically devastated or imminently dying, should be allowed to donate their organs without first being declared dead." This is establishment medicine with a capital E. *Critical Care Medicine* is the journal for the doctors that do intensive care.

It leads to "futile-care theory," where bioethicists presume to give physicians

the right to refuse *wanted* life-sustaining treatment based on their perception of the quality of the patient's life; a subjective value judgment that has nothing to do with medicine. It leads to a duty to die.

And it's interesting; every time I have decided to write about these issues, the duty to die, dehydration, assisted suicide, I've noticed something.

You remember the old World War Two graffiti, "Kilroy was here"? So I start to write about assisted suicide. Nat Hentoff was here. I write about the dehydration of people with cognitive disabilities; Nat Hentoff was here. I write about illegal or not illegal, unfortunately, but unethical and immoral medical experimentation: Nat Hentoff was here. Futile care theory; Nat Hentoff was here. Duty to die; Nat Hentoff was here. Partial-birth abortion; Nat Hentoff was here! [APPLAUSE]

Nat Hentoff is always here when we need him. And we're so grateful, Nat, for your great work over so many years and decades.

Nat Hentoff is a superb writer and first-class public intellectual. He is a man of consistent, steadfast principle; a moral purist in an age of hand-wringing accommodationists. This unyielding consistency has made him an iconoclast's iconoclast.

Indeed, Hentoff has famously described himself as a Jewish, atheist, civil libertarian, leftwing, pro-lifer. [APPLAUSE] Chutzpah, Nat!

Talk about cutting against almost every societal grain, no wonder he both thrills and upsets so many people, including his beautiful wife, Margot. [APPLAUSE]

Hentoff's style is as individualistic as are his principles. In an age of shouters, he is quiet; in an era of facile talking heads, he remains profound. Where others agitate and self aggrandize, he relies on steadfast, cogent argument to persuade.

Where contemporary pundits often tailor their views to cater to the powerful or popular, Hentoff passionately remains a challenger of orthodoxies.

Hentoff's advocacy cuts a wide swath across what are often called the "life issues." Indeed, his unyielding stand over many years against abortion, infanticide, euthanasia, unethical human medical experimentation, and the ongoing bioethical construction of a duty to die has made him a moral beacon for those who believe that universal human liberty depends on society's embrace of the intrinsic equality of all human life.

And for decades he's connected the dots for his vast audience; expertly charting the consequences of our steady, but not always slow, slide down the slippery slope toward a veritable culture of death. Reading Hentoff in full battle cry is not for those too squeamish to see the truth. His readers have often felt his righteous rage as he derided a Maryland law permitting

abortion of disabled fetuses at any time during the woman's pregnancy, as evidence that "Eugenics is becoming as American as ballpark hot dogs" . . . as he railed in a series of articles written in 1983 and 1984 against the court-permitted starvation death of Baby Doe, an infant with Down Syndrome who was denied routine surgery and basic sustenance. Pointing to where the logic of such heartless acts lead, he wrote: "If we are to have a brave new world of perfect babies, with parents having a second chance at aborting infants who are born defective, then do we really want the landscape cluttered with badly-handicapped adults who cost more than they produce, and who are aesthetically displeasing besides?"

Nat demonstrated how the drive among bioethicists to ration health care is, indeed, leading to a duty to die among the old: "This is naked utilitarianism. The greatest good for the greatest number. And individuals who are in the way, in this case the elderly poor, have to be gotten out of the way. Not murdered, heaven forbid, just made comfortable until they die with all deliberate speed."

Nat Hentoff decried unethical human experiments conducted in the early 1980's on babies with spina bifida, in which doctors decided not to treat some infants in part based on the family's economic circumstances; a cruel act that Hentoff rightly condemned as "death row for infants."

Nat repeatedly castigated the American Civil Liberties Union, to which he was once a card-carrying member, as having succumbed to "zealous majoritarianism for repeatedly litigating in favor of ending the lives of the most vulnerable in society." Hentoff, his pen dripping disdain as his ink, wrote the once-respectable civil libertarian organization had, with complicit judges, "engaged in a minuet of death."

I could go on all night about the prophetic power of Hentoff's advocacy, but why settle for me when the great man is here to speak for himself. Ladies and gentlemen, I am truly proud and honored to give you Nat Hentoff, a truly great Defender of Human Life.

NAT HENTOFF:

Thank you. I have learned so much from Wesley Smith's writings that it finally occurred to me that I owe him tuition payments, and will arrange the schedule later. [LAUGHTER]

When Maria first called me with this stunning designation, I soon thought of a truly great Defender of Life whom I was privileged to know, first as a reporter, and then as a friend: John Cardinal O'Connor. [APPLAUSE] Before he came to New York from Scranton, he received some of the most vicious newspaper editorials, particularly one in the New York *Times* which castigated him for having the appalling taste to use "holocaust" and "abortion" in the same sentence. And then, Gloria Steinem told *New York Magazine* that the two worst things that had happened in New York in recent years were AIDS and John O'Connor.

So when I first went to meet him to start doing the profile for the *New Yorker*, I thought I owed it to him as a member of the predatory press to tell him where I was coming from. And I told him what Wesley just said, I said I am a Jewish, atheist, civil libertarian, prolifer. He asked me to repeat that. And he took out a pen. I think he thought he had discovered a new sect.

Some time later, I was to introduce him at a pro-life rally in Toronto, and just before then I was moderating a panel, and I said something heretical. I forget what. And two very large members of the audience came and wrested the microphone from me, and denounced me. And the Cardinal was watching this bemusedly, and then after I introduced him he said, I want you people to know that I am glad that Nat is not a member of the Church. We have enough trouble as it is.

One last story: Dr. Bernard Nathanson was a wholesale abortionist. Then one day he suddenly *looked* at what he was doing and stopped. Some time after that he converted to Catholicism and Cardinal O'Connor officiated at that event. The next day he said to me, I hope we don't lose you because you're the only Jewish, atheist pro-lifer we have.

But I met another one here tonight. He's a professor at Cardoza Law School. Maybe we are growing. Anyway, I am still here, making trouble. And I want to start .... I came across this *Associated Press* story, on June 22nd: "Louisiana House bill 675, inspired by the Terri Schiavo case, was signed into law by Governor Kathleen Blanco, [a familiar name by now], on July 12th, 2005. The law prevents situations like Terri Schiavo's where her husband, who lived with another woman with whom he had fathered two children, battled her parents in court for years to retain guardianship and the power to order Terri's death by dehydration. The new Louisiana law prohibits one spouse from making life-sustaining medical decisions for the other spouse if he or she is cohabitive with another person in the manner of married persons, or who has been convicted of any crime of violence against the other spouse."

A certain person named Wesley J. Smith called the law "the first of what I hope will be an outpouring of state laws to prevent future Terri Schiavo

cases, but, if the American Medical Association has its way, that won't happen." On June 20th, the AMA adopted a policy to oppose state bills and laws that try to remedy the Schiavo situation, especially—*especially* if the measures presume that patients without clear statements of the contrary, would want life-sustaining treatment such as tube feeding and hydration.

To the AMA, presuming for life is untenable. Current AMA policy that it is ethical in certain cases to stop life-sustaining treatment if the doctor determines it is in the patient's best interest, was reaffirmed. The quote from Johns Hopkins neurologist Michael Williams: "While the Schiavo circumstances were heart wrenching, and compelling, they're so rare that they're not a good basis to revive existing law." There's a man who has not read Wesley Smith.

One other thing . . . when Terri Schiavo was killed, not to euphemize, Pat Anderson, who had been her family's lawyer, the Schindler's lawyer for a long time, said, "euthanasia in America now has a name and a face." On the other hand, shortly after the murder—I called it the longest public execution in American history—Michael Schiavo's literary agent started sending proposals for a book by the husband to publishers.

The agent said: "I think this is the seminal case in the right to die with dignity story." No. This is the seminal case for whether euthanasia for the seriously disabled becomes embedded in the American way of death.

My colleagues—so to speak—in the press did one of the worst jobs of reporting I have ever seen on the Terri Schiavo case. Just for one thing, hardly any newspaper, or hardly any television broadcast or radio broadcast mentioned that twenty-six major disability rights organizations had filed legal briefs in her case.

Now this nation, with the growing futility doctrine of which Wesley writes in hospitals—this life is not worth continuing, and we need the beds. This idea has been promulgated by many bioethicists whom I described years ago as the new priesthood of death. This is not a knock on priests.

We are still, in terms of our laws, at a stage that, following a trial in 2004 on the constitutionality of partial-birth abortion, Federal District Judge Richard Conway Casey of the Southern District here in New York said in an opinion: "The Court finds that the testimony at trial and before Congress establishes that D&X partial-birth abortion is a gruesome, brutal, barbaric and uncivilized medical procedure. And there is credible evidence that D&X abortions subject fetuses to severe pain." Nevertheless, Judge Casey also ruled that the federal ban on partial-birth abortion is in conflict with a 2000 Supreme Court ruling, and therefore, he said "it is unconstitutional."

That's *stare decisis* gone wrong. There was another Supreme Court

precedent: "Slavery may be repugnant but no black, slave or free, has any rights under the Constitution."—the *Dred Scott* decision. But that precedent was overturned. As Justice John Marshall said, "this Constitution is a living document."

In the New York *Sun*, which is the best daily in New York City, Paul Greenberg, writing on the future of human cloning, another area of expertise of Wesley, said: "What disturbs us today is how quickly we get used to yesterday's repugnance. And that gives way to tomorrow's endorsement in a society that already tolerates the destruction of fetuses in the second and third trimesters. They will hardly be horrified, then, by embryos being destroyed in the womb if this should turn out to be the cure of dreaded diseases."

But, despite bioethicists, this is a living society, and dissent eventually prevents this society from following false prophets. Somehow Professor Peter Singer comes to mind.

I live in Greenwich Village as did e.e. cummings. I never met him, but I knew his poetry and he certainly understood the power of birth. "We can never be born enough; we are human beings for whom birth is a supremely welcome mystery; the mystery of growing. It takes courage," he wrote, "to grow up and turn out to be who you really are." That is, if the bioethicists and their colleagues in the culture of death allow you to grow up.

Almost finally, on April 15th, 1986, John Cardinal O'Connor spoke at the Harvard Law School Forum. He enjoyed not preaching to the choir from time to time. He said, "We are already seeing cruel signs of an abortion mentality; what it can mean for all society. Who is to determine which life is meaningful, which life is not? We must ask: how safe will the retarded be, the handicapped, the aged, the wheel-chaired, the incurably ill when the so-called quality of life becomes the determination of who is to live and who is to die." He ended, "the prospects are frightening."

However, as he always counseled, and acted, prospects are not immutable when you insist on the power of life.

And finally, and this *is* finally, there is a screening tonight in New York of a new HBO Cinemax documentary film. It's called *Thirty-Nine Pounds of Love*. I read you a very brief description of it. *"Thirty Nine Pounds of Love* is the story of Ami Ankilewitz *w*ho weighs only thirty-nine pounds, and works as a Three-D animator in Israel despite having bodily motion limited to a single finger on his left hand. At birth, Ami was diagnosed with a rare form of Muscular Dystrophy which severely limits physical movement and growth. He was predicted to survive only to the age of six. Now, thirty years later, Ami returns to the United States to confront the doctor who predicted his early demise"—I sure would like to see that. Apparently it's in the film—

"Along the way he attempts to heal a broken heart, come to terms with a major incident from his past and fulfill a lifelong dream to ride a Harley Davidson motorcycle."

He is in town tonight for a screening of the film. It'll be on HBO, I guess, after he gets a theater screening in a couple of months.

I would like to invite Professor Peter Singer and Wesley Smith's choice of bioethicists to see the film, and then to be interviewed by Wesley. Thank you.

PRESENTATION OF AWARD:

Mr. Hentoff is presented with a specially commissioned cartoon by Nick Downes in an engraved silver frame.

NAT HENTOFF:

Thank you everybody. I would like to say one more thing: another person whom I thought of quite soon after hearing from Maria was J.P. McFadden. His spirit is also like Cardinal O'Connor's—still very much with us. [APPLAUSE]

William W. Blackburn II and his son W. Ross Blackburn

Alicia Colon and Nat Hentoff

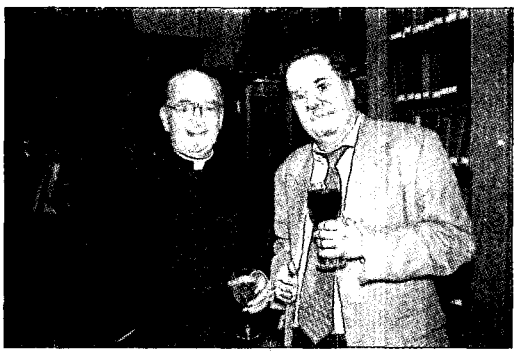
Herc Izquierdo, Dr. Jane Haher, Maria and Faith McFadden

Margot Hentoff, right, chats with guests of Capt. Michael F. Hayes.

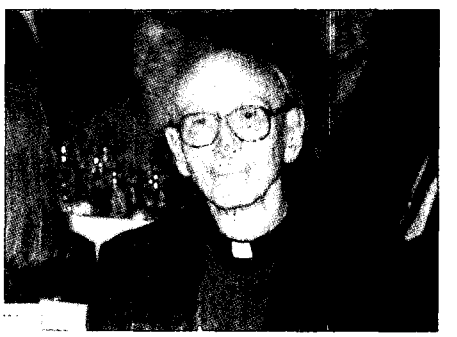
Dr. Alice von Hildebrand was pleased to attend for second year

Mary Meehan chats with Sr. Augustine of the Franciscan Daughters of Mary

Faith McFadden and Ambassador Gerald Scott

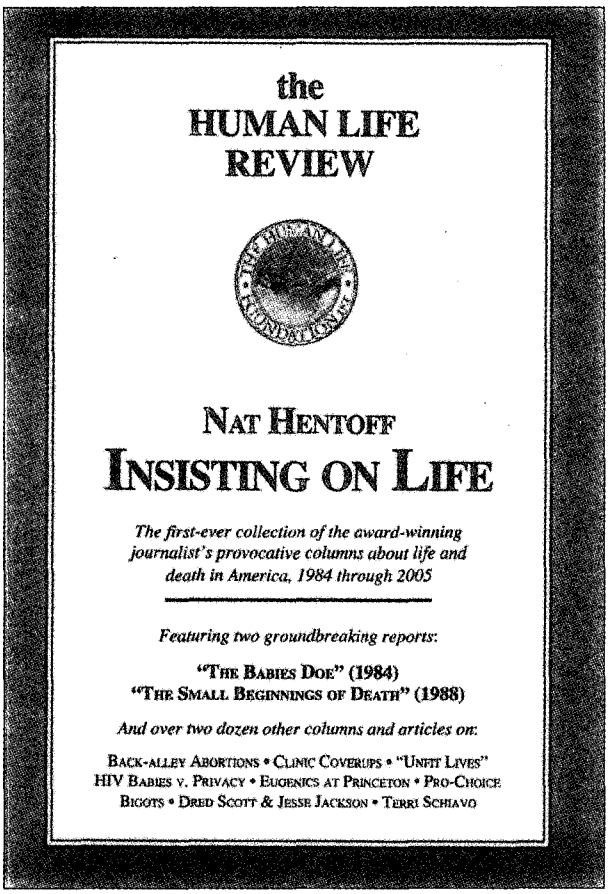


Fr. Richard John Neuhaus, and Michael Potemra of National Review



Happy Birthday, Father Canavan!

all photographs by Michael Fusco



If you missed our 2005 Great Defender of Life Dinner, you might have missed your chance to get your hands on a great book.

Fortunately we still have copies available! Just send $10.95 (this includes postage and handling) to:

The Human Life Foundation
215 Lexington Avenue
4th Floor
New York, NY 10016

China's One-Child Policy:

Twenty-five Years Later

Steven W. Mosher

Li Aihai, happily married and the mother of a 2½-year-old girl, had a problem. She was four months pregnant with her second child. Sihui county family-planning officials had come to her home and told her what she already knew: She had gotten pregnant too soon. She hadn't waited until her daughter was four years old, as Chinese law required of rural couples. The officials assured her that, because her first child had been a girl, she would eventually be allowed a second child. But they were equally insistent that she would have to abort this one. It was January 2000.[1]

She pleaded that she had not intended to get pregnant. She was still wearing the IUD that they had implanted in her after the birth of her first child, as the law required. They were unsympathetic. Report to the family-planning clinic tomorrow morning, they told her. We'll be expecting you.

Aihai had other plans. Leaving her little daughter in the care of her husband, she quietly packed her things and went to stay with relatives in a neighboring county. She would hide until she brought her baby safely into the world. Childbirth-on-the-run, it was called.

When the county family-planning officials discovered that Aihai had disappeared, they began arresting her relatives. While her father-in-law managed to escape with her daughter, her mother-in-law and brother-in-law were arrested. Her own mother and father, brother and sister, and three other relatives were also imprisoned over the next few weeks. In all, nine members of her extended family were arrested, hostages to the abortion that was being demanded of her.

But Aihai, knowing that her family supported her pregnancy, stayed in hiding. And her relatives, each refusing to tell the officials where she had gone to ground, stayed in jail.

Three months later the family-planning officials struck again. The date they chose, April 5, was an important one on the Chinese traditional calendar. It was the festival of Qingming, or "bright and clear," a day on which rural Chinese men, by ancient custom, "sweep the graves" of their ancestors. Starting with the grave of their own deceased parents, they visit in turn the graves of grandparents, great-grandparents, and ancestors even further re-

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moved. At each stop they first clean off the headstones and weed the plot, then set out a feast for the deceased, complete with bowls of rice, cups of rice liquor, and sticks of incense.

Why did the family-planning officials pick this day? Was it a further insult to the Li family, several of whom were languishing in their jail? Or was the day chosen for a very practical reason—that with most of the men and boys away in the hills fêting their ancestors, the village would be half-deserted, and the officials could carry out their plan without opposition?

