

the HUMAN LIFE REVIEW



SUMMER 2007

Featured in this issue:

Kathryn Jean Lopez • William Murchison • Mary
Meehan • Paul Benjamin Linton • Patrick J. Mullaney
Frank Pavone M.E.V. • Stephen Vincent • Benjamin D.
Horne • Donald DeMarco • Edward Short

RAMESH PONNURU ANSWERS HIS CRITICS IN:

THE AFTERPARTY OF DEATH

Also in this issue:

Nicholas Frankovich • John D. Woodbridge • Edmund C.
Hurlbutt • Colleen Carroll Campbell • Susan Yoshihara

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INTRODUCTION

How fitting that we open this issue with an article that concludes: “The intellectual high ground is now ours”—though we would say it always has been. My late father, J. P. McFadden, founded this *Review* with the conviction that there could be no equivalent on the “other side”—how could one muster philosophical, legal, religious and moral arguments in support of *killing* the unborn?

And yet, the point our lead author, Ramesh Ponnuru, is making in “The Afterparty of Death” concerns a shift in the arguments from the early days of abortion “reform.” “In 1970 and for many years thereafter, advocates of legal abortion portrayed themselves as the party of cool, dispassionate reason. Their opponents were the prisoners of superstition and emotion.” Things have changed: because of medical and scientific advances, there is no longer any plausible way to deny the “aliveness” of a fetus. And the pro-life ranks have grown, especially among the young. Faced with these facts, Ponnuru writes, abortion advocates tend to either “refuse to engage the argument at all or to retreat behind their feelings and other non-rational defenses.”

Ponnuru, a senior editor of *National Review*, reaches his conclusion after taking on several critics of his 2006 book, *The Party of Death*. When you read the succinct summary of the arguments there, and his motivation for writing the book—he wanted to show that, since the 1990’s, early trends have been reversing and there is “evidentiary basis for hope” that the tide is turning—you will understand why his critics were numerous and ... exercised. Ponnuru is a deft, logical thinker and masterful writer. One critic, unable to mount a logical argument, resorted to accusing him of clandestinely basing his positions on his Catholicism, as if there could be no alignment between religious convictions and clear reasoning. Ponnuru writes, “For the record: When I was an agnostic I opposed abortion for the same reasons I give in the book.”

One issue Ponnuru thinks “in retrospect” he should have addressed more fully is the matter of punishment for women who abort. There is much misunderstanding on this subject: “Many people of good will misguidedly believe that pro-life premises lead logically to draconian punishments for abortionists and their clients.”

There are also *deliberate* attempts to mislead on this subject, as Kathryn Jean Lopez, a colleague of Ponnuru’s at *National Review* and a nationally-syndicated columnist, writes next. *Newsweek*’s Anna Quindlen (a celebrated Catholic abortion advocate) challenged pro-lifers in a recent column to answer the question: “How much jail time?” She contended there are “only two logical choices: hold women accountable for a criminal act by sending them to prison, or refuse to criminalize the act in the first place.”

Um ... no, Ms. Quindlen—as Lopez argues, this is an example of promoting “pro-choice fright propaganda” (another sign we are gaining ground). Jail time for

women has never been a focus or goal of the mainstream pro-life movement. Lopez answers Quindlen: “We’re not looking to further victimize women. They are already victimized—by abortion.” But she also stresses that even to spend time doing so plays “into the pro-abortion spin machine” (pay attention, pro-life presidential candidates).

There is one practical, non-debatable consequence of the abortion culture here and in many other countries: a shortage of babies. In *Boomers Go Bust*, senior editor William Murchison warns there is a crisis brewing for baby-boomers who may look around in their golden years and find that the “Social Security well has run dry from lack of sufficient contributions.” The deeper issue is: how did child-bearing lose its standing? It used to be not just another lifestyle “choice” but what people *did*, because birth and children are good, and also part of the essential “natural cycle of decline and replenishment.” Now, children are sometimes seen as less important than material goods, travel, or privacy—and the “modern mind” is in denial about what consequences this attitude has and will have. (Interestingly, Ireland, where abortion is still illegal, has the smallest ageing population in Europe, with only 11 percent of the country aged 65 and over—a statistic just announced this August. While most of Europe is seeing the “graying” of its population, Ireland’s nurseries and schools are struggling to keep up with the country’s little ones.)