The officials descended on the village with a wrecking crew armed with crowbars and jackhammers. These fell upon Aihai's home like a horde of angry locusts. They shattered her living-room and bedroom furniture. They ripped window frames out of walls and doors off of hinges. Then the jackhammers began to pound, shattering the brick walls, and knocking great holes in the cement roof and floors. By the time they had completed their work of destruction, you could stand on the first floor of Aihai's home and look up through two stories and the roof to the blue sky. The wrecking crew then moved on to her parents' house, and then to her in-laws'. At day's end, three homes lay in ruins. The family-planning officials confiscated the family's livestock and poultry, and then disappeared.

Aihai remained in hiding, out of reach of the officials, for two more months. It wasn't until her child was actually born, she knew, that he would be safe. (Abortions in China are performed up to the very point of parturition, and it is not uncommon for babies to be killed by lethal injection even as they descend in the birth canal.) Only after she had given birth—to a beautiful baby boy—did she make plans to return home.

Aihai came back to find her family in prison, her home destroyed, and family-planning officials furious that she had thwarted their will. Underlying their anger was hard calculation: Every "illegal" child born in their county was a black mark on their performance, depressing annual bonuses and threatening future promotions. But family-planning officials, like most Chinese officials, have access to other sources of income. If you want your relatives released, they now told Aihai, you must pay a fine of 17,000 Renminbi (about $2,000). Now this is a huge sum by Chinese standards, the equivalent of two or three years' income. It was many days before she was able to beg and borrow enough from family and friends to satisfy the officials' demands, and win her family's release.

No sooner had she paid one fine than she was told she owed another, if she wanted to regularize her son's status. He was currently a "black child," family-planning officials explained to her. Because he was conceived outside of the family-planning law, he did not exist in the eyes of the state. As a

nonperson, he would be turned away from the government clinic if he fell ill, barred from attending a government school of any kind, and not considered for any kind of government employment later in life. He would not even be allowed to marry or start a family of his own. The government had decreed that "black children" would not be allowed to reproduce; one generation of illegals was enough. There was an out, however: If she paid another fine of 17,000 RMB, her son would be issued a national identity number, and would be treated like everyone else—almost. She would still be required to pay double fees for his school supplies.

She was not surprised when, later, she was ordered to report for sterilization. The population-control regulations were unyielding in this regard: Two children and your tubes are tied. This time she made no effort to resist. Having a second child had bankrupted her family; having a third was out of the question. Her newborn son would have no younger siblings.

Even so, Aihai considers herself far more fortunate than Ah Fang, the wife of a neighboring villager. Married at 19 to an older man in a time-honored village ceremony in front of dozens of relatives and friends, Ah Fang is considered by everyone she knows to be his wife. Everyone, that is, but the local Communist authorities, whose unbending regulations prohibit women from marrying until they reach age 23.

When Ah Fang became pregnant there was no chance that she would be allowed to carry her child to term, even though it would have been her first. The one-child policy does not apply to couples who are, in the view of the Chinese state, merely cohabiting. For them—and for single mothers of all ages—there is a *zero*-child policy. Ah Fang was ordered to present herself at the local clinic for an abortion. She went in as instructed on September 27, 2001. She has been careful not to criticize the authorities, but her friends have been less reticent. "She wanted to keep her baby," they complain openly, "but the law forbade it."[2]

A Quarter Century of Coercion

Such personal tragedies, far from being rare, could easily be multiplied almost beyond belief. I met many Li Aihais and Ah Fangs (the names are, of course, pseudonyms) while living in a village in Guangdong province from 1979 to 1980, and have met many in the years since. But it would be impossible to know them all. For the history of China's 25-year experiment in "controlling reproduction under a state plan" is littered with literally tens of millions of such victims of forced abortion and forced sterilization.[3]

At the beginning of 1980, the Guangdong provincial government secretly ordered a 1 percent cap on population growth for the year. Local officials

complied the only way they could—by launching what they called a "high tide" to terminate as many pregnancies as possible. The rule governing this high tide was simple: No woman was to be allowed to bear a second child within four years of her first, and third children were strictly forbidden. Furthermore, all women who had borne three or more children by November 1, 1979, were to be sterilized.

Over the next few weeks I became an eyewitness to every aspect of this draconian campaign. I went with young mothers to family-planning "study sessions" where they were browbeaten by senior Party officials for getting pregnant. I followed them as they were unwillingly taken under escort to the commune clinic. I watched—with the permission of local officials who were eager to demonstrate their prowess in birth control to a visiting foreigner—as they were aborted and sterilized against their will. I will never forget the pain and suffering etched on the faces of these women as their unborn children, some only days from birth, were brutally killed with poison shots and then dismembered with surgical knives.

In the 1980s, the demands of China's family planners escalated.[4] The one-child policy, first suggested by Deng Xiaoping in a hard-line 1979 speech, was in place nationwide by 1981. The "technical policy on family planning" followed two years later. Still in force today, the "technical policy" requires IUDs for women of childbearing age with one child, sterilization for couples with two children (usually performed on the woman), and abortions for women pregnant without authorization. By the mid-1980s, according to Chinese government statistics, birth-control surgeries—abortions, sterilizations, and IUD insertions—were averaging more than 30 million a year. Many, if not most, of these procedures were performed on women who submitted only under duress.

The principal modification of the one-child policy occurred in the mid-to-late 1980s when, in response to rising rates of female infanticide, the government relaxed the policy in the countryside for couples whose first child was a girl. In some parts of China this has devolved into a de facto two-child policy. Some rural officials find the selective enforcement of a mixed policy—one child for couples whose first child was a boy, two children for couples whose first child was a girl—impossible to manage. Others, including the officials who run Sihui county in Guangdong province, where Li Aihai lives, are doing quite well at giving everyone two chances at a son, but no chance for two sons.

The program continues to be carried out, against the popular will, by means of a variety of coercive measures. In presenting the program to foreigners, who can be squeamish about such things, officials are careful to emphasize

"voluntarism." In speaking to their own cadres, however, the only form of coercion ever condemned is the actual use of physical force—e.g., tying down pregnant women for abortions. But while force is frowned upon, it is never punished. Home-wrecking, unlawful detention, heavily punitive fines, and like measures continue to be, as they have been from the late 1970s, the whip hand of the program. Women are psychologically and physically pressured to abort unauthorized children, to the point of being dragged to the abortion mill. Networks of paid informants are used to report on unauthorized pregnancies; entire villages are punished for out-of-plan births. Officials conduct nighttime raids on couples suspected of having unauthorized children, and they keep detailed records on the sexual activity of every woman in their jurisdiction. There are prison cells—with bars—to detain those who resist forced abortion or sterilization. (Forced sterilization is used not only as a means of population control, but sometimes as *punishment* for men and women who disobey the rules.[5])

The result of this systematic coercion is that millions of IUD insertions, sterilizations, and abortions continue to be performed each year. The national family-planning journal continues to issue thinly-disguised injunctions to get the job done at all costs. Officials are exhorted to take "real action" and "effective measures" to achieve "practical results." In short, Deng Xiaoping's no-holds-barred approach still dominates the program. "Use whatever means you must [to reduce China's population]," China's paramount leader ordered Party officials back in 1979. "Just do it."[6] They have been "just doing it" ever since.

The Chinese government maintains that abuses are the exception, not the rule, and constitute local aberrations from national policy. But when the Guangdong provincial government orders 25,000 abortions to be carried out in Huaiji County, as it did in 2001 in response to reports of laxity in the local family-planning program, this can hardly be described as a "local aberration." The Chinese program remains highly coercive not because of local deviations from central policies but as a direct, inevitable, and intentional consequence of those policies.

And this is no secret. Articles in the Chinese media openly speak of the need for coercion in family planning, and senior officials continue to endorse the policy as currently practiced. Chinese Prime Minister Zhu Rongji, for instance, said on October 13, 1999, that "China will continue to *enforce* its *effective* family-planning policy in the new century in order to create a favorable environment for further development" (italics added). And in its *White Paper on Population*, released on December 19, 2000, China avows that it will continue the one-child policy for another 50 years. The *White*

Paper actually sets a population target of 1.6 billion by the year 2050.

Chinese officials suggest to the outside world that these targets and quotas will be achieved by "education" and "persuasion," rather than coercion and compulsion. As an example of the effectiveness of these tactics, the *White Paper* reported that women were postponing childbirth: While in 1970 they gave birth to their first child at 20.8 years of age, by 1998 they were putting off childbearing until they were almost three years older, age 23.6. But this claim is disingenuous: Women are giving birth later not because officials have gently whispered in their ears, but because they are strictly forbidden to marry until age 23, and hustled off for an abortion if they become pregnant out of wedlock. Ah Fang would have given birth at 20, had she not been ordered to terminate her pregnancy. As it is, she will be 23 or older when she has her first (and perhaps her only) child.

Support from the West

Powerful images of China's teeming multitudes, dating back to the time of Marco Polo, are etched deeply on Western minds. The wandering Venetian found much to admire in Cathay's ancient civilization, but it was the sheer number of Chinese that left him astounded. Skeptical contemporaries gave him the mocking title "Il Milione" for the frequency with which he used this superlative to describe the populations of China's cities and provinces, the numbers of her civil functionaries, and the seemingly endless ranks of her men under arms.

But Marco Polo was, in this respect, a perfectly reliable witness. The world had never seen a more populous empire than the 13th-century Yuan Dynasty. It had a population of some 110 million occupying a continent-sized territory with a standing army of a million. It dwarfed contemporaneous Western states, such as the England of Henry III, in every respect. Moreover, it had been in existence, counting dynastic interregna, for over 1,500 years. China's population was already 60 million at the time of Christ and reached ever-greater peaks during later dynasties—80 million in the 9th-century Tang Dynasty, 110 million at the time of Marco Polo, 200 million in the 16th-century Ming, 425 million in the 19th-century Ching. Throughout these centuries, China's large population was rightly seen as an indispensable element of its national greatness and imperial power.

But there is another, darker Western perception of China's population, dating back to the Mongol hordes of the non-Chinese Genghis Khan, which sees them "as a faceless, impenetrable, overwhelming mass, irresistible once loosed."[7] And a mass, it might be added, that was thought to be feverishly multiplying. If all of the Chinese people were formed up into a column five

abreast, went a cocktail riddle popular in the 1920s, how long would it take the entire column to march past a fixed point? "Forever" was taken to be the correct answer: The column would turn out to be endless, because the Chinese would simply breed faster than they marched. Or so it was wrongly supposed.[8] The image of China's population as a "yellow peril" was brought vividly to life again in the 1950s, when a sea of Chinese flooded across the Yalu River into Korea, and "human wave" attacks were reported by American troops. The hyperbolical reporting of China's "overpopulation problem" over the past 20 years arises in part from these same dark fears. In the view of the new Malthusians, China is a boiling pressure cooker of people, who at any time could explode beyond her borders in a human flood of illegal immigration—or conquest.

Western population-control advocates, therefore, welcomed China's 1979 policy with a mixture of euphoria and relief: euphoria because the world's most populous nation was at last getting serious about its numbers, and relief because China would now dam up its seas of people before they could inundate the world. The Westerners would roll up their sleeves and pitch in: They would help design and implement a program that would turn China, everyone's brutish infant of overpopulation, into a poster child of family planning. China would become a model for other countries. Depressing the birth rate in China—important in itself—would in this way help to further depress birth rates worldwide. It would move the controllers at the United Nations Population Fund (UNFPA) and elsewhere that much closer to their global goal of, in the words of UNFPA Executive Director Nafis Sadik, "achieving the lowest level of population in the very shortest time."[9]

No thought was given to China's abysmal human-rights record, or expressed the concern that the Chinese government, in dictating how many children a couple might have, was violating parental rights. No one worried that, in enforcing the one-child policy, the government might resort to coercion, as it had done in past political campaigns. Everything—economic development, democracy, and even human rights—would have to await the taming of her numbers.

Acting as if they were afraid that the Beijing regime might change its mind, the controllers hastily began helping to fund the program. The largest grant came from the UNFPA, which would quickly become the major player in China; it ponied up a hefty $50 million over the first five years. The International Planned Parenthood Federation (IPPF) signaled its approval with a grant of $500,000. The money went to its Chinese affiliate—which, IPPF reported with paternal pride, "organize[s] . . . the family-planning group which will formulate the birth plans."[10] The World Bank opened up its

coffers as well, and by 1996 had loaned more than $22 billion to China.[11] This international largesse, as economist Jacqueline Kasun has noted, is funded in part by unsuspecting taxpayers in industrialized nations.[12]

Having underwritten the China program, population-control advocates were soon acclaiming its achievements, and even expressing approval of many of its methods. The United Nations picked 1983, a year of unusually severe coercion inside China, to present the first United Nations Population Award to the PRC. The decision was criticized in many quarters—the American Nobel Prize-winning economist, Theodore W. Schultz, immediately resigned in protest from the Population Award advisory commission—but the U.N. was undeterred. As a family-planning "high tide" ripped through the Chinese countryside, U.N. officials lauded China "for the most outstanding contribution to the awareness of population questions." That same year, the IPPF welcomed the Chinese Family Planning Association to full membership, declaring the goals of the Chinese program entirely consistent with its own.[13] Commendations from the World Bank and the Better World Society of Washington, D.C., followed.[14] One wonders what the approximately 15 million young Chinese women who underwent abortions that year, perhaps 90 percent under coercive circumstances, thought of such accolades.

Talk of exporting the China model had already surfaced. Werner Fornos of the Population Institute, a group closely tied to the UNFPA, declared in 1982 that the Chinese program was one that "the world should copy."[15] The World Bank, in its *Development Report 1984*, insisted that "voluntary" incentives "need be no more objectionable than any other taxes or subsidies," and went on to describe the Chinese program in laudatory terms.[16]

The Truth Comes Out, but . . .

As the 1980s progressed, the trickle of reports about coercion in China became a flood. Michele Vink wrote in the *Wall Street Journal* of women who were "handcuffed, tied with ropes or placed in pig's baskets" for their forced trips to the abortion clinics.[17] Christopher Wren reported in the *New York Times* that thousands of Chinese women were being "rounded up and forced to have abortions." He described women "locked in detention cells or hauled before mass rallies and harangued into consenting to abortions." He told of "vigilantes [who] abducted pregnant women on the streets and hauled them off, sometimes handcuffed or trussed, to abortion clinics," and of "aborted babies which were . . . crying when they were born."[18] Michael Weiskopf of the *Washington Post* in 1983 published a lengthy series of articles on the one-child policy that made vivid the human cost of the program. Elliott Abrams, then assistant secretary of state for human rights,

ensured that the Chinese practice of forced abortions and sterilizations made its way into the State Department's *Country Report on Human Rights Practices*. With the press speaking openly about the "butchering, drowning, and leaving to die of female infants and the maltreating of women who have given birth to girls," little reasonable doubt could remain that China's population program was synonymous with brutality and coercion.[19]

For my part, I published a best-selling book on rural China called *Broken Earth,* appeared on *60 Minutes* and other television shows, and lectured around the U.S., reporting on the forced abortions and sterilizations that I had witnessed.[20] Many people shared my outrage; the reaction of others was strangely muted. Some in Congress and the media, I was disappointed to find, were all too ready to excuse these acts in the name of fighting overpopulation. As one of the leaders of the National Organization of Women put it to me, "I am personally opposed to forced abortion and sterilization but, after all, China does have a population problem." Others, sounding for all the world like the Chinese Communist Party officials I had interviewed, openly argued that, because China was a poor country, its people could not be allowed to have as many children as they wanted. A number even applauded the Chinese model, and wanted to use it as a blueprint for other countries. "Limiting everyone to one child, even in the U.S., is a good idea," one said to me.

What I had thought an open-and-shut case—who could defend the forced abortion of a woman eight months pregnant?—had turned out to be an open question. A wild-eyed professor at California State University at San Luis Obispo became angry with me for even suggesting the moral considerations. "Don't you see that the Chinese government *must* control childbearing under a state plan in order for China to develop!" he shouted in front of the 800 faculty and students who had gathered for my lecture. Lurking behind his utilitarian obtuseness was the misguided belief that the Chinese people in their numbers were the chief obstacle to China's prosperity.

But nothing could match the enthusiasm of the professional population-control movement. Their earlier actions in supporting the program had turned them into collaborators in the abuses that followed. But they really didn't seem to care: As long as China was "doing something" about its "overpopulation problem," they were on board. Many, like the head of the Population Council, Bernard Berelson, had long wanted to go "beyond family planning" to massive government intervention to force down fertility.[21] Sharon Camp, then with the Population Crisis Committee, admitted that "the Chinese in many areas of China are able to put enormous pressure on a woman who is pregnant out of turn—and her family and her group—to terminate that

pregnancy." But she went on to say that "I am not at all convinced that there is widespread physical coercion in the Chinese program. And yet visiting Sichuan I do have to ask myself *if they have any other choice but to implement a strong program*!" (emphasis added).[22] The IPPF and its affiliates were more direct, continuing to offer fulsome praise of China's "successful" one-child policy and abstaining from any hint that this success was obtained under duress.[23]

Parroting Chinese official denials, the controllers dismissed reports of forced abortions as "local aberrations" or, more commonly, refused to acknowledge them at all. Nor were they concerned that the one-child policy ran roughshod over human rights. They rarely referred to the family-planning "high tides" that periodically gripped the country. They avoided mentioning the "mass mobilizations" in which women are rounded up against their will to have IUDs inserted, undergo abortions, or be sterilized.[24] They turned a blind eye to the severe punishments visited upon women who, like Li Aihai, evaded the mandatory "surgeries," and bore children without government permission.

How, after all, could they condemn China for actually *doing* what they themselves had long advocated? The Westerners had become fixated on the numbers. In 1994, Dr. Richard Cash of the Harvard School of Public Health congratulated China's State Family Planning Commission on having had "a very strong family-planning program for many years," and urged China to continue its "very good work" and not allow its "people to slip back into having larger families."[25] The numbers were the thing: As long as births in China were headed in the right direction—down—what did it matter how it was done?