We are currently witnessing (God help us), the “early stages of the longest presidential campaign in our history,” writes senior editor Mary Meehan. And what are the candidates saying about “our” issues? According to Meehan, what many of them *do* say doesn’t ring with sincerity or substance. There is a lot of the clichéd “personally opposed but” talk, and since “many Americans believe abortion is solely a religious issue,” it isn’t challenged. Some candidates do talk about their faith, but only how it has influenced their thinking about non-controversial issues. What, wonders Meehan, would it be like if candidates were forced to give *candid* answers? She offers some first-rate options for questions “guaranteed to get the candidate’s attention. But you may hear some stammering—and see some panicky, deer-in-the-headlights looks—before you receive answers.”

Even among those who agree that the killing of the unborn ought to be against the law, there are heated disagreements about how best to work for that goal. Attorney Paul Benjamin Linton, who we welcome to our pages, argues here that “the pro-life movement is bedeviled by three ways of thinking that seriously impede its progress.” As he enumerates each, he defends the “incremental” strategy against its critics, taking as his starting point assertions made by Professor Charles Rice, an influential pro-life thinker who is “well-known for his ‘purist’ views and ... his support of efforts to establish the constitutional ‘personhood’ of the unborn child.” The latter effort is one Linton sees as lacking—“The pursuit of ‘personhood,’ especially as an alternative to reducing abortions through appropriate regulatory measures, is a counsel of despair dressed up in the guise of false hope.”

Several of our contributors in the last few years have been much more optimistic

about a personhood amendment, including Patrick Mullaney, who wrote about it in “A Father’s Trial: The Case for Personhood” (*Spring* 2001), and “Exactly What Does Constitute *Us*?” (*Summer* 2004). For this issue, Mullaney, who is also an attorney, has written an essay about the foundations of American freedom. For an understanding of freedom itself, he looks to the thought of the late Pope John Paul II, who argued that there could be no true freedom that didn’t include a respect for the dignity of the human person. Mullaney writes that America’s history with slavery “demonstrates a progression of values, of the correction of prior imperfections with standards that are more just.” But “It is now the life issues . . . that test the obligations and limitations of freedom.” Mullaney contrasts John Paul II’s concept of freedom to that expressed in the Supreme Court’s 1992 *Casey v. Planned Parenthood* decision: that “at the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe and of the mystery of human life.” *Casey*’s “freedom” celebrates diversity and tolerance, even unto allowing for the killing of the unborn—this, Mullaney writes, is not the authentic freedom for which America was founded.

Father Frank Pavone is the national director of Priests for Life and founder of the new order, the Missionaries of the Gospel of Life. We are immensely pleased to include his “Ten Reasons Why We Are Winning” in this issue. And it is important we do, if it is true, as Father writes, that “The pro-life movement is closer to achieving its goal of restoring protection to children in the womb than most people in the movement realize.” Perhaps it is the old “can’t see the forest for the trees,” but for those who feel discouraged, Father Pavone has welcome and encouraging information. His first sign of progress is the growing presence of “survivors” in the movement, whose motivation is “It could have been me.” They are keenly aware that since *Roe v. Wade*, they are here at the grace of their mothers, and that many of their would-be classmates, friends and even siblings weren’t allowed to make it. “These young people realize that *Roe v. Wade* is a personal insult to them, because it says that they were not persons when they were in the womb.”