The more criticism of the one-child policy grew, the more its foreign supporters rallied to its defense with a strange combination of threats and denial. Some warned darkly that other countries, if they could not get their birth rates down by voluntary means, would soon have to adopt compulsory family planning. Some singled out countries like India as places where the Chinese model should be adopted immediately. The denial strategy was exemplified by UNFPA head Nafis Sadik, who in 1989 informed a CBS reporter that "the implementation of the policy [in China] and the acceptance of the policy is *purely voluntary.* There is *no such thing* as, you know, a license to have a birth and so on" (emphasis added).[26] It is uncertain whether Sadik actually believed this. Chinese officials are of course at pains to reassure every Western visitor that the one-child policy is "purely voluntary," but every Chinese understands that the state has assumed regulatory power over reproduction. The state-run media regularly warn couples that they are

not free to have as many children as they would like, as when the Jilin provincial newspaper in October 1993 reported that, according to the provincial birth-control regulations, married couples "cannot voluntarily have children unless they obtain a child-bearing license."[27]

Exporting the China Model

In April 1991, Sadik gushed to a Chinese reporter that "China has every reason to feel proud of and pleased with its remarkable achievements made in its family-planning policy and control of its population growth over the past 10 years. Now the country could offer its experiences and special experts to help other countries."[28] She added that "UNFPA is going to employ some of [China's family-planning experts] to work in other countries and popularize China's experiences in population-growth control and family planning."[29] This was no idle threat: When the UNFPA served as the "technical secretary" of Peru's infamous sterilization campaign a few years later, it brought in Chinese experts to, among other things, train the surgical teams in how to tie women's tubes assembly-line style.

Most governments are either unwilling or unable to bring all the child-bearing in their countries under state control. One of the few exceptions is Vietnam, whose political and economic system is almost identical to that of neighboring China. Hanoi, with UNFPA assistance, has designed and is carrying out a population-control policy that relies on targets, quotas, and coercive measures virtually identical to China's to limit every couple to two children. "Communist Party members who have more than two face automatic expulsion and parents are often asked to pay the health and education costs of a third child," reports the BBC. "More serious sanctions include having land confiscated."[30] Serious, indeed: In a peasant society like Vietnam a family's plot of land is often all that stands between it and starvation. Another consequence of the policy is that Vietnam, like China, has "one of the world's highest rates of abortion."[31] Even the *Population and Development Review*, as a rule no critic of family planning, reports that "women have been forced to use IUDs and have been forced to have abortions."[32]

This familiar litany of abuses has elicited nothing but praise from the UNFPA, which remains unabashedly eager to take credit for the forced reduction in fertility. According to one U.N. document, "Although government policy bears the main responsibility for this achievement, UNFPA's assistance in preparing for and supporting the policy reform provided necessary capacity and support for implementing it."[33] Omar Ertur, UNFPA country representative in Hanoi, praised Vietnam's National Committee for Population and Family Planning for being "very successful [in] achieving a

tremendous reduction in a very short period of time."[34] The UNFPA honored Vietnam's population controllers with its 1999 United Nations Population Award.[35] The UNFPA has of late taken to running "model county" programs in Vietnam, a dodge that serves to insulate the organization from the charge that it is complicit in the human-rights abuses that abound in the country as a whole.[36]

Although the Chinese model has proven difficult to export in its entirety, that hasn't deterred the UNFPA and other organizations from imposing the program piecemeal on other countries. Governments have been encouraged by these groups to adopt Chinese-style targets and quotas, bribes and punishments, organizational structures, and promotional propaganda. Where these techniques have been successfully transplanted, they have given rise to systematic coercion, even in countries generally lacking a high degree of control. All that is required for this to happen, as population expert John Aird once observed, is "a politically inert, uneducated, impoverished population and an established pattern of bureaucratic authoritarianism."[37] Quite a few countries in the developing world fit this description.

National Targets. Since the 1970s China has set population targets.[38] Following China's lead, the UNFPA and other agencies insist that governments, at a minimum, set 10- or 15-year targets for family size and total population. Targets for such things as "number and percentage of contraceptive acceptors" and "numbers and percentage of women sterilized" are also pushed. Governments reluctant to set targets have been told by the World Bank and USAID that they will not receive grants and loans until they do.[39] Targets and quotas, it should be noted, were banned by the 1994 Cairo population conference on the grounds that they *always* lead to abuses; this prohibition has been largely ignored.

Bribes and Punishments for Officials. To keep its millions of population-control functionaries in line, China developed what it calls the "job responsibility system." Each year, officials at each level of government pledge in writing to their superiors that they will meet their assigned birth-control targets and quotas. Those who do so receive public commendations and cash awards, and are slotted for advancement. Those who fail are publicly reprimanded and fined, and may even be demoted. Repeated failure ends in complete disgrace: loss of Party membership and dismissal from one's post. Meeting targets is thus a career-maker—or breaker. No one should be surprised when Chinese officials pressure a pregnant woman into aborting an "over-quota" child, or lock up a mother of two until she "agrees" to sterilization. China's leaders designed the "job responsibility system" to ensure precisely this outcome.[40]

International-aid agencies such as the World Bank and USAID often make continued assistance to developing countries contingent on their attainment of family-planning targets.[41] National authorities, anxious over future funding prospects, then bear down on local officials, suggesting that assigned targets are to be attained by whatever means necessary. In India, this approach has led officials to compel submission to sterilization by withholding food rations, confiscating salaries, issuing strongly worded threats, and even resorting to the out-and-out use of physical force.[42]

The Chinese practice of giving local administrators public commendations and awards for their achievements has also led to abuses in places like Bangladesh, the Philippines, Indonesia, and Vietnam. Even national goals that have been set (with foreign encouragement) "for planning purposes only" have encouraged compulsory measures when local officials have been judged on how well they met the targets.[43] Regional leaders in Indonesia may have imagined that they were only setting "planning" targets for numbers of contraceptive acceptors in their areas, but when local officials were then held responsible for maintaining them, massive abuses occurred.[44]

Bribes and Punishments for Families. Heavy pressure is brought to bear directly on Chinese families: Those who go along with the one-child policy are promised that their children will have preferential access to inoculations, education, and employment. Those who break the rules are not only denied such benefits, but are threatened with heavy fines. According to regulations adopted in 1991 in Beijing municipality, the penalties for having a second child range from 5,000 to 50,000 *yuan*, and for having a third 20,000 to 100,000 *yuan*.[45] Considering that the average rural family earns less than 1,000 *yuan* a year, fines of such magnitude seem spectacularly out of proportion, until one realizes that their true purpose is to *deter* couples from continuing out-of-plan pregnancies—and to make them submit to abortions. As incomes have risen, so have the fines been escalating, having been increased again as recently as 2002.[46]

Chinese-style threats and fines have been adopted in Indonesia, where in the 1980s Balinese Hindus who refused to use birth control were threatened with expulsion from their villages.[47] Even incentives can have the force of compulsion if they relate to vital necessities, as happened in Peru under dictator Alberto Fujimori:[48] Poor, hungry women were told that to qualify for free food, or to receive medical care, they must submit to sterilization. Similar abuses occurred in Bangladesh in recent years, where the Chinese model has been explicitly held up for emulation.[49]

Group Pressure Tactics. To further discourage couples from having children outside the plan, the Chinese government deliberately generates "peer

pressure" against potential rule-breakers by means of group rewards and punishments. Heilongjiang province, for example, bowed to peasant desires for sons (and rising rates of female infanticide) by announcing in 1988 that it would partially relax the one-child policy in the villages—but *only* if everyone cooperated. Rural couples whose first child was a boy would still have to stop at one. Couples whose first child was a girl would get a second chance at a male heir, but on one condition: There could be absolutely no unauthorized births in their village.[50] Neighboring Liaoning province adopted a variant of the same policy, requiring that a village have no unauthorized births and all of its married women on birth control before it could qualify for second births. If even one illegal baby was born, all second births would be forbidden that year. The policy was said to have "strengthened group awareness" among Liaoning's peasants.[51] No doubt it did. The head of China's State Family Planning Council, Ms. Peng Peiyun, praised this pressure tactic as a way of "tightening up" family-planning work, and recommended that it be implemented throughout the country.[52]

Similar tactics are used in the cities, where the one-child policy continues to be strictly enforced. Workers in a given factory or department are denied bonuses, awards, expansion plans, and other benefits if even one of their number has an unauthorized child. Women who get pregnant outside the plan are immediately ostracized by their fellow workers and put under tremendous pressure to abort.[53] As a result, observed John Aird, in urban China compliance with the one-child rule is almost total.[54]

These pressure tactics have been put to very effective use elsewhere. In India, for example, some villages have been denied access to irrigation water at subsidized prices until they came up with the required number of sterilizations.[55] A new village well was promised to another village if "100 percent of eligible couples" would undergo sterilization; after the last vasectomy was performed, the well was dug.[56] Cash payments have been offered to all families in a village if 75 percent of the men submit to vasectomy.[57]

Long-Term Contraception/Sterilization. From the beginning of the one-child policy, Chinese authorities have followed an inflexible rule: Sterilize or implant an IUD in a woman after the birth of her first child; sterilize her after the birth of her second. The advantage of this method for China's family-planning officials is obvious: They no longer have to maintain constant surveillance over all women of childbearing age to make sure that they are not starting or concealing an unauthorized pregnancy. The government-run clinics will remove an IUD on request only if it is causing severe side-effects, and then only if the woman agrees to use another birth-control method, preferably a long-term implant like Norplant or an injectable like Depo-Provera.

For a woman to remove her own IUD is defined as a criminal act. Those who wish to do so nonetheless must rely on illegal operations that often involve dangerous methods and unsanitary conditions—back-alley IUD removals, one might call them.

This component of the Chinese program has proven so successful in China that it is becoming a standard feature of family-planning programs worldwide. This shift from contraceptives, such as birth-control pills and condoms, that are controlled by the user, to more permanent measures—IUDs, sterilization, and long-term implants and injectables—more easily imposed on the user, has been underway for two decades now. The result has been a marked decrease in the freedom of women and couples in the developing world to decide for themselves the number and spacing of their children.

Women pressured into adopting such measures may change their minds later, but there is often little they can do about it, especially if the clinics refuse to reverse the sterilization or remove the IUD, or charge exorbitant fees for doing so. In Bangladesh and Haiti women suffering from acute side-effects from Norplant implants they had accepted as part of an "experimental" program were reportedly told the device could not be removed.[58] Too poor to seek alternative medical care, they had no choice but to endure their debilitating chemical sterilization until the five-year implant had run its course.

Propaganda. China's state-controlled media have bombarded the Chinese for a quarter-century with anti-population propaganda, to the point where many otherwise educated Chinese believe the Party when it claims that China's principal problem is too many people (rather than, say, absence of democratic rule, massive official corruption, and so on). Dissenting voices are not tolerated. In January 1994 two Chinese newspapers were reportedly punished for printing articles favoring second births and "opposing family planning."[59]

The Chinese are constantly told that the country's demographic situation is "grim," that economic progress is imperiled, and that even the food supply is in grave danger because of excessive population growth.[60] The government propaganda machine doesn't just focus on the long term; it insists that even failing to meet *current* targets will mean social and economic ruin. This propaganda helps to justify coercion, by convincing the Chinese people that procreating couples are a threat to the nation.

But one-sided propaganda does not require a controlled press: In much of the world, all it requires is money. Even in democratic countries, including the U.S., media discussion of population problems is dominated by the deep pockets of the anti-population movement. Literally tens of millions of dol-

lars are spent each year to convince the world's press—and through them the world's people—of the gravity of the "population crisis." The UNFPA alone devotes approximately $25 million, or 10 percent of its quarter-billon-dollar budget, to conjuring up specters of catastrophe.

The UNFPA and Today's China

The population controllers' symbiotic relationship with Chinese-style family planning continues. Thoraya Ahmed Obaid, executive director of the UNFPA, told a PRC journalist in January 2002 that "China, having adopted practical measures in accordance with her current situation, has scored remarkable achievements in population control. In recent years, the UNFPA and China have carried out a series of favorable and positive cooperation with more than 100 cooperative items of assistance established in the country."[61]

The most curious development occurred in 1998, when the UNFPA announced that it had been invited by the Chinese government to set up "model family-planning programs" in 32 of China's counties, or county-level municipalities. Nafis Sadik, then-director of UNFPA, let it be known that the Chinese government had agreed to suspend the one-child policy during the next four years. In her words, "In the project counties couples will be allowed to have as many children as they want, whenever they want, without requiring birth permits or being subject to quotas."[62] In a subsequent letter to the U.S. Congress, Sadik was even more specific. Within the UNFPA's 32 model counties, she said, "(1) reproductive health programs are fully voluntary; (2) women are free to voluntarily select the timing and spacing of their pregnancies; (3) targets and quotas have been lifted; (4) abortion is not promoted as a method of family planning; (5) coercion does not exist."

Although Sadik's claim to have set up a "no-coercion zone" in China was later to be proved false by investigators from the Population Research Institute or PRI (an organization of which I am president), it was by itself a remarkable, if backhanded, admission of the real state of affairs in China. For up to that point it had been the steadfast position of the Chinese government—maintained also by the UNFPA—that the one-child policy neither relied upon birth quotas and targets, nor required parents to obtain a birth permit before having a child. Anyway, why would the Chinese government abandon controls that had successfully driven down the birth rate for two decades?

The UNFPA sought to explain: "The Government of China is keen to move away from its *administrative approach* to family planning to an integrated, client-centered reproductive health approach" (italics added).[63] But

the Chinese government did not need to be convinced, by the UNFPA or anyone else, of the value of replacing direct coercion with the more subtle forms of threats, bribes, and propaganda that population controllers commonly employ to stop Third World families from having children. Senior Chinese family-planning officials have always urged their juniors to employ such techniques to meet their quotas, reserving forced abortions and forced sterilizations for the truly recalcitrant.

We at the PRI suspected that UNFPA's claims to have de-fanged China's family-planning program were exaggerated. So, in September 2001, we organized a team of investigators, led by paralegal Josephine Guy, to go undercover into an UNFPA "model county." After four days in Sihui county, Guangdong province, Ms. Guy reported back that people had flocked to tell her about the abuse that they and their families had suffered as a result of still-coercive family-planning policies. As she was later to testify before the International Relations Committee of the U.S. House of Representatives:

> We were told of efforts by many women to hide their pregnancies from government officials, in an attempt to escape forced abortion, so they could give birth to a child they desired. We were told of women having to hide their children, to escape retribution from officials for not having an abortion. We were told of the many so-called "black" children in the region who are born out of accord with local birth regulations. We were told of the punishments inflicted on those who wish to freely determine for themselves the timing and spacing of pregnancy.
>
> We were told of the non-voluntary use of IUDs and mandatory examinations so that officials can ensure that women have not removed IUDs in violation of policy, and the strict punishments which result from non-compliance with this coercive and inhumane policy. . . . The interviews we conducted were recorded in notebooks, on audio and videotape, and additional photographic evidence was obtained. The abuses we documented during this investigation are recent, ongoing, rampant, and unrelenting. And they exist in a county where the United Nations Population Fund claims that women are free to determine the timing and spacing of pregnancy.
>
> At a location not far from the UNFPA office, a woman testified that she became pregnant despite an earlier attempt by family-planning officials to forcibly sterilize her. That attempt failed. She became pregnant, and was forcibly sterilized a second time by family-planning doctors and officials. Had she refused, she told us on videotape, family-planning crews would have torn her house down.[64]

Everyone Josephine Guy spoke with had a story to tell—a sister who had been sterilized, a friend who had undergone a coerced abortion. There is no voluntarism in Sihui, she concluded, despite UNFPA claims to the contrary.

On her last day in Sihui, Ms. Guy and her team set out to locate the office from which the UNFPA directs its "model family-planning program." To her surprise, she was directed to the Sihui county family-planning office, where she found the single UNFPA representative sitting in the midst of

government family planners. The significance of this arrangement was immediately apparent: The Chinese government and the UNFPA were working hand-in-glove to enforce the one-child policy. As one family-planning victim told Ms. Guy, "Family-planning policies involving coercion and force are stricter today than ever before."[65]

The PRI's investigation prompted the Bush administration to undertake one of its own, sending a three-member assessment team to China in May 2002. The official nature of the visit constituted a tremendous handicap for the team: It ensured that the Chinese state was able to monitor their comings and goings and to prevent them from coming into direct contact with cases of coercion. Nonetheless, the team found that UNFPA was supplying computers and medical equipment to family-planning agencies engaged in coercive practices.[66] On July 21, 2002, Secretary of State Colin Powell announced a new policy: "UNFPA's support of, and involvement in, China's population-planning activities allows the Chinese government to implement more effectively its program of coercive abortion. Therefore, it is not permissible to continue funding UNFPA at this time."[67] The $34 million appropriated by Congress for FY 2002, he continued, will go instead to Child Survival and Health programs.

Powell called on the UNFPA to stop "support[ing] a program of coercive abortion," but the agency appears ready to persevere: It reacted to the cutoff of U.S. funding by *expanding* its program in China from 32 to 42 counties. The new, multi-million dollar agreement with China will carry through 2007.

Bad Ideas in the West; Life and Death in China

Population control was not imposed on China by the West, as it was imposed on smaller, weaker countries—but that doesn't absolve the West of all responsibility for the one-child policy and its attendant abuses. Not only did Western-funded organizations like the UNFPA lend China their enthusiastic support but, as recent research by Susan Greenhalgh and others makes clear, the intellectual impetus for the policy came from the West.[68] Vaporous Sixties ideas about population growth and resource depletion had explosive real-world consequences, a decade later and half a world away. The core ideas underlying the one-child policy, it turns out, came from Western "science," more precisely from the notorious 1974 Club of Rome study that claimed we were breeding ourselves to extinction.

The *Limits to Growth* computer simulation, carried out by a group of MIT-based systems engineers, predicted that the world would come to an end by *about 2070 if* population growth continued.[69] The authors saw "no other avenue to survival" than population control, which was "the only feasible

solution."[70] The book's conclusions lent themselves to hype, which, it turned out, was precisely what the Club of Rome wanted. A public-relations firm was hired, a press conference was organized, and the book was released with great fanfare. Scary stories sell, and this one sold a frightening 4 million copies, injecting the book indelibly into the world's consciousness.