Stephen Vincent wrote about Father Pavone’s “New Order for Life” in our *Winter*, 2007 issue; he returns here to discuss a vexing subject for Catholics: what to do “In Cases of Rape”? The question is: How do Catholic hospitals treat rape victims? As Vincent has discovered, there is “no simple answer” because it depends on the “protocol that a particular hospital follows.” And what may surprise readers (including Catholic readers) is that “Most Church affiliated health facilities are authorized to dispense emergency contraception (EC) or Plan B to rape victims to prevent pregnancy from occurring.” Vincent explains the Catholic tradition that allows for this: “since at least the 17th century moral theologians have held that a woman can defend herself not only against an act of rape but also against the effects of the aggressor’s sperm—i.e., pregnancy.” However, what this means today—what procedures need to be followed to protect a possible existing pregnancy—

is a subject of difficult debate among Catholic doctors and theologians. We are grateful to Vincent for helping clarify the different positions held.

Dr. Benjamin Horne, another newcomer to the *Review*, is a physician with a Ph.D. in the field of genetic epidemiology. In his article here he examines the cause for personhood, but with a specific focus: What is the *event* by which personhood is gained? The *Roe v. Wade* decision declined to “resolve the difficult question of when life begins,” but, as a person’s rights are protected even after death, for example in the case of a will, the most “pertinent issue for the entitlement to rights and protection under the law is whether the unborn offspring of human parents is a person or not.” Horne asserts that it is human DNA that makes a person, and he discusses recent molecular understanding of DNA to explain why even a single cell, if it possesses human DNA, “can be a unique human.” Horne concludes that conception is indeed the event at which personhood is obtained, and that with the “modern understanding of the molecular structure of DNA and the molecular basis of inheritance,” there is no need for “reliance on theology or speculation as to when life begins.” Once again, science and objectivity are on our side.

Our final two articles offer a change of pace: a welcome foray into literature as another prism through which to examine the realities of abortion. Professor Donald DeMarco begins by asking how, in the midst of the current culture wars, we can seek to view abortion objectively. He suggests engaging in the exercise of placing it in a “radically different culture, one that is remote from the present day.” To do so, he analyzes the concepts apparent in the 18th-century poem, “Epitaph on a Child Killed by Procured Abortion” (as he writes, the title is “mercilessly candid”). Edward Short also looks to poetry: the wonderful work of an “unjustly neglected” poet, Anne Ridler (1912-2001), who was at one time a secretary to T.S. Eliot. Short writes that Ridler, a devout Christian and mother of four, “fills ground largely passed over in English poetry”: she writes about pregnancy, childbirth, marriage, her faith in God, and the eternal. Short has contributed a poignant and effective essay, in which he contrasts abortion advocates’ use of language “to mask their assault on the unborn” with Ridler’s superb use of “ordinary language with extraordinary precision to show how all our history and all our future unite in the unborn, how the birth of a child fuses foresight and aftersight.”

* * * * *

One morning at the office, our managing editor Anne Conlon and I greeted each other with “Did you read the piece by Nicholas Frankovich on the *First Things* website?” We both agreed it was terrific and we ought to reprint it in the *Review*. So here it is, *Appendix A*: “The Seamless Garment Reconfigured.” You will see right away why we were impressed. *Appendix B*, which also first appeared on the *First Things* website (www.firstthings.com), is a tribute to a pro-life hero we have, sadly, lost. Harold O.J. Brown, who died this past July, was a close friend and collaborator of

INTRODUCTION

my late father in the early days of the pro-life movement and a contributor to the *Review*. He was a founder, with former U.S. Surgeon General C. Everett Koop, of the Christian Action Council, an organization which mobilized evangelical Christians to advocate for the unborn. The tribute we reprint here is by John D. Woodbridge, a friend and colleague of Dr. Brown's. *Appendix C* is also a tribute: our friend Ed Hurlbutt, president of Right to Life of Central California, wrote a moving piece about his parents in the summer of 2006. His father died six weeks later. We reprint it here for its integrity and its relevance to the current debates over embryonic stem-cell research.