The stage was now set for Song Jian, a systems-control specialist for China's state-owned defense industry, to visit Europe in 1978. He might as well have come from another planet. Like other Chinese intellectuals, he had been isolated from the outside world for decades, and was desperately eager to catch up on developments. During his trip, as he later wrote, he "happened to learn about the application of systems-analysis theory by European scientists to the study of population problems with a great success. For instance, in a 'Blueprint for Survival' published in 1972, British scientists contended that Britain's population of 56 million had greatly exceed[ed] the sustaining capacity of [the] ecosystem of the Kingdom. They argued Britain's population should be gradually reduced to 30 million, namely, a reduction by nearly 50 percent . . . I was extremely excited about these documents and determined to try the method of demography."[71] He had been to the future, or so he thought. In his baggage when he returned to China was a copy of *The Limits to Growth.*

Although Song Jian had no way of knowing it, what he thought was cutting-edge systems analysis was little more than a scientific hoax. The data were incomplete and sometimes inaccurate, its methodology was flawed, and it assumed—wrongly—that scientific and technical advances would cease.[72] In the words of legendary demographer Julian Simon, "*The Limits to Growth* has been blasted as foolishness or fraud by almost every economist who has read it closely or reviewed it in print."[73] The most decisive refutation of the study came from the Club of Rome itself, which—two years after its publication—suddenly "reversed its position" and "came out for more growth."[74]

But the damage was done. In Song Jian, they had captured their most important convert ever: Through him, their little caper had an impact on the lives of over a billion people—and continues to do so down to today. Borrowing the strident rhetoric of the Club of Rome report, Song Jian popularized the notion of a world in crisis: "Facing the rapid increase in population, countries everywhere are watching developments with grave concern."[75] And he drew the same conclusion: "The capacity of the land . . . does not permit excessive increases in population. This is quite obvious."[76] He reinforced his rhetoric with eye-catching charts showing China's population remaining low for 4,000 years, then spiking up terrifyingly to 1 billion by 1980.[77]

No mention was made of recent, dramatic declines in the birth rate.[78]

Other experts jumped into the debate, arguing that China's economy was collapsing under the weight of its population. Population growth was said to be responsible for every conceivable economic ill, from rising levels of unemployment and poverty to falling levels of labor productivity and investment. China, it seemed, faced a population crisis of enormous proportions which, if left unchecked, would shatter any hope of ever joining the ranks of the developed nations. Nothing less was at stake than the country's drive for wealth and global power, warned Vice Premier Chen Muhua in the pages of the *People's Daily*: "In order to realize the Four Modernizations, we must control population growth in a planned way."[79]

The Chinese leadership was ripe for a radical solution; after all, the nation's future was at stake. And Song Jian, armed with a computer simulation right out of the pages of *The Limits to Growth*, offered one.

After returning from Europe, Song set out to replicate the systems-analysis studies he had stumbled across in Europe, this time with China as the subject. He formed a research group: himself, two other systems-control specialists, and an economist. Using newly available computer technology, the group first set out to calculate China's "optimal" population in the year 2080. Making the same kinds of highly questionable assumptions as their Club of Rome mentors, using data that were even more fragmentary, they calculated that the optimal population in 2080 would be between 650 and 700 million people. This figure, which was roughly two-thirds of China's 1980 population, they proposed as the goal of any birth-control program.[80] China's "only choice" was to reduce the population down to this level, Song maintained, borrowing the *Limits* language. There was simply "no other way," "no other choice."[81]

In order to determine the level of fertility control necessary to reach this goal, the group next projected future population growth under different childbearing schemes: 3.0, 2.3, 2.0, 1.5, 1.0. The first three they rejected out of hand. If the people were allowed to continue to bear children at the 1978 rate—2.3—they calculated that the population would grow to 2.12 billion in 2080. Even if the rate were forced down to 2.0, there would still be 1.47 billion Chinese alive after a century. These schemes "obviously cannot be adopted," they said. The seriousness of the population crisis required sterner measures. Limiting women to an average of 1.5 children produced the kind of population reduction they were looking for. Under this scenario, the number of Chinese would decline to 777 million by 2080, within striking distance of their "optimum population" of 650-700 million. Under their final scenario, in which every couple would be limited to one child by 1985, the population

would plummet to only 370 million, well below the optimum.[82]

The Song group was well-connected, and soon after completing their computer simulations they were able to present them to top Communist Party and government leaders. These were reportedly "very impressed with the science and the numbers."[83] As well they might be: The presentation by the Song group confirmed one of their most cherished beliefs, namely, that Western science and technology, appropriately applied to the Chinese context, would be the salvation of their nation. As Greenhalgh writes, "The attitude towards everything foreign was close to idolatry. This was to have fateful consequences, as Western 'science'—at least one odd brand of it—became the core of Chinese policy."[84]

The computer simulation presented by the Song group—perhaps the first that senior leaders had ever seen—must have been greeted with not only awe but relief. Here was welcome confirmation that "overpopulation," rather than, say, economic mismanagement or political turmoil, was the true source of China's backwardness. And not only had the Song group used Western "science" to identify the problem, it had used those same techniques to devise a plan to save China. Scientific and technological modernization, named by Paramount Leader Deng Xiaoping the most important of his Four Modernizations, was paying off. How proud they must have been that their own experts, using the latest in Western "science," had so precisely calculated China's "optimum population." That Song's group was even able to offer precise advice on fertility levels and future population numbers was an added bonus. The leadership had few qualms about regulating the fertility of its subjects—it had done worse over the previous three decades—but Song's insistence that Western "science" left them "no other choice" made the decision easy.

The only question was whether to adopt the 1.5-child-per-family policy preferred by the Song group, or to impose an even more restrictive one-child-per-family policy. The leadership in the end rejected the 1.5-children option, apparently fearing that the peasants would then push for two or more.[85] When Song's study was published in the official Party organ, the *People's Daily*, on March 7, 1980, it was edited to read that the 1.5-child-per-family policy would be "disadvantageous to our country's four modernizations . . . and to the raising of the people's standard of living." The one-child-per-couple policy, which results in a population much smaller than the supposed optimum, was described as "a comparatively ideal scheme for solving our country's population problem."[86]

Publication in the *People's Daily* meant that the policy had received the imprimatur of the Communist Party and was therefore beyond further dis-

cussion and debate. Six months later, in mid-September 1980, the one-child policy was formally ratified by the third session of the Fifth National People's Congress. From then on it was set in stone. On this terrible altar millions of mothers and children have suffered and died, sacrificed for a scientific fraud.

* * * * *

As the case of China puts in stark relief, the real danger to the people of the developing world is not "overpopulation" at all, but rather alarmist notions of overpopulation. The notion that people are somehow social, ecological, and economic nuisances is a pernicious one, predisposing governments to treat their own citizens as a form of pestilence. Instead of trying to lift their poor out of poverty, governments instead try to reduce their numbers. Authentic economic development is neglected, human-rights abuses abound, and everyone's freedoms are put at risk. Population control encourages domestic tyranny of a very personal and deadly sort.

NOTES

1. Josephine Guy, "Story of a Beautiful Baby Boy," *PRI Review* 11:4 (Sept.-Oct. 2001), pp. 8-9.
2. Quoted in Josephine Guy, "Women and Child Abuse in China," *PRI Review* 11:4 (Sept.-Oct. 2001), p. 3.
3. The quote comes from Vice Premier Chen Muhua, who said in 1979 that "Socialism should make it possible to regulate the reproduction of human beings so that the population growth keeps in step with the growth of material production." Quoted in my book, *Broken Earth: The Rural Chinese* (New York: Free Press, 1983), p. 246.
4. I have made periodic trips into China to assess family-planning policies, have commissioned others to undertake such investigations, and have closely followed both official Chinese pronouncements and reports appearing in the specialized literature and the population press.
5. See the testimony of Gao Xiaoduan, who, as a senior population-control official in Fujian province, had systematically committed these and other abuses of human rights with the encouragement and support of her superiors. Following her escape from China, Mrs. Gao was invited by Rep. Christopher Smith (R-N.J.) to testify before the Subcommittee on International Operations and Human Rights of the International Relations Committee. Gao Xiaoduan, "Forced Abortion and Sterilization in China: The View from the Inside," Subcommittee on International Operations and Human Rights, June 10, 1998. Also see my book, *A Mother's Ordeal: One Woman's Fight Against China's One-Child Policy* (New York: Harcourt Brace, 1993), for similar abuses.
6. John Aird, *Slaughter of the Innocents: Coercive Birth Control in China* (Washington, D.C.: American Enterprise Institute Press, 1990), p. 92.
7. Harold R. Isaacs, *Scratches on Our Minds: American Images of China and India* (New York: John Day, 1958), pp. 63-64. Also quoted in my *China Misperceived: American Illusions and Chinese Reality* (New York: Basic Books, 1990), pp. 18-19.
8. Calculate the rate of march, the rate of reproduction, and the time it would take for the complete column, including babies born during the march, to pass under the arch.
9. The remark is quoted in Nicholas Eberstadt, "UNFPA: A Runaway Agency," *PRI Review* 12:3 (May-June 2002), p. 8.
10. International Planned Parenthood Federation, *IPPF in Action* (London: Typographic Press, 1982), p. 20. Quoted in Jacqueline Kasun, *The War Against Population: The Ideology and*

Economics of World Population Control (San Francisco: Ignatius Press, Revised Edition, 1999), p. 122.

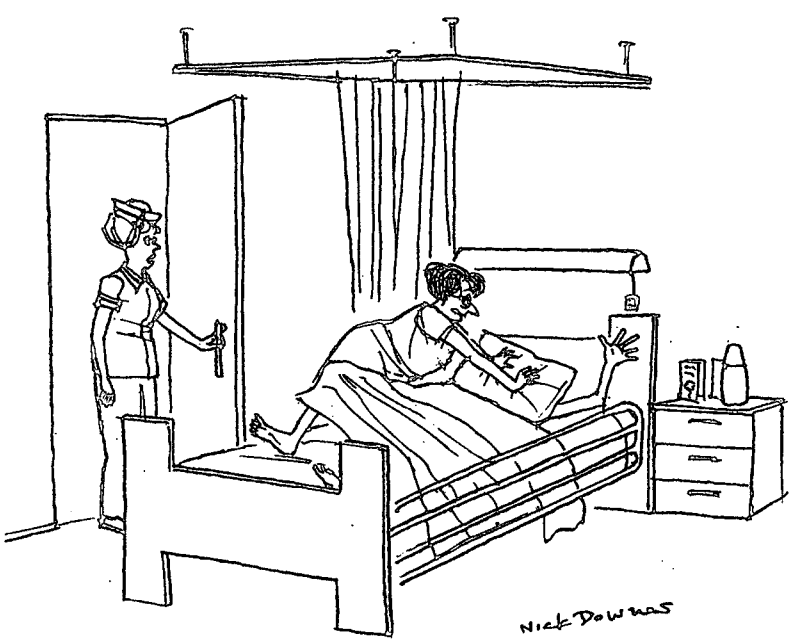
11. Bryan T. Johnson, "The World Bank and Economic Growth: 50 Years of Failure" (Washington, D.C: The Heritage Foundation, May 16, 1996), based on World Bank figures. Quoted in Kasun, *War*, p. 122.
12. Kasun, *War*, p. 122.
13. "Guojia jihua shengyu lianhehui Wu Kunhuang he Aluweihaier zhuren shuo: renmin xuanze Zhongguo de jihua shengyu shi renmin zijide xuanze" ("President Ng Khoon-Fong and Director Aluvihare of the International Planned Parenthood Federation say that China's family planning program is the people's own choice"), *Jiankang bao (Health Gazette)*, Beijing, Apr. 18, 1983, p. 1; and "Family planning measures hopeful," *China Daily*, Beijing, May 4, 1983, p. 3. Cited in John Aird, "The China Model," *PRI Review* 4:4 (July-August 1994), p. 1.
14. Kasun, *War*, p. 122.
15. "China Daily wins global media award," *China Daily*, Beijing, Mar. 16, 1982, p. 3. Cited in John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 1.
16. The World Bank, *World Development Report 1984*, p. 160. Quoted in Kasun, *War*, p. 124.
17. Michele Vink, "Abortion and Birth Control in Canton, China," *Wall Street Journal*, Nov. 30, 1981.
18. Christopher Wren, "Chinese Region Showing Resistance to National Goals for Birth Control," *New York Times*, May 16, 1982.
19. See my "Why are Baby Girls Being Killed in China?" *Wall Street Journal*, Nov. 30, 1981.
20. See, inter alia, my *Broken Earth*, esp. Chapter 8; Michael Weiskopf, "Abortion Tears Fabric of Chinese Society," *Washington Post*, January 7, 1985.
21. Burleson, who headed the Population Council from 1960 to 1974, thought the population crisis so severe that "forced-pace measures" were necessary. In his article "Beyond Family Planning," he proposed that massive government intervention was the only answer. See *PRI Review* 4:5 (Sept.-Oct., 1994), p. 11.
22. Sharon Camp, on the Diane Rehm Show, WAMU, Dec. 13, 1991. See also "Population Crisis Committee OK's Coercion," *PRI Review* 2(2):10 (Mar.-Apr. 1992).
23. The IPPF affiliate is the Japanese Organization for International Cooperation in Family Planning (JOICFP), which publishes *JOICFP News*, Aug. 2000, Sept. 2000.
24. John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 1.
25. See "A Peoples' Project in China," *JOICFP News*, no. 234, Dec. 1994, p. 6, as quoted in the *PRI Review* 4:2 (Mar.-Apr. 1994), p. 7.
26. Quoted in Christopher Smith, "Judging a Civilization," *PRI Review* 11:4 (Sept.-Oct. 2001), p. 8.
27. "Several regulations of Jilin province for the administration and management of family planning," *Jilin Ribao*, Changchun, Oct. 29, 1993, Joint Publications Research Service, no. 94010, Feb. 10, 1994, pp. 19-20. Cited in John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 3.
28. XINHUA-English, Beijing, Apr. 11, 1991, Foreign Broadcast Information Service (FBIS), *Daily Report: China*, no. 91-071, April 12, 1991, pp. 8-9; see also John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 1
29. Although Sadik did not know it at the time, the same month that she endorsed the Chinese model, Party leaders had ordered a new crackdown on out-of-plan births. Family-planning officials throughout the country resorted to more direct forms of coercion, and the Chinese birth rate plummeted to unprecedentedly low levels. News of the crackdown finally broke in April 1993, embarrassing the UNFPA and other foreign supporters of China's "voluntary" program. Sadik, eager for the U.S. to resume funding her organization, aired the possibility of withdrawing from China. When the newly installed Clinton administration proved willing to resume U.S. funding of the UNFPA in spite of its involvement in China's coercive program, all talk of withdrawal was dropped. See Nicholas D. Kristof, "A U.N. agency may leave China over coercive birth control," *New York Times*, May 15, 1993, p. 1.
30. Owen Bennett-Jones, "Vietnam's Two-Child Policy," BBC, 8 November 2000.
31. "Vietnam Plans Law to Ban Tests on Sex of Fetus," *Reuters*, 16 November 2001.
32. Daniel Goodkind, "Vietnam's New Fertility Policy," *Population and Development Review* 15(1), March 1989.
33. "Capacity Building for Eradicating Poverty, an Impact Evaluation of U.N. System Activities in Vietnam 1985-1997." U.N. Fund for Population Activities. Cited in Douglas A. Sylva, "The UNFPA: Assault on the World's Peoples," (New York: Catholic Family and Human Rights Institute, 2002), p. 51.

34. Quoted in Sylva, op. cit.
35. Quoted in Sylva, op. cit.
36. See Weekly Briefing on UNFPA's "model county" program in Vietnam.
37. John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 2.
38. Ibid.
39. Also see Betsy Hartmann, "Population Control as Foreign Policy," *Covert Action* 39 (Winter 1991-92), p. 28.
40. For example, according to Article 4 of the *Tianjin Municipality Regulations of Planned Birth*, which were promulgated on April 15, 1994, this major city in North China holds the heads of work units "duty-bound, authorized, and accountable" for meeting birth quotas set by their superiors. Xinnanliuxing Village of Dongpuhwa Township in Wuqing County, Tianjin, which has a population of 500, is allowed a quota of 5 children every two years. As human-rights activist Harry Wu comments, "If [officials] fail to [meet their quotas], they will lose their promotions and risk dismissal or punishment. This is the principal reason why Communist cadres at all levels resort to desperate, barbaric practices of forcing abortion and sterilization, and killing infants. Such a practice relates directly to the security of their jobs." See Harry Wu, "China's population policy," *PRI Review* 11:4 (Sept.-Oct. 2001), p. 7.
41. Also see Betsy Hartmann, "Population Control as Foreign Policy," *Covert Action* 39 (Winter 1991-92), p. 28.
42. John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 2.
43. Donald P. Warwick, *Bitter Pills: Population Policies and Their Implementation in Eight Developing Countries* (Cambridge: Cambridge University Press, 1982), pp. 203-204; Margot Cohen, "Success brings new problems," *Far Eastern Economic Review*, Hong Kong, April 18, 1991, pp. 48-49; Wardah Hafidz, Adrina Taslim, and Sita Aripurnami, "Family planning in Indonesia: the case for policy reorientation," *Inside Indonesia*, Mar. 1992, pp. 19-22; and Judith Banister, "Vietnam's evolving population policies," *International Conference on Population, New Delhi, September 1989* (Liege: International Union for the Scientific Study of Population, 1989) pp. 156-60.
44. See Betsy Hartmann, *Reproductive Rights and Wrongs* (Boston: South End Press, 1995), esp. pp. 73-83..
45. Cited in Tao-tai Hsia and Constance A. Johnson, "Recent legal developments in China's planned births campaign" (unpublished memorandum), July 9, 1991, p. 2. Beijing municipality includes extensive rural areas and populations. Quoted in John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 3.
46. Damion McElroy, "China's One-Child Policy Fines Rise," London *Telegraph*, July 27, 2002.
47. Donald P. Warwick, "The Ethics of Population Control," in Godfrey Roberts (ed.), *Population Policy: Contemporary Issues* (New York: Praeger, 1990), p. 26.
48. See David Morrison, "Cutting the Poor: Peruvian Sterilization Program Targets Society's Weakest," *PRI Review* 7(2): 1,4-7.
49. In December 1991 the president of Bangladesh, welcoming a family-planning delegation from China headed by Peng Peiyun, the Minister of China's State Family Planning Commission, praised China's success in population control and expressed the hope that Bangladesh and China could learn from each other's experiences. XINHUA-English, Beijing, Dec. 9, 1991, FBIS, no. 910237, Dec. 10, 1991, p. 20.
50. Haerbin radio, Heilongjiang Provincial Service, Apr. 20, 1988, FBIS, No. 88-82, Apr. 28, 1988; Meng Fang and Chen Fenglan, "Heilongjiang sheng kaizhan cang wu jihua wai shengyu cun houdong qude chengxiao" (Heilongjian Province carries out activities to create villages with no unplanned births and obtains results"), *Zhongguo renkou bao* (*China Population*) (ZGRKB), Beijing, 7 October 1988, p. 2. Quoted in John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 13, fn 25.
51. Yin Su and Li Zheng, "Liaoning Kaizhan cangjian 'Jihua shengyu hege cun' quanmian quanche jihua shengyu xianxing zhengce" ("Liaoning carries out activities for establishing 'qualified family planning villages' and implements the current family-planning policy fully"), ZGRKB, Sept. 30, 1988, p. 1. Quoted in John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 3.
52. Peng Peiyun, "Guanyu 1989-nian de gongzuo" ("On the work in 1989"), ZGRKB, Feb. 24, 1989, p. 1. Quoted in John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 3.
53. See, for example, the description of the policy in a letter from a Chinese factory manager to a Chinese employee studying in the U.S. who had an unauthorized pregnancy, quoted in my

article, "The long arm of 'one-child' China," *Washington Post,* Apr. 10, 1998, p. B4. See also my *A Mother's Ordeal.*

54. John Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 3.
55. Donald P. Warwick, Bitter Pills: Population Policies and Their Implementation in Eight Developing Countries (Cambridge: Cambridge University Press, 1982), pp. 197-98.
56. Robert M. Veatch, "Governmental Population Incentives: Ethical Issues at Stake," *Studies in Family Planning* 8:4 (Apr. 1977), pp. 100-108, quoted in Kasun, *War,* p. 111.
57. Ibid.
58. UBINIG, "'The price of Norplant is TK.2000! You cannot remove it,'" *Issues in Reproductive and Genetic Engineering* 4:1 (1991), p. 46. Cited in Aird, "The China Model," *PRI Review* 4:4 (July-Aug. 1994), p. 4.
59. "Propaganda department tightens control on press," *Ming bao,* Hong Kong, 15 January 1994, FBIS, no. 94-011, Jan. 18, 1994, p. 17.
60. These arguments are still being advanced despite the continuing fast growth of the Chinese economy. China's grain production is reported to have increased by 50 percent between 1979 and 1993, while the population grew by less than 22 percent. The grain figures are given in XINHUA-English, Beijing, Sept. 16, 1993, FBIS, no. 94-027, p. 37.
61. *People's Daily,* Mar. 2001, quoted in Christopher Smith, "Judging a Civilization," *PRI Review* 11:4 (Sept.-Oct. 2001), p. 8.
62. Letter from Nafis Sadik to Bill Richardson dated Jan. 7, 1998, and quoted in "Aiding a Holocaust: New UNFPA Program Designed to Tidy Up One-Child Horror," *PRI Review* 7:2 (Mar.-Apr. 1998), p. 14. The UNFPA's Founding Charter says that "couples have the rights to decide the number and spacing of their children." Given that China has from the inception of the one-child policy denied that right, the only honorable course of action for the UNFPA is to withdraw from China—but that it refuses to do.
63. Kirsten Trone, the UNFPA program director for China, quoted in "Aiding a Holocaust: New UNFPA Program Designed to Tidy Up One-Child Horror," *PRI Review* 7:2 (Mar.-Apr. 1998), p. 14.
64. Josephine Guy, "Women and Child Abuse in China," Testimony before the Committee on International Relations of the U.S. House of Representatives, Oct. 17, 2001. See also *PRI Review* 11:4 (Sept.-Oct. 2001), p. 3.
65. Ibid.
66. "Analysis of Determination that Kemp-Kasten Amendment Precludes Further Funding to UNFPA under Pub. Law 107-115," attachment to letter from Secretary Colin Powell to Patrick J. Leahy, Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. Senate, July 21, 2002.
67. Letter from Secretary Colin Powell to Sen. Leahy, July 21, 2002.
68. H. Yuan Tien, "Demography in China: From Zero to Now," *Population Index* 47(4):683-710; Tien, *China's Strategic Demographic Initiative* (New York: Praeger, 1991); Susan Greenhalgh, "Science, Modernity, and the Making of China's One-Child Policy," *Population and Development Review,* Aug. 2003.
69. D. H. Meadows et al., *The Limits to Growth: A Report for the Club of Rome's Project on the Predicament of Mankind* (New York: Universe, 1972).
70. Meadows et al., *Mankind at the Turning Point: The Second Report to the Club of Rome* (New York: Dutton, 1974), p. 196. "The Only Feasible Solution" is the title of Chapter 9, by Mihajlo Mesarovic and Eduard Pestel, of this second volume.
71. Song Jian, "Systems Science and China's Economic Reforms," in Yang Jiachi, ed., *Control Science and Technology for Development* (Oxford: Pergamon, 1986), pp. 1-8. In this section I draw upon Susan Greenhalgh's "Science, Modernity, and the Making of China's One-Child Policy," *Population and Development Review* 29(2): 163-196.
72. As a demonstration of the significance of these errors, the same rules were used to make predictions for the period from 1870 to 1970, from the basis of what was known in 1870; the computer predicted that the world would come to an end before 1970, in part because of the inability to control the massive amounts of horse manure. This can stand as an apt commentary on the whole enterprise. See Robert Sassone, *Handbook on Population* (fifth ed.; Stafford, Va.: ALL, 1994), p. 6.
73. Julian Simon, *The Ultimate Resource* (Princeton: Princeton University Press, 1981), p. 286. See also H. S. D. Cole, Christopher Freeman, Marie Jahoda, and K. L. R. Pavitt, eds., *Models of*

Doom: A Critique of The Limits to Growth (New York: Universe, 1973).
74. *Time*, Apr. 26, 1976, p. 56; *New York Times*, Apr. 14, 1976.
75. Song Jian, "Population Development—Goals and Plans," in Liu Zhen et al., eds., *China's Population: Problems and Prospects* (Beijing: New World Press, 1981), pp. 25-31. Note that this English-language publication came out several years after Song had begun circulating these same ideas inside China.
76. Song, 1981, p. 26; also cited in Greenhalgh.
77. Song et al., 1985; also cited in Greenhalgh.
78. Chinese figures of the time showed that the years 1971-79 saw the natural increase rate fall by half, and the crude birth rate decline by almost as much. H. Yuan Tien, "Demography in China: From Zero to Now," *Population Index* 47(4): 683 (1981).
79. Chun Muhua, "In Order to Realize the Four Modernizations, We Must Control Population Growth in a Planned Way," *People's Daily*, Aug. 11, 1979, p. 2. The "Four Modernizations" represented Deng Xiaoping's plan to modernize China's science and technology, military, industry, and agriculture by century's end.
80. Song, 1981: 28-30.
81. Ibid.: 31.
82. Song Jian, Tain Xueyuan, Li Guangyuan, and Yu Jingyuan, "Concerning the Issue of Our Country's Objective in Population Development," *People's Daily*, Mar. 7, 1980, p. 5.
83. Greenhalgh, op. cit.
84. Ibid.
85. Ibid.
86. Song Jian et al., in *People's Daily*, Mar. 7, p. 5.



"Visiting hours are over, Mrs. Kornwinkle."

APPENDIX A

[*Paul Greenberg is the Pulitzer-prize winning editorial page editor of the Arkansas* Democrat Gazette. *The following syndicated column appeared March 6, 2006. Distributed by Tribune Media Services. Reprinted with permission.*]

An Age of Arrogance

Paul Greenberg

> *"Declare the past, diagnose the present, foretell the future; practice these acts. As to diseases, make a habit of two things—to help, or at least to do no harm."*
>
> — Hippocrates, "Epidemics"

The most revealing obituary in the paper the other day was that of a 44-year-old man many must have thought as good as dead for almost a decade—since December of 1995.

That's when a burning roof collapsed over the head of the Buffalo, N.Y., firefighter, leaving him blind, brain-damaged, largely mute and completely unaware of his surroundings. Or so it must have seemed from the outside looking in. Doctors held out little hope of his ever regaining consciousness, for Donald Herbert of Rescue Company 1, 2nd Platoon, had been deprived of oxygen for several crucial minutes.

This father of four had fallen into a years-long stupor. Some—not all—might have called it a case of PVS, or Persistent Vegetative State, which is always an inexact diagnosis. Indeed, it's less a medical syndrome than a misleading label.

Because, on April 30 of last year, the vegetable spoke. Indeed, he rattled on for 14 hours, much to the astonishment and delight of doctors, nurses, family, fellow firefighters and surely everybody else who'd heard about his case.

The patient had been treated with drugs normally used for Parkinson's patients, and which have led to dramatic, if short-term, recoveries in other cases. Until the weekend before he died, firefighter Herbert continued to speak and interact with others, though never to the extent of his original awakening.

Many of us have heard of PVS before, notably in Terri Schiavo's media-saturated, legally complicated, medically contested, personally agonizing, politically polarizing, just-plain-awful case and scandal.

Vocabulary is always the crucial ground on which these life-and-death issues are fought, and, as a label, Persistent Vegetative State is a good example of how the terms in which a debate is conducted shape its outcome. This one tends to dehumanize the patient, even de-animalize him.

Paul McHugh, university distinguished service professor of psychiatry at Johns Hopkins, has explained, in Commentary magazine, the origin—and effect—of the term Persistent Vegetative State in judicious language, as befits a physician and professor:

"It is perhaps because such patients display so lowered a state of vigilance that, in striving to define their condition, neurologists lighted upon a metaphor

contrasting vegetation with animation. I remember teasing the admirable clinician who first coined this term that I had seen many patients but few carrots sleeping, waking, grunting or flinching from pain. Although the term 'vegetative' does distinguish what is lost from what remains in such a patient's capacities, it can also have the unfortunate effect of suggesting that there is something less worthy about those in this condition."

Dr. McHugh tells the remarkable story of one patient—"a man in his late 50s who, after a botched brain operation, had been left in an apathetic state not too different from Terri Schiavo's. Like her, he gave little evidence of awareness, responding mostly with groans and grimaces and moving little if at all. He had been in that state for several years when I took over on the ward; ultimately, he would live 13 years in this condition . . . .

"We young physicians felt honored to be caring for this man, who was of our fraternity. Prior to his injury, indeed, he had been quite simply the foremost clinical scientist in America. Among his many achievements, he had illuminated the functions of the parathyroid glands and so enlarged scientific knowledge of calcium metabolism, the dynamics of bone construction, and diseases of the bone like osteoporosis and osteomalacia."

As the resident neurologist, a younger Dr. McHugh had the unenviable challenge of finding something new to say about such unchanging cases as he took young interns with him on his daily rounds. "Soon enough," he remembers, "they began to grumble that I was repeating myself as I would note dutifully that, although Dr. A's apathetic state was profound and unchanging, occasionally such a patient might, if startled, give out a coherent response revealing some human consciousness."

One day, when one of the brasher interns challenged him on the point ("Enough of that, show us he can respond . . .") Dr. McHugh shook the patient and asked him sharply: "Dr. A, what's the serium calcium in pseudopseudohypoparathyroidism?"

It worked. To quote Dr. McHugh, "For the first time in my experience with him, he glanced up at me and, loudly enough for all the interns to hear, said: 'It's just about normal.' A full and complete answer had emerged from a man whom none of us had ever heard speak before. His answer was correct—as he should know, having discovered and named the condition I asked him about. Subsequently, in all the months we cared for him, he would never utter another word. But what a difference that moment had made to all of us. We matured that day not only in matters of the mind but in matters of the heart. If we had ever had misgivings before, we would never again doubt the value of caring for people like him. And we didn't give a fig that his EEG was grossly abnormal."

What a piece of work is man! How noble in reason, how infinite in faculties! But what if that distinguished doctor and scientist had never responded? What if the heroic firefighter had never awakened from his coma? Would that have made either of them less worthy of care? Would it have made it any more justifiable for any of us—doctor, judge, distant commentator—to say, yes, let them die?

Would any of us know what dreams were being dreamed, what memories relived, what delights rehearsed, what nightmares endured, within such a mind—a mind we do not know quite as much about as we may pretend?

When Terri Schiavo was denied food and water by order of the court, it took her 13 long, slow, agonizing days to die of dehydration. Thirteen days. It would have been kinder to shoot her. But that would have been against the law, and we know the law is just.

Funny how, long after you've forgotten everything else about some big story, one detail will stick in your mind. Have you ever sat by the bedside of a dying patient—a father or mother, perhaps, or someone else you loved—and given the patient a little chipped ice? And seen the relief and inaudible *thank you* in the drug-dimmed eyes? After all the futile treatments and the succession of helpless doctors, when grief has come even before the death, you sit there with a little cracked ice for the patient's parched mouth and throat, and think . . . *At last I can do this one little thing right. I'm not totally useless.*

However much or little the ice might help your patient, it does wonders for the caregiver. You suddenly realize why people go into nursing. Can there be any greater satisfaction than this?

But when the law decreed that Terri Schiavo was to be given no food or water, it *meant* no food or water. That's what the court, the sheriff's deputies, the whole clanking machinery of the law was there for—to see that the severe decree was carried out. That's what the new art and science of bioethics at the dawn of the 21st century had come down to in the end: *No cracked ice for Terri Schiavo.*

The doctors and nurses who had cared for her for years were now forbidden to give her even a single chip. That's the detail that has stayed with me.

What arrogance to decree that, because we deem another's life not worth living, it must be ended. But that is the spirit, or spiritlessness, of the age.

How far we have come from poor, backward, modest Hippocrates, who advised us: *First do no harm.* Ah, but how much more we have learned since his time. How much more advanced we are now! Yes, and how much we have forgotten. As knowledge has expanded, wisdom has shrunk.

Recommended reading: "Annihilating Terri Schiavo," by Paul McHugh, Commentary, June 2005. And "Buffalo Firefighter Who Awoke From Decade-Long Coma Succumbs to Injury," Firehouse.com, Feb. 22, 2006.

APPENDIX B

[*Julia Gorin's articles and op-eds can be found at juliagorin.com. The following appeared Jan. 5 in the* Jewish World Review *and is reprinted with the author's permission.*]

Progressives Killed Corky

Julia Gorin

In America, we don't leave infants with disabilities on the side of the road or bury them in the desert. We simply get rid of them before they're born. And this, according to "progressives," is our choice and our right. It's called eugenics, and it's the logical conclusion of Darwinism.

A recent Washington Post article, written by the mother of a Down syndrome child, observes that "prenatal testing is making your right to abort a disabled child more like 'your duty' to abort a disabled child." The writer, former Post reporter and bureau chief Patricia E. Bauer, describes the looks that she and her daughter get: "curious, surprised, sometimes wary, occasionally disapproving or alarmed . . . Margaret falls into the category of . . . less than human. A drain on society.

"At a dinner party not long ago, I was seated next to the director of an Ivy League ethics program. In answer to another guest's question, he said he believes that prospective parents have a moral obligation to undergo prenatal testing and to terminate their pregnancy to avoid bringing forth a child with a disability, because it was immoral to subject a child to the kind of suffering he or she would have to endure. (When I started to pipe up about our family's experience, he smiled politely and turned to the lady on his left.)"

According to Bauer—who did get "the test" but kept the baby anyway—80 to 90 percent of pregnancies are terminated when prenatal testing diagnoses Down syndrome.

In other words, progressives are killing off Corky, that lovable, tenacious character of the 1990s series "Life Goes On." Don't look for too many more of him to do the amazing things that Down syndrome actor Chris Burke did—a first for TV. And don't look for too many more Special Olympics that prove the will of these people to live and achieve.

Though she brought up the comparison of disabled babies being left out in the elements to die in ancient Greece and lamented that "we as a society can tacitly write off a whole group of people as having no value," Bauer shied away from making the more glaring analogy. Recall that it was the progressive Nazi Party of Germany that killed the retarded and handicapped, including kids. Our progressives simply have more advanced technology at their disposal, which can exterminate them before they're even born. We've streamlined the process; we're more efficient than the Nazis.

Soon after Bauer's article, The Post ran a piece by People Magazine national correspondent Maria Eftimiades, who had the opposite experience. She, too, took "the test," but aborted after she learned that the male child she was carrying would have Down syndrome. The piece was a response to a Down syndrome mother by a

would-be Down syndrome mother, lest the former think she was on a higher moral ground or something. Eftimiades defends her choice with a vengeance, as being equal to and as moral as Bauer's.

All the while, she describes the euphemisms she'd use for the word "abortion"—"appointment," "procedure," "going to the hospital"—and recalled how she phoned her boyfriend in tears after a friend was "inconsiderate" enough to ask her when she was going for the abortion.

Her boyfriend, Mike, is 52. Eftimiades is 42, and it was to be the first child for both of them. As for marriage, they wanted "to wait before taking that step." Not only did this pair wait until almost middle age to have a baby, but they continue to indulge their indecisiveness about "settling down," not bothering to create the proven ideal conditions for child-rearing. Yet they wanted an ideal baby. What mentally healthy soul would jump at the chance to be these people's kid? No chance these two would have seen this child as a character test after a life of self-absorption.

Nor could Eftimiades stand the obvious, begged questions and utterly apt jokes that friends made when they learned of her pregnancy, instead balking at "insensitive remarks from friends": "So, is this good news?", "Who's the father? Just kidding!" and, her favorite for some reason: "How did it happen? No birth control?"

To explain the disappeared pregnancy to some—like the writer's brother who is married to a Catholic—she and her mother came up with a miscarriage cover story, because "people are funny," her mother cautioned.

Yes, it's those other people who are funny, according to Mom, who understood enough that her daughter was doing something worth lying about.