Appendices D and *E* are about *real* women's issues. Colleen Carroll Campbell "challenges feminist orthodoxy" by examining the latest facts about how women think, feel, and are likely to vote on abortion. Her information is assuredly not welcome to those who try to insist that "abortion rights" are synonymous with "women's rights." Susan Yoshihara, who is executive vice president of Catholic Family and Human Rights Institute, reports on the disturbing news that sex selection abortion and infanticide—killing baby girls just because they are girls—which was "once thought to be unique to China and India, is catching on in Central Asia, Latin America and the rest of the world." The reason? Pressure brought by international organizations that pit rights and development against "faith and human life—increasingly, female life."

This issue is quite a mixture of the hopeful and the sobering; through it all we remember that laughter is a gift, and so we thank Nick Downes for his unique cartoons and the relief they bring. We hope you find in this *Review* much to ponder, much to enjoy.

MARIA MCFADDEN
EDITOR

The Afterparty of Death

Ramesh Ponnuru

I.

The Party of Death was the first mass-market pro-life book in a generation. Bernard Nathanson's *Aborting America* came out in 1979, the same year as John Noonan's *A Private Choice*; President Reagan's *Abortion and the Conscience of a Nation*, first published in *HLR*, followed in 1983. Since then, however, only religious and academic publishers have touched pro-life books. By way of contrast, major publishing houses released books by Kate Michelman, Gloria Feldt, and Cristina Page making the case for abortion just during the months I was working on *The Party of Death*.

By the time I sat down to write, a lot had changed since the early 1980s. The debate over abortion had become a debate over abortion, embryonic stem-cell research, and euthanasia. Here and there respectable organs of opinion were trying to widen the field still further, to include infanticide. When Nathanson and company wrote their books, Democratic voters were still more likely to be pro-life than Republican voters were. The debate over abortion had transformed both parties.

The vectors of public opinion had also changed since those earlier pro-life books appeared. Sonograms had become more advanced and more widely used. The practice of partial-birth abortion had come to light, re-energizing many pro-lifers, and embarrassing many who are pro-choice. From the mid-1970s through the mid-1980s, the abortion rate kept climbing—as did the percentage of Americans who endorsed abortion-on-demand. Since the early 1990s, both trends had gone into reverse. In my book, I would be able to offer what my predecessors could not: an evidentiary basis for hope.

The passage of time had not dispelled widespread confusion about basic facts in the abortion controversy. No Supreme Court decision of the last four decades has been discussed more than *Roe v. Wade*. Yet most Americans, including most highly educated Americans, do not know what it held. Many of them think that it made late-term abortions illegal. Journalists routinely provide distorted pictures of public opinion on life issues, and describe pro-lifers' views in ways that would be unrecognizable to most of them.

In my book, I sought to explain why pro-lifers believe (and are right to believe) that abortion, euthanasia, embryo-destructive research, and infanticide

Ramesh Ponnuru is a senior editor of *National Review* and author of *The Party of Death* (Regnery).

are unjust, and should be illegal. I also tried to explain how abortion on demand, and the ideology behind it, had corrupted every institution it touched: from the courts to the academy to medicine to the media to the Democratic party. Finally, I offered an explanation of why pro-lifers had started to win many of the political battles over abortion.

II.

Months before my book came out, it was already controversial. Many liberal, and some libertarian, bloggers pounded away at its title. One blogger, Andrew Sullivan, made a regular feature of denunciations of the book. The controversy over the title dominated the discussion of the book; and so, tedious as I find the topic, it is probably worth going into for a few moments.

“The party of death” is, obviously, an intentionally provocative phrase, and I cannot reasonably object to the fact that some people were provoked. I can object to misreadings of it. The dimmer sort of blogger seemed to take my title to stand in for an argument that Democrats just like killing people for its own sake. This was a double mistake. In the very first pages of the introduction, I point out that the party of death has included Republicans as well as Democrats, with the proportion of each shifting over time. (It must be conceded that the text of the book jacket and of the Amazon.com description of my book—neither of which I wrote or approved—misled my critics on this point.) I also pointed out, in the introduction, that what earns the members of the party of death their label is not their subjective malice, which in most cases does not exist, but the fact that what they advocate involves, well, death.