Eftimiades, who had reported on clinic bombings and people who stand outside clinics and imitate babies crying, "Mommy don't kill me" concludes, "Only now do I understand how entirely personal the decision to terminate a pregnancy is and how wrong it feels to bring someone else's morality into the discussion." (That is, to bring morality into the discussion.)

While it's hard to believe that Eftimiades hadn't previously taken a position on the abortion issue (she's a journalist, after all; we can guess where she stood, especially if she covered clinic bombings), the message now that she became an abortion seeker is that everybody double better stay out of her way.

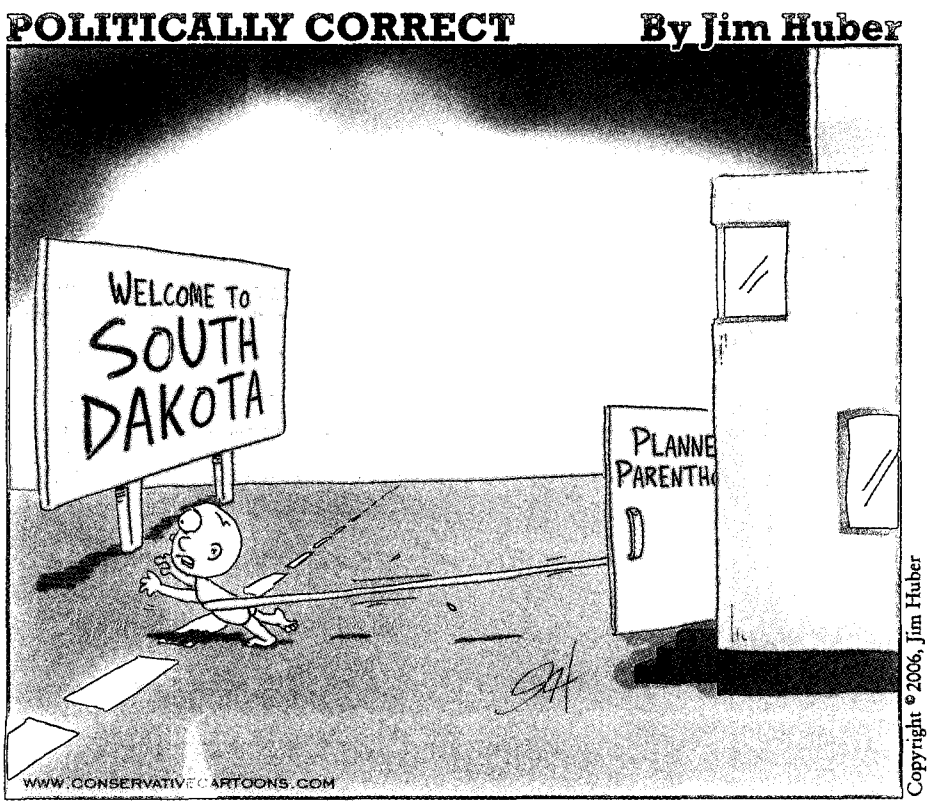
"To know that our son would be retarded, perhaps profoundly, gives us the choice of not continuing the pregnancy," writes Eftimiades. "We don't want a life like that for our child. . . . I'm quite certain that I made the right choice for the three of us."

Talk about imposing one's morality on another. Regardless, this unmarried woman who at 42 wants a baby and the chance to opt out of a relationship with its father wants us to believe that her choice was made out of something other than self-interest—that she acted in the interests of someone other than herself and her equally selfish lover. It's clear to any reader that the only person whose suffering she's trying to avoid is her own.

While moralizing from the sidelines is never in good taste, what is so infuriating

is these women writing publicly and self-righteously about the sanctity of their choice. Is it too much to ask them to do what they're going to do but to not build a moralistic case around it—which, by the way, imposes their view on the rest of us? They are the ones who seem to be telling us what we can and can't think.

The title of Eftimiades' article is "One Woman's Choice: After a Prenatal Test Shows Down Syndrome, a Wrenching Decision." But between Bauer and Eftimiades, for one woman the decision wasn't wrenching. Because one woman did the right thing. Eftimiades says she will always mourn the baby she aborted. Hopefully she'll at least have the character to share that mourning with her perfect future child, and will tell him how she disposed of his retarded brother.



APPENDIX C

South Dakota's Monkey Wrench

William F. Buckley Jr.

There is furtive glee in the eyes of such as Nancy Keenan, president of NARAL Pro-Choice America. The reason for it is that she calculates that the effrontery of South Dakota's legislature will bring on massive retaliation by the Supreme Court.

Chinese vigilantes rejoiced a few weeks ago when a group of dissenters published a call for diminished censorship. They were confident about what would happen, and it did: Beijing brought on reinvigorated party-line censorship. Ms. Keenan and some of her followers in NARAL Pro-Choice America figure that what South Dakota has done will compel the Supreme Court to act—and perhaps in such a way as to smash the little signs of life in the pro-life moment which, in South Dakota, gave rise to regicidal inclinations.

The governor of South Dakota, Michael Rounds, signed a bill that would outlaw the practice of abortion except in certain extreme cases. In signing, he said things which, a generation ago, would have been thought too routine to notice, let alone pause over, but today are fighting words. "The true test of a civilization," he said, "is how well people treat the most vulnerable and most helpless in their society. The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society. I agree with them."

Jumping Jupiter!

Here in three sentences the governor of South Dakota tramples on the neck of cherished modern icons. To begin with, he refers to a fetus as a "child." He refers to "unborn children" as "helpless." Again, they are "persons." And he invokes the heart of civilized society to give them succor.

Mike Rounds was a college student on the sacred holy day of the abortionists in 1973 when Roe v. Wade was pronounced by the Supreme Court. He was the oldest child in his family; 10 siblings would come along. The bill outlawing abortion restores to South Dakota a ban that until 1973 had been the law in almost every state of the union. Rounds was only 18 years old when the Supreme Court excogitated the proposition that the Constitution conferred on everybody the right to eliminate an unborn child.

In the years since then, various states and various jurisdictions have sought to refine the right to abort. The South Dakota law could be the springboard to the direct reversal of Roe. But it is thought by many abortion supporters that this totalist challenge, posed by South Dakota, will necessarily be met by a totalist re-endorsement of Roe by the Supreme Court.

Now everybody concedes that all this will take a few years. Nobody managing an abortion clinic in South Dakota is about to shut it down. There will be injunctions sought against the new law's enforcement. Both sides have promised to bring money, as required, to mobilize every legal thought, afterthought and presumptive thought, arguing in conflicting directions.

The choicers count five members of the Supreme Court who are publicly committed in favor of Roe v. Wade. They have this fear, that a sitting member of the court will retire in the period immediately ahead, when the incumbent president is still there to nominate a successor. That would mean five votes, counting Roberts and Alito as dormant dissenters from Roe v. Wade, who would, in the nightmare scenario, renounce the 1973 decision as forcefully as the court, in Brown v. Board of Education in 1954, renounced the segregation authorized by Plessy v. Ferguson in 1896.

But assume that before the Supreme Court acts, injunctions against the new law fail. Assume, then, that there would be a period in which, in South Dakota, women could not get an abortion. What would they do? Well, of course, there is the alternative that they could bear the child whose life they had brought on. But if that alternative were excluded, what then?

Someone seeking relief could go north to North Dakota, or south to Nebraska. Or east to Minnesota, or west to Wyoming. We are talking about bus rides.

And of course so would it be if Roe were reversed. It is inconceivable that all the states of the union would imitate South Dakota. To demonstrate just how progressive is its vision, the state of Connecticut voted contingently some years ago, that if ever abortion were proscribed elsewhere, pilgrims would be welcome in Connecticut, where abortion rights would be faithfully observed.

We are very much driven, in modern days, by the democratic imperative. Well, the people of South Dakota have expressed themselves on a political question, resolving that unborn life is life notwithstanding. And they hold high what they deem, in their governor's words, their dedication to stand by "the most vulnerable and most helpless persons in our society."

APPENDIX D

[*Wesley J. Smith is a senior fellow at the Discovery Institute and a special consultant to the Center for Bioethics and Culture. The following appeared Jan. 18, 2006 on National Review Online (nationalreview.com) and is reprinted with permission.*]

Nothing to Die Over

Wesley J. Smith

The news about Monday's 6-3 assisted suicide ruling is not as bad as euthanasia opponents might have feared. Indeed, even in the midst of disappointment that Oregon carried the day, there is some moderately good news: *Gonzales* v. *Oregon* was not an exercise in judicial activism. The Supreme Court did not issue a sweeping endorsement of physician-assisted suicide. Nor, did it "uphold" the Oregon statue as a matter of constitutional law. Rather, the Court's decision is so narrowly drawn and steeped in the arcania of regulatory and statutory interpretation that it would normally spark little interest outside of administrative-law journals.

Of course, that isn't a storyline likely to sell newspapers. Hence, the general media spin about the case has been that, as Reuters put it, the Supremes issued a "stinging rebuke" to the administration and endorsed the assisted suicide as a legitimate public policy. But this isn't true. Justice Anthony Kennedy's majority decision even acknowledged that the Justice Department was "reasonable" in its assertion that "medicine's boundaries" preclude assisted suicide. The majority also explicitly agreed that the federal government possesses the inherent power to prevent narcotics from being prescribed for assisted suicide, for example, by amending the federal Controlled Substances Act. The case provided neither a sweeping assertion of the validity of assisted suicide nor a ringing endorsement of its legality being strictly a matter of state's rights.

So if the federal government can, in theory, preclude controlled substances from being used in assisted suicide, why did it lose? The majority believed that former Attorney General John Ashcroft went about that task in the wrong way. Specifically, it ruled that Ashcroft exceeded his authority when he determined that assisted suicide was not a "legitimate medical use" of controlled substances without obtaining any information about the practice of medicine, assisted suicide, or other relevant matters necessary to come to that conclusion from outside the Department of Justice. Consequently, the Court found, Ashcroft's interpretation, while reasonable, was not persuasive because it exceeded his "expertise."

Instead of the Department of Justice, the proper place to determine the medical (il)legitimacy of assisted suicide lies elsewhere within the executive bureaucracy (presumably the Department of Health and Human Services) where bureaucrats and management would possess greater depth of knowledge about medical issues. (I told you the ruling was mind-numbingly arcane.)

Finally, the Court interpreted the Controlled Substances Act as primarily aimed at controlling drug trafficking and addiction. Hence, Justice Kennedy wrote that it cannot be read to explicitly preclude assisted suicide. And it is true: The CSA is

silent about assisted suicide—probably because when it was passed decades ago, lawmakers never dreamed that it would ever be an issue. Recent legislative efforts to outlaw the use of controlled substances for assisted suicide, while promoting their aggressive use in pain control, foundered on the shoals of a Senate filibuster led by Oregon Democrat Senator Ron Wyden.

The dissenting opinions were first rate. Justice Antonin Scalia (joined by Chief Justice John Roberts and Justice Clarence Thomas) complained that "if the term 'legitimate medical purpose' has any meaning, it surely excludes the prescription of drugs to produce death." Scalia seemed to be hinting that the majority refused to enforce this commonsense and admittedly "reasonable" finding because its ruling was result-driven rather than legally mandated. Justice Thomas's individual dissent supported this view when he noted that the Court's reasoning directly contradicted its own seven-month-old ruling in *Gonzales* v. *Raich*—a medical-marijuana case. "The Court's reliance upon the constitutional principles it rejected in *Raich*," Thomas sarcastically noted, "is perplexing."

But that is all grist for law-review articles and legal symposia. The real question is what the likely political impact of the decision will be—or, more accurately stated, the effect likely to be produced by the spin about the case that will be produced by the media and assisted-suicide advocates.

There seems little doubt that the ruling will put some wind back into the sails of the assisted-suicide/euthanasia movement that has been becalmed in the United States for the last decade. But it will be a slight breeze, not a gale. In truth, legalizing assisted suicide is very low on people's political-priority scale. Demonstrators are not exactly marching in the streets demanding the right to be killed by a doctor and few politicians run on the plank of authorizing physicians to write lethal drug prescriptions. Indeed, a recent Pew Poll found that support and opposition to assisted suicide was evenly divided 46 percent for and 45 percent against—hardly an unstoppable political tide. Moreover, experience has shown that when people are forced to look beyond the abstract idea of assisted suicide and actively consider the dysfunctional real-world *context* in which assisted suicide would be practiced—the problems associated with HMOs, difficulties in obtaining quality health insurance, and rampant elder abuse, to mention just a few—their support for transforming killing into a medical act sinks like a crowbar thrown off of a bridge.

The American euthanasia movement has not moved its agenda forward since 1994 when Oregon legalized assisted suicide. Beyond relatively small cadres of very dedicated activists, both pro and con, most people are just not that interested in the issue. Thus, the limited ruling issued by the Supreme Court yesterday is unlikely to have a sufficiently substantive impact to materially change the current political dynamic.

APPENDIX E

[*Joan Frawley Desmond has written for the* Wall Street Journal, First Things, *the* National Catholic Register, *and the* Human Life Review *among other publications. The following is reprinted with permission from* **crisis** Magazine (*www.crisismagazine.com*).]

Anti-Science?

Joan Frawley Desmond

Pro-lifers fumed during the 2004 presidential race when John Kerry attacked opponents of embryonic stem-cell (ESC) research as "anti-science" ideologues who sought to block life-saving cures "right at our fingertips."

"This is not the way we do things in America. Here in America, we don't sacrifice science for ideology," Kerry argued in an August 2004 radio address. "And that's why we must lift the ban on stem-cell research.... Every day that we wait, more than 3,000 Americans lose their lives to diseases that may someday be treatable because of stem-cell research."

Never mind that embryo-destructive research has never been banned in this country—nor has it actually produced any cures for disease. Kerry's dismissal of ethical objections to ESC research reflects the position of the biotechnology industry, whose campaign for public support has benefited from abortion politics fueled by media hype. Yet unbeknownst to Kerry, a group of pro-life scientists and ethicists saw the curative potential of embryonic stem cells not as a reason to tolerate death-dealing in the laboratory, but as a challenge to discover morally licit means of obtaining cells with the same applicability as human embryonic stem cells.

William Hurlbut, a physician and bioethicist at Stanford University and a member of the President's Council on Bioethics, pondered this issue as the council conducted its hearings and deliberations. In the fall of 2004, as leading researchers bombarded the council with demands that President Bush lift his restrictions on federal funding, Hurlbut presented his own solution: altered nuclear transfer (ANT)—an approach that might permit researchers to use "embryo-like stem cells" without creating or destroying actual embryos. Within six months, the broad concept proposed by Hurlbut had rallied a dream team of pro-life scientists and bioethicists, led by Robert George, McCormick professor of jurisprudence at Princeton University and a member of the President's Council on Bioethics, and Markus Grompe, professor of genetics at the Oregon Health and Science University and director of the Oregon Stem Cell Center.

The centerpiece of this carefully orchestrated campaign is oocyte-assisted reprogramming (OAR)—a variation of Hurlbut's original proposal—put forward by Grompe. Introduced at an April 2005 conference, the approach has received backing from 35 signers, including Protestant, Jewish, and influential Catholic moral theologians. On Capitol Hill, Hurlbut's well-publicized mission has provided cover for President Bush and other pro-life political leaders who have resisted an expansion of federal funding for embryo-destructive research.

The campaign ignited by Hurlbut may well emerge as a brilliant strategy for

strengthening the intellectual credibility of the pro-life movement—and for forcing a re-appraisal of anti-life research methods. Much still needs to be understood about the workings of these cells and whether reprogramming them will offer "different ethical ways of getting the same kind of cells now taken from embryos without violating human life or dignity," as President Bush explains it.

Heading Down a Slippery Slope?

But the mission to reshape the national debate on stem-cell research also carries considerable risk. There are dangers inherent in a pro-life effort that acknowledges the potential curative role of embryonic stem cells while insisting that the vital tissue can only be extracted through morally licit means. Last spring, the pro-life movement stood united in its opposition to ESC research while heralding the already significant achievements of adult stem-cell therapies.

Yet despite the breakthroughs in adult stem-cell research, the pro-life position never held much sway with top researchers or Democrats on Capitol Hill. Hurlbut's proposal acknowledges this fact by putting something new on the table. But his initiative also generates concerns that a pro-life shift might forge divisions within the movement and sow confusion among the general public.

Jessica Echard, executive director of Phyllis Schlafly's Eagle Forum, has described stem-cell alternatives as a problematic, "middle-ground" position. "Most scientists will say it's never enough," Echard explained in a published interview. "We will be giving ground to more and more unethical research." A handful of Catholic theologians like David Schindler echo these concerns. They contend that Hurlbut and his colleagues have succumbed to the over-hyped ESC juggernaut and that the plan betrays a "mechanistic" approach to nascent human life that does the pro-life movement no credit.

For some wary activists, such concerns appeared justified in October 2005 with the announcement that scientists had successfully tested two alternative methods of producing the coveted stem cells. The front-page news prompted Christian groups to break ranks. Pro-life ethicists had already rejected one approach as morally unacceptable; the second was Hurlbut's ANT method. While ANT defenders expressed cautious optimism, some pro-lifers attacked Hurlbut's procedure. "Just because scientists have created a genetic time bomb in the embryo does not change its essential human nature," argued Dr. David Stevens, executive director of the Christian Medical Association. Hurlbut's backers questioned whether Stevens really understood ANT. But they also acknowledged that confusion regarding cutting-edge research in biotechnology would hamstring efforts to establish an effective dialogue between scientists and the pro-life community.

A Technological Bombshell

Hurlbut first brought his proposal to the President's Council on Bioethics in late 2004. His original plan encouraged the study of ANT, a concept based on the premise that "pluripotent stem cells can be obtained without destroying living human

embryos. At present, there are only three confirmed sources of pluripotent stem cells: the existing lines (or colonies) of already harvested human embryonic stem cells, embryos either to be created in vitro or donated from IVF clinics for the harvesting of their stem cells (and consequent destruction), or cloning." Hurlbut offered a potentially benign solution: "No embryo produced, so no embryo destroyed," the mantra echoed by the Hurlbut camp.

Broadly speaking, ANT involves three steps.

First, a cell is removed from a patient, and the DNA in the nucleus of that cell is "altered" to control and direct the types of gene expression the nucleus is capable of supporting.

Then the nucleus is removed from a human oocyte (egg cell), to which is then fused the altered adult cell nucleus. This newly constituted cell would be neither an oocyte nor an adult cell, but a hybrid that exhibits the properties programmed into it by the alterations made to the adult cell nucleus.

The newly generated ANT cell could be used to produce pluripotent or embryonic-like stem cells. These stem cells would be genetically identical to the patient from whom the original adult cell was taken and could be used for research and therapeutic purposes.

Hurlbut's initial proposal—established within the ANT framework—speculated that the gene that fuels the development of the embryo could be suppressed to prohibit its growth. Nuclear transfer thus would involve a cell that could not develop into a fetus, but would rather, from the very start, have the developmental trajectory akin to that of a teratoma—a naturally occurring tumor stemming from the human germ cells in the testes of males and ovaries of females. Retrieval of the stem cells would not result in the destruction of a living human embryo because it was never created.

The initial ANT proposal received immediate attention in journals like Science. But critics on both sides of the debate questioned the feasibility of Hurlbut's hypothesis. A few scientists and politicians who had expressed no compunction about the creation and destruction of human embryos signaled their dismay that ANT might lead to the possible, if inadvertent, creation of disabled embryos. Hurlbut agreed that animal testing would be pursued first to establish clearly the nature of the entity created by the procedure. His insistence on this point underscored the fact that scientists are poised to enter still-uncharted frontiers of exploration regarding the origins of human life.

Ultimately, the president's council issued a "white paper" on "Alternative Sources of Pluripotent Stem Cells" that noted four compelling research proposals. In a press conference, Leon Kass, chairman of the council, explained the strengths and weaknesses of each approach. The third approach was Hurlbut's ANT plan; a fourth proposal, called cellular reprogramming, posed the possibility of taking any cell in the human body—skin or liver cells, for example—and reversing their development in order to return them to their original pluripotent condition. Ultimately, the third and fourth methods would be combined in the Grompe-Hurlbut ANT-OAR

plan. Kass acknowledged the attendant issues that made ANT problematic. But he noted that both the ANT and the reprogramming proposals offered the additional scientific benefit of yielding "individualized and personalized stem cells" that could be used for therapies benefiting the original donor because there would be no "danger of immune rejection."

In fact, both ANT and the reprogramming proposal would permit scientists to control the genetic makeup of the stem cells they produce, removing the justification for "therapeutic cloning," which researchers say they need to produce stem cells for diseases they want to study and that are an exact genetic match for patients, theoretically helping them overcome the immune rejection problem. According to the latest news reports, only a Korean team of ESC researchers has successfully engaged in so-called therapeutic cloning to produce early-stage embryos for the purpose of extracting their stem cells. Most scientists have denied any plans to initiate "reproductive cloning," which would bring cloned embryos to term. But many observers expect that the perfection of cloning techniques for research purposes will inevitably lead to its use for reproductive purposes.

By publicizing ANT and other stem-cell alternatives, Kass hoped to prod a complacent scientific establishment to take a harder look at embryo-destructive stem-cell research. With the hope of breaking the stalemate between top research scientists and the Bush administration, he brought opposing parties to the table to hash out their differences. Some Republican operatives dismissed this approach as high-minded but naïve. During a press conference, Kass acknowledged both the difficulty of bringing the two sides together and the relative isolation of pro-life bioethicists. Indeed, the apparent unanimity of the scientific community on the ethics of stem-cell research, Kass suggested, was due partly to the appointment of "ethicists who in every fundamental respect don't really differ from the scientific community whose work they're supposed to scrutinize and to some degree restrain." Noting the consensus document on ESC research issued by the National Academy of Sciences, he wryly observed, "One should simply recognize that they have accepted the basic question as settled, that it's not only not problematic to use the spare embryos, but it's morally acceptable [even] to create embryos solely for research, both by cloning and by in vitro fertilization."

Around the time Kass held his press conference, Robert George and Rev. Thomas Berg, LC, executive director of the Westchester Institute for Ethics and the Human Person, organized a meeting of pro-life scientists, ethicists, and moral theologians. The conference was designed to bring the ANT proposal before a group of experts to jump-start the review process. By then, Hurlbut had already received a letter of encouragement from Archbishop William Levada of San Francisco.

"We were all united in our opposition to embryo-destructive research. We were also very aware of the dark interest in cloning, not simply for stem cells, but to bring clones along to later stages of development for further research purposes, for example, the harvesting of progenitor organs grown in laboratories," explained

Father Berg. "Given the world we're living in, we had to take seriously the proposals that were on the table pointing to alternative sources of pluripotent stem cells. That was the motivation that brought the meeting together."

Hurlbut presented his ideas to conference participants. On the second day of the meeting, Grompe, a top researcher who works solely with adult stem cells, presented his intriguing variation of Hurlbut's original proposal—oocyte-assisted reprogramming. In the words of a published joint statement, OAR would not yield an "entity that undergoes or mimics embryonic development." Rather, it "would produce a cell with positive characteristics and a type of organization that from the beginning would be clearly and unambiguously distinct from, and incompatible with those of an embryo. Incapable of being or becoming an embryo, the cell produced would itself be a pluripotent cell that could be cultured to establish a pluripotent stem cell line."

The Grompe-Hurlbut proposal received an almost unanimous endorsement from the conference participants. "We consider this so important because you don't have to kill embryos to get stem cells," noted moral theologian William E. May of the John Paul II Institute for Studies on Marriage and Family in Washington, D.C. Like May, most conference participants signed a "Joint Statement: Production of Pluripotent Stem Cells by Oocyte Assisted Reprogramming." The statement endorsed an OAR research program that would begin with animal cells to determine "beyond a reasonable doubt that ooctye assisted reprogramming can reliably be used to produce pluripotent stem cells without creating embryos." A slew of prominent Catholic moral theologians and ethicists also endorsed OAR, including Germain Grisez of Mount Saint Mary's University, John Haas of the National Catholic Bioethics Center, Kevin FitzGerald, S.J., of Georgetown's Center for Clinical Bioethics Research, Patrick Lee of the Franciscan University of Steubenville, and Kevin Flannery, S.J., of the Pontifical Gregorian University in Rome.

The Controversy Begins

But May's enthusiasm for OAR was not shared by several of his colleagues at the John Paul II Institute. The institute's academic dean, David Schindler, Gagnon Professor of Fundamental Theology and an invited participant in the conference, dissented from the majority's endorsement (disclosure: I am a graduate of the John Paul II Institute and a former student of Schindler's). Schindler and Adrian Walker, another institute professor, had already critiqued Hurlbut's original proposal in two articles published in Communio, the international theological journal.

In part, Schindler and Walker echoed the initial concerns of other conference participants regarding the precise nature of the entity that would be created by Hurlbut's ANT method. But there were other issues as well, some scientific, some philosophical, and some strategic. In his Communio article, "Biotechnology and the Givenness of the Good: Posing Properly the Moral Question Regarding Human Dignity," Schindler didn't dispute Hurlbut's good intentions, but suggested that

the ANT proposal lacked the proper philosophical grounding. Instead, its preoccupation with establishing technical evidence to confirm or deny the creation of a human embryo arose from a mechanistic ethos that denied the "integrity of the human being as born not manufactured and as naturally apt in his or her bodiliness for the expression of gift." Contrary to Hurlbut's hope that ANT might offer a "technological solution to a moral impasse," Schindler argued that "[t]here can be no unqualifiedly technological solution to the moral problem that ANT seeks to address because in fact there is no unqualifiedly technological solution to any human problem."

Essentially, Schindler advocates what he believes to be a more integrated treatment of the moral challenges posed by innovations in biotechnology. In his view, the ANT proposal approaches the human body as merely "physical" or "pre-moral"—a "main feature" of the "dominant practices of modern science and technology." He wants modern science to develop a renewed appreciation for a "pre-modern" path that "approached science and technology in the spirit of imitation of...a nature or cosmological order given by God." Our modern struggle for "power and domination" over nature reveals an alienated view of the natural order as neither "good" nor "naturally given." The natural order thus "no longer provides an inner reference point for morality," Schindler writes. What has filled the vacuum is a "mechanistic" philosophy arising from an "absent God."

Schindler published his judgment before Grompe formulated the OAR approach at the April meeting. But the revised proposal didn't shake Schindler's core objections, now shared by several faculty members at the John Paul II Institute. In his subsequent "Response to the Joint Statement: Production of Pluripotent Stem Cells by Oocyte Assisted Reprogramming," Schindler repeated his philosophical arguments. He also asserted that the "signatories have failed to show conclusively that OAR does not present us equally with a species of the evil of homicide; that OAR is not the cloning of defective humans." But even if animal research establishes that OAR will not yield an embryo, Schindler won't withdraw his opposition because he rejects the use of human eggs for curative therapies. He further charges that OAR proponents ignore the "special significance of the finality of the human body's sexual/reproductive organs, by virtue of their being bound up so directly with the origins of life."

Supporters of the technology were frustrated with Schindler's arguments, particularly his open-ended discussion on establishing the proper philosophical framework for studying the moral challenges posed by innovations in biotechnology. Schindler has been accused of misunderstanding the science, while others don't share his concern regarding the therapeutic use of human eggs and feel the debate provokes unnecessary divisions within the pro-life community.

The skirmish hasn't derailed the OAR campaign. "Our primary concern continues to be: Would this procedure, if pursued with human cells, produce a human embryo? Would that entity have the necessary biological foundation to support a rational human nature? You don't have potential persons or embryos," argues Father Berg.

"There is no in between." But he stresses, "If the application of OAR in animal models came anywhere near suggesting that the resultant entity could be an embryo, then the proposal comes off the table."

The Road Ahead

Grompe accepts the possibility that the Vatican may ultimately rule against his proposal. But he is eager to engage the scientific establishment and reshape the debate on Capitol Hill. He feels that the "anti-science" label Kerry affixed to stem-cell opponents was partly justified. "Some people were saying that embryonic stem cells can do anything adult stem cells can do," he said. "The fact is that nobody knows. It became a debate about whether adult cells are as good as embryonic stem cells. It was actually a utilitarian argument. Unfortunately, there are a lot of things that we object to on a moral basis that still work. IVF is an example. Cures from embryonic stem cells could happen even though we object to them."

As a top stem-cell researcher and a practicing Catholic, Grompe hopes his proposal offers something to both sides in the debate. "Creative science can help us find a way forward and thus put pluripotent stem-cell research on a footing that all citizens can enthusiastically support," he wrote in a Wall Street Journal opinion piece with George.

OAR proponents have brought this message to Capitol Hill, and their campaign has benefited from a succession of recent scientific breakthroughs achieved with several alternatives to embryo-destructive therapies. This summer, though Congress had passed legislation expanding federal support for ESC research, the Washington Post reported that lobbying by Hurlbut and his supporters put Senate backing at risk. Moderate senators had begun to rethink their position on stem cells. Meanwhile, Representative Roscoe Bartlett (R-Maryland) has drafted legislation to provide $15 million for research into alternative sources of stem cells, including umbilical cord blood and bone marrow. Along the way, Hurlbut, George, and Grompe have strengthened the hand of President Bush. "With the right policies and the right techniques, we can pursue scientific progress while still fulfilling our moral duties," said the president.

None of this activity has gone unnoticed by ESC researchers and activists who have waged a relentless effort to loosen controls on federal funding. "Stem Cell 'Alternatives' Fog the Debate" was the title of one Washington Post opinion piece by heavyweight scientists seeking to neutralize Hurlbut's mission. The article called the stem-cell alternatives a "laundry list of...speculative scientific approaches that serve only to confuse the issue." The op-ed suggested that the campaign for morally licit stem-cell research was more about advancing political agendas than scientific inquiry.

Still, Bush's veto power over additional federal funding has fostered a more pragmatic view. An article in Wired, a business technology magazine, prodded the naysayers to soften their stance: "If stem-cell proponents succeed in vilifying these

alternatives, they will have to face up to the fact that it wouldn't just be the president who is delaying potential breakthroughs."

A Daring Initiative

It's easy for pro-lifers to applaud alternative stem-cell proposals as an effective weapon against a powerful opponent—regardless of whether the technique becomes accepted practice. But some disinterested observers believe that Hurlbut has made a real contribution to a national debate that leaves politicians and ordinary citizens equally baffled. William Saletan, national correspondent of the online magazine Slate, wrote about the dynamics of one contentious Capitol Hill hearing and suggested that Hurlbut was on the right track. "He's been doing what a scientist does: floats ideas, bounces them off researchers, and revises the ANT proposal constantly.... He also criticizes conventional embryonic stem-cell research scientifically, in a way that pro scientists won't and anti nonscientists can't," observed Saletan. "The pro witnesses complain that the alternative proposals are speculative. Hurlbut points out that conventional stem-cell research is speculative, too."

Recent headlines confirming what appears to be the successful testing of Hurlbut's version of ANT underscore his singular contribution. Father Berg suggests that Hurlbut's proposal prompted the breakthrough research with laboratory mice at MIT. Further, the initial conclusions, reported in the prestigious scientific journal Nature, strongly suggest that, in mice studies, ANT yields a "disorganized grouping of cells," in Father Berg's words, not a mouse embryo.

"MIT's Rudolf Jaenisch did exactly what Hurlbut suggested," Father Berg noted. "From what Jaenisch reports in the Nature article, there is reason to think he didn't create an embryo. But we need to study this more carefully in many animal studies."

Some pro-lifers are unlikely to lend their support to this version of ANT. But ethicists like Father Berg believe that it has encouraged a new line of scientific inquiry that reflects a heightened awareness of moral concerns.

If OAR or other proposed alternatives prove workable, researchers will be pressured to embrace the new methods or justify a stubborn commitment to embryo-destructive research. Indeed, continued resistance might give rise to awkward questions about the unstated direction of some ESC research programs.

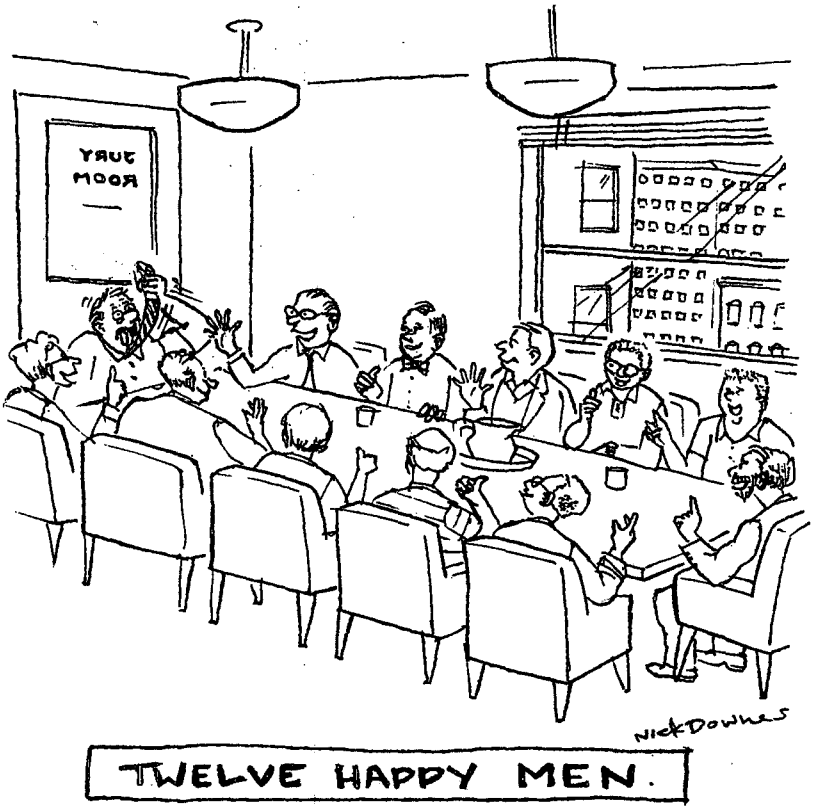
In recent months, pro-life ethicists have questioned why researchers still lobby for ESC funding, given that the stem cells of newly conceived embryos now in use show a tendency to mutate and form tumors. In contrast, research suggests that stem cells extracted from more developed animal fetuses do not form tumors; this fact may prompt researchers to find a way to grow human fetuses for months, possibly in artificial wombs, before retrieving stem cells or other tissues.

Some pro-lifers see disturbing signs that the marketing of "spare" fetal parts may be just around the corner. And if such plans are already afoot, researchers won't be satisfied with techniques that yield pluripotent cells alone. They will need living human embryos or fetuses—some kept alive for months.

In a recent article for the Weekly Standard, George sought to explain why ESC advocates didn't applaud recent breakthroughs in research on morally licit alternative techniques at Harvard and the University of Pittsburgh. "Based on the literature I have read, and the answers given by spokesmen for the biotechnology industry," George wrote, "I fear that the long-term goal is indeed to create an industry in harvesting late embryonic and fetal body parts for use in regenerative medicine and organ transplantation."

The demonstrable interest of many researchers in experimenting with early-stage fetal organs means that the pro-life movement must stay on its toes. This past fall, activists continued to lobby for passage of the Human Cloning Prohibition Act, sponsored by Senator Sam Brownback (R-Kansas). George believes we need to go a step further and pass legislation that would "ban the production of human embryos for research in which they are destroyed." Over the next year, some pro-lifers will stick with the promotion of adult stem cells. In Sydney, George Cardinal Pell has offered grants totaling $150,000 for research into adult stem cells, demonstrating the Church's commitment to morally licit scientific innovation.

The verdict is still out on OAR. But Hurlbut, George, and Grompe offer a template for an informed, effective, and daring pro-life initiative that cannot be ignored.



APPENDIX F

[Gilbert Meilaender is Richard & Phyllis Duesenberg Professor of Christian Ethics at Valparaiso University. Robert P. George is McCormick Professor of Jurisprudence at Princeton University. Both are members of the President's Council on Bioethics. The following appeared Feb. 21 on National Review Online and is reprinted with permission.]

"That Thing in a Petri Dish"

Gilbert Meilaender & Robert P. George

Writing on the *New York Times*'s op-ed page, Michael Gazzaniga, our colleague on the President's Council on Bioethics, has castigated those of us who oppose killing human embryos, whether they are produced by cloning or by union of sperm and egg, in biomedical research. We are critical of Gazzaniga's argument in favor of what is often, though misleadingly, labeled "therapeutic" cloning, though we would not characterize his view as "nonsensical" — a term he applies to the position of President Bush and, by implication, all who share the president's view. That sort of characterization makes civil disagreement almost impossible and is unworthy of the ideal of democratic deliberation.

More important even than incivility are several disturbing aspects of the opinions Gazzaniga expresses, and it is these that concern us here. As a people we Americans are committed to the equal worth and dignity of every human being — and, hence, every member of our community. When we ask whose good counts in the common good, we seek to answer that question in ways which include the weak, the incapacitated, and the vulnerable — not in ways that narrow and constrict the number of those to whom we are obligated and for whom we should care.

If that is the political commitment of this country, several things follow. We will not casually suggest that becoming a human being depends on development of various capacities over time without attempting with rigor and seriousness to define and describe the point at which this actually happens — the point at which we have among us another one of us whose good should count in the common good. It will not do simply to opine blithely that "it is the journey that makes a human" without offering any serious description of when that journey begins or ends.

It will not do to opine that a living human embryo of the sort all of us once were (which Gazzaniga prefers to characterize as "that thing in a petri dish") cannot be a member of our community, entitled to the same protections as the rest of us, unless and until it has acquired "the memories and loves and hopes that accumulate over the years" without offering any serious discussion of what this means for newborns, for those afflicted by retardation, and for those suffering from dementia.

It will not do to opine that the distinction between body and brain is decisive for determining whose life should be protected without even considering whether the living and developing human body ought not elicit from us a kind of reverence and respect that would keep us from simply using it in the service of our goals, even praiseworthy goals.

Gazzaniga is, of course, not alone in failing to engage in the kind of serious reflection we need right now (though as an informed scholar he does bear some

special responsibilities that others may not). Others also want to rid our nation's debates about embryonic-stem-cell research of any so-called "political" interference with the research agendas of scientists. But this effort badly misrepresents the nature of both science and politics.

Scientists also have their agendas; they do not work in a value-free vacuum as if they had no political commitments to pursue. Moreover, there can be little doubt that those who share Gazzaniga's view about research that destroys embryos have committed themselves to placing science in service of their agenda. Thus, for example, *The New England Journal of Medicine* editorially committed itself to seeking out and publishing articles that would support the cause of embryonic-stem-cell research (a gross example of partisanship compromising the scholarly commitment to pursuing truth wherever it may lead).

Then, when the South Korean scandals, made public in recent months, have proved embarrassing for this political commitment of scientists, they have been forced to scramble frantically — as does Gazzaniga — to find a theory that blames not their own agendas or hubris but the policy of the Bush administration.

They also criticize, as does Gazzaniga, attempts to investigate alternative methods which might produce pluripotent stem cells without destroying embryos. Perhaps these attempts will indeed prove to be what Gazzaniga calls them: "wild goose chases." We cannot say for certain. We do know, however, that creative thinking about new and different possibilities may be stimulated precisely by denying ourselves for ethical reasons of what might otherwise be the obvious approach. If, for example, we simply have recourse to war at the first sign of tension among nation-states, we are unlikely to develop creative diplomacy. If, war being necessary, we content ourselves with targeting centers of civilian populations, we are unlikely to develop new and more precise weapons that can limit damage to noncombatants. If, when our young children seem inattentive or uninterested in school, we immediately prescribe for them powerful drugs, we are unlikely to think creatively about how they might better be taught in ways that will capture their attention. Gazzaniga is far too confident that he knows in advance which paths will turn out to be fruitless. This is the sort of confidence that is produced not by scholarly caution but by political aims.

To be clear, we do not ourselves object to Gazzaniga or anyone else choosing to press their political aims in our debate about embryonic-stem-cell research — so long, of course, as they are honest about what they are doing and carry out the debate with civility. For we think that this debate is about a question that is not simply scientific but is unavoidably (and in the best sense of the word) political. Whose good counts in the common good we all share? Whose life may not simply be used as a means to improve the lives of the rest of us? These questions are not nonsensical. They are political questions that any democratic community must take seriously. Taking them seriously, and discussing them with civility, is one way that we show our respect for each other.

APPENDIX G

[*David S. Oderberg is professor of philosophy at the University of Reading, England, and author of many publications, including the books* Moral Theory *and* Applied Ethics, *both published in 2000 by Blackwell. The following appeared in the San Franciso* Chronicle *(sfgate.com) January 15, 2006 and is published with Professor Oderberg's permission.*]

The Unholy Lust of Scientists

David S. Oderberg

In our secular, post-religious society, the figure of the cassock-clad priest has been replaced by that of the white-coated scientist. Dispensing wisdom from the laboratory—the secular sanctuary—his every word is awaited breathlessly by a world thirsting for knowledge.

In Britain, the BBC has a weekly ritual of broadcasting the leading Big Discovery, whatever it may be, from the current issue of the Lancet. Dr. Robert Winston, in-vitro fertilization pioneer, has lately been on our screens "in search of God." The last time I looked he did not have any theological qualifications, but what does that matter? After all, he's a scientist, all glasses and gravitas, therefore qualified—as he has shown during the past few years—to tell the masses about, well, just about anything.

It's all very well having secular shamans, but when they're caught cooking the holy books once too often, the faithful start to get worried. Scientific fraud, like that perpetrated by South Korean stem-cell researcher Hwang Woo Suk, is not new. Newton did it; Dalton did it; even Sigmund Freud did it. In more recent times, IQ researcher Sir Cyril Burt (wanting to show in his studies of twins that genetics trumped environment) committed fraud, as did Australian gynecologist William McBride (he of thalidomide fame).

In the mid-1860s Ernst Haeckel, in his eagerness to defend evolution, spun pictures of human and animal embryos out of whole cloth in order to show that they shared primitive evolutionary similarities. The year 2002 saw the uncovering of apparent frauds by physicists Victor Ninov at Lawrence Berkeley National Laboratory (in attempting to create new atomic elements), and Jan Hendrik Schön at Bell Labs (in attempting to perfect a transistor the size of a molecule).

Some scientists fudge data; others omit inconvenient evidence; yet others misrepresent the evidence they do have, obtaining levels of precision discordant with what may reasonably be expected from frequently messy experimentation with its many variables. Some scientists do all of this and more. How rare cheating is in science is hard to answer.

William Broad and Nicholas Wade, authors of the groundbreaking 1982 study "Betrayers of the Truth: Fraud and Deceit in the Halls of Science," claimed in 1983, for instance, that one-third of all pesticides then on the market had been approved on the basis of falsified safety tests. More generally, the Office of Research Integrity claims that between 1992 and 2001 reports of academic misconduct in general have steadily increased, though actual reported cases leading to a

positive finding remain very small. It is nigh impossible to gauge with precision just how severe the problem is, but one should expect it to be significant and getting worse.

Typical is the remark by Oh Il-Hwan, a geneticist at South Korea's Catholic Medical Center, on the case of erstwhile "top scientist in Korea" and now disgraced fraudster Hwang Woo Suk: "I understand what drove Hwang into this state. The pressure to achieve something was enormous." When your government calls you "top scientist" and issues a postage stamp in your honor showing a paralyzed man rising from his wheelchair and running to his lady love, you know you'd better come up with the goods.

When I spoke last year on the ethical wrongs of human embryonic stem cell research at the annual meeting of the International Society for Stem Cell Research in San Francisco, I observed the hushed tones of reverence with which the name of Professor Hwang was mentioned. The eyes of eager graduate students lit up as they spoke of his work; the Big Fish declaimed with messianic zeal the new pathways that his and related research had opened up. Surely the blind would see and the lame would walk! I never heard any doubts openly expressed about the authenticity of Hwang's work, and even an habitual doubter about the latest Great Discovery such as myself was lulled into dismissing the thought that maybe the results were too good to be true.

Fortunately, as a professional philosopher, I do not have the temptation of billions of dollars of government and private money potentially flowing my way were I only able to save the world. Philosophers tend not to get postage stamps issued in their honor, and there's no Nobel Prize for our line of work. Perhaps that makes it easy for me to step on a high moral horse and condemn the fact that the most august science periodicals in the world, Science and Nature, could have had their peer review and editorial processes held up to ignominy (and not for the first time). Yet as philosophers we are—at any rate should be—dedicated solely to the pursuit of truth, and if we can't rely beyond a shadow of doubt on what the scientists are telling us, what hope have we of theorizing about the significance of what they assert?

In her recent op-ed piece for the Los Angeles Times, Professor Laurie Zoloth, wringing her hands in anguish, appealed to the spirit of Immanuel Kant in her plea for a "truthful narrative" from scientists. Yet she should realize that Kant himself thought we could never know how things really were, and that for humans truth lay, to put it crudely, "in the head." If calling up the ghost of a skeptic (albeit a subtle one) such as Kant—one of the fathers of that tarnished project called the Enlightenment—is the best we can hope for, what chance is there that scientists will forget their prizes and the mammoth paychecks dangled in front of their eyes?

It may be inviting poison e-mails to say it, but I venture to suggest that contemporary science is now so corrupted by the lust for loot and glory that nothing less than root-and-branch reform can save it. For a start, although I distance myself wholly from his anti-rationalism and methodological anarchy, I share the late philosopher

of science Paul Feyerabend's demand for a separation of science and state, or at the very least a radical curtailment of public financial sponsorship of scientific research. How could the millions thrown at scientists be anything other than a veritable inducement to misconduct? When you combine it with the innumerable honors and awards that await the next would-be secular savior of humanity, one wonders that fraud is not even more common than it appears to be.

This is egregiously so when it comes to medical and other clinical research that has potential direct benefits to life and health. When we look at embryonic stem cell research, however, the matter becomes even more acute. For not only are there the temptations already mentioned, but the research itself is inherently ethically flawed and so invites dissimulation, for instance, in the case of sourcing human eggs—as we saw at the outset of the Hwang debacle.

It would be an act of utter folly and of contempt for honesty and integrity were Gov. Arnold Schwarzenegger's beloved California Institute for Regenerative Medicine now to go ahead. Were a bishop to be caught doctoring the Gospels, I doubt any scientists would be rushing to approve the Church's latest request for help to build a new cathedral. Why it should be any different for the secular bishops of science is difficult to discern.

APPENDIX H

[*Pamela R. Winnick, an attorney and former reporter for the Pittsburgh* Post-Gazette, *is the author of* A Jealous God: Science's Crusade Against Religion. *The following appeared in the February 6, 2006 issue of the* Weekly Standard *magazine.*]

Misadventures in Cloning

Pamela R. Winnick

On January 12, the renowned journal *Science* retracted two articles written by South Korean scientist Woo-Suk Hwang, one published in February 2004 and a related piece—this one with an American "senior author"—published in May 2005. Both papers detailed an astonishing breakthrough in cloning research: Not only had a human embryo been cloned, but—far more significantly for regenerative medicine—stem cells had been extracted from the clones. Researchers hoped that such genetically identical, patient-specific stem cells could someday be implanted in sick people to regenerate cells destroyed by Parkinson's, Alzheimer's, spinal-cord injury, and a variety of other degenerative diseases, benefiting millions.

But it turned out that Hwang's breakthrough was all a fraud, among the most egregious in the history of science. Hwang has been repudiated by respectable scientists and is facing criminal charges in his own country. What is notable is that his American collaborator, Dr. Gerald Schatten of the University of Pittsburgh School of Medicine and its related Magee-Women's Research Institute, has managed thus far to come out of this mess unscathed.

And why not? It was Schatten, after all, who raised the alarm about Hwang, ostensibly taking the high road while also distancing himself from the miscreant. In November, Schatten informed *Science* that he had just learned that Hwang unethically paid women to provide him their eggs. Then, in December, six months after the piece in *Science*, Schatten announced that Hwang's work itself was a fabrication. He cited his own "careful re-evaluations of published figures and tables" as well as unidentified "problematic information" he had received.

Why he hadn't conducted a "careful evaluation" of the research before the paper was published remains unclear. Nonetheless, Schatten has been portrayed by the media and a nervous University of Pittsburgh as a mere adviser to Hwang, one who, when he learned of the fabrication, promptly exposed it. Schatten himself declines to speak to the press while a university investigation is underway.

But questions remain. Schatten, 56, who has a Ph.D. from the University of California, Berkeley, is vice chair for research development and professor of obstetrics, gynecology, and reproductive sciences and cell biology and physiology at the medical school. He began his collaboration with Hwang in late 2003, when, during a tour of the South Korean lab, Hwang told him that his team had created a human clone. Hwang persuaded Schatten to sign on to the 2005 paper. The two also collaborated with the South Korean lab on animal-cloning research, producing a cloned Afghan named "Snuppy," as they reported in the British journal

Nature in August 2005. Though some in the research community believe that Snuppy might also have been a fraud, that work so far has not been exposed as faulty.

Similarly, some question whether a responsible scientist would have collaborated with Hwang to begin with. Robert Lanza of Advanced Cell Technology, a Worcester, Massachusetts, biotech company that researches human cloning, was suspicious of Hwang's methods from the outset because, he says, the chemicals used would have killed the egg cells. He was not alone.

After Hwang's 2004 article was published, an unnamed "stem cell expert" told United Press International, "I've checked now with four or five [stem cell scientists], and no one believes the results." Researchers demanded a "verification study"—a repeat of the experiment—but Hwang refused. Some Korean scientists were equally uneasy. "Many of us didn't trust him," a biologist at the Korea Advanced Institute told the *New York Times* recently. Many posted questions on their websites, only to find themselves rebuked by Hwang's adoring South Korean public.

Even without the aroma of controversy, it's unusual, scientists say, for a researcher to sign on as senior author of a paper when the research is conducted in another lab—especially one on the other side of the world. The editor of *Science*, Dr. Donald Kennedy, says he never signs a paper unless he has himself conducted the research. Lanza won't even sign a paper based on research in his own lab unless he has personally cross-checked every step. In any event, most agree, once Schatten signed on as senior author, he had an obligation to make sure the research was aboveboard and accurate. What explains his failure to do so?

Some scientists who have met Hwang testify to his mesmerizing charm. Others view Schatten as an opportunist eager to share a Nobel Prize with Hwang. As early as April 2004, Schatten and two Pittsburgh colleagues applied for a U.S. patent on a procedure for cloning primates, including humans (although Schatten's own attempt to clone a monkey ended in failure). At the very least, Schatten showed a marked eagerness to place himself at the cutting edge of animal and human cloning.

Last year, for the first time, Schatten took his high-level seminar on stem cells to Stanford, in the wake of Proposition 71, the measure by which California voters allocated $3 billion for human embryonic stem cell research. Schatten told the *Sacramento Bee* in June, "I wanted to run a course at a place where people would be sitting on the edges of their seats, knowing that they had a constitutional right to do the most exciting medical research out there."

The title of the seminar was "Frontiers in Human Embryonic Stem Cells." As Schatten told the *Bee*, "When we say 'frontiers,' we mean all of the frontiers: scientific and medical frontiers, also the religious frontier, the legal frontier, the financial frontier and the career frontier and the political frontier. You can just go on and on."

Schatten's present predicament is not his first brush with professional embarrassment. While he was a researcher at the University of Wisconsin in 1994, a

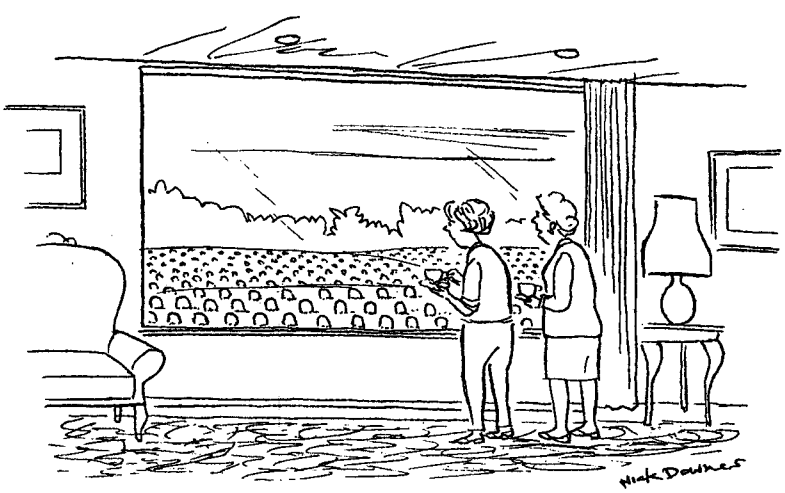
fertility clinic at the University of California, Irvine, supplied him with human eggs that had been illegally extracted without the women's consent. An investigation by the University of Wisconsin determined that Schatten had been provided fraudulent documents certifying the provenance of the eggs, and he was cleared of any wrongdoing.

Acutely conscious of its public image, the University of Pittsburgh has named a mostly in-house team to examine Schatten's relationship with Hwang, including the Snuppy article. Five of the six members of the committee are Pittsburgh professors. Still, a spokeswoman says its findings will be made public.

A second investigation has been launched by the National Institutes of Health to make sure that none of its $6.4 million grant to Schatten for animal cloning was used in violation of the ban on federal funding of human cloning. Hwang's human-cloning work was funded by South Korea.

Says spokesman Don Ralbovsky, "NIH has initiated a review of activity related to NIH-supported research conducted at the Magee-Women's Research Institute (MWRI) in order to ensure that federal regulations and policies were followed and correctly reported. MWRI is providing additional information to NIH at this time. We cannot have any further comment until the process is completed."

Meanwhile, life goes on for Schatten. He recently sold his $600,000 home in the upscale, Breezewood section of Pittsburgh, but calls to his office suggest that he remains at the hospital. He is scheduled to be the keynote speaker this April at a meeting of the American Society of Andrology, although at least one colleague has urged that he be disinvited. The announced subject of his talk was recently changed—from human embryonic stem cells to assisted reproduction.



"We haven't had much luck with pets."

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