Ronald Dworkin, the legal philosopher, called euthanasia and abortion “choices for death” in a book he wrote defending the right to make those choices. I adapted his phrase to refer to the political forces that stand behind this argument. There are, in general, two types of supporters of abortion, euthanasia, and the like. Those whom we might call the “soft pro-choicers” deny that these things involve the deliberate killing of human beings. They delude themselves that the early human embryo is not a living human organism, or that withholding food and water is merely “letting a patient die.” The hard pro-choicers have no such illusions: They believe that it is in certain circumstances morally defensible, or at least that in certain circumstances it should be legal, deliberately to cause the death of innocent human beings.

It is this latter group that I call the core members of the party of death. (Those in the former group are mostly its unwitting allies.) In the book, I mention few of its members by name: Dworkin and Peter Singer are the

most notable. The phrase functions as a heuristic device: Talking about it is a way of uncovering the philosophical foundations of abortion and related attacks on the sanctity of human life, and of pointing out what we will end up with if we build on those foundations.

The critics of my book, for the most part, have not exactly been even-handed in their treatment of book titles. Plenty of other high-profile books have titles and subtitles that do not require the flat-footed exegesis to which mine was subjected to seem hyperbolic. Does Damon Linker really think that “secular America” is “under siege,” as the subtitle of his book *The Theocons* has it? Is Christopher Mooney really willing to stand by the claim that Republican policies on science amount to a “war” on it? Christopher Hitchens’s book *God Is Not Great* is subtitled *Why Religion Poisons Everything*. I haven’t seen Andrew Sullivan object to that.

Sullivan has himself pioneered the use of the term “Christianist” to refer to social conservatives. The association of that word with violence is not accidental: Sullivan invented it while discussing a murderer of abortionists. Moreover, it is no mere device. Sullivan routinely uses the word to cover the gaps in his argument: to portray those of us who prefer the American abortion law of 1965 to that of today as though we were some sinister and un-American force bent on establishing a state church.

A smaller group of critics of my title were pro-lifers, or pro-life sympathizers, who worried that it would alienate potential readers and thus limit its ability to persuade. I thought this concern was mistaken, and I still do. The universe of people who are sufficiently open to pro-life arguments to read a pro-life book, but would run screaming from the room at a polemical title, must in the nature of things be pretty small. Jon Stewart grilled me about the title when I went on the *Daily Show* to promote the book. But it is not as though the conversation would have gone better if my book had been called *A Pro-Life Treatise on Abortion and Related Evils*. The conversation would not have occurred at all: Stewart would not have booked me.

III.

It was a relief, once the book came out, to turn from internet denunciations of me as some kind of hate criminal to reviews by people who had actually read it. I was surprised, however, to see several thoughtful and fair-minded reviewers making what seemed to me to be elementary errors about the book.

Peter Berkowitz (in the *Wall Street Journal*) and Jonathan Rauch (in the *New York Times Book Review*) were generous in their praise for the book.

But Berkowitz twice writes that the book argues that abortion is “murder”; it never even calls it that. He claims that I write that Americans would turn against abortion if they realized that *Roe* legalized late-term abortions. What I actually argue is that they would turn against *Roe* itself if they realized how sweeping it is.

Rauch, meanwhile, faults me for failing to address various questions—most of which I actually did address. He writes:

If human life is “inviolable,” then why should it matter whether a hopelessly vegetative patient—someone like Terri Schiavo—left instructions not to be fed? Surely, from Ponnuru’s perspective, the doctors caring for her cannot ethically conspire to starve her to death even if she would prefer to die.

That’s right—which is why I say so in my chapter on the Terri Schiavo case. It is not “acceptable to kill those who wish to be killed.” (It’s right there on p. 126, and I say it again on the next page.)

Both Berkowitz and Rauch claim that I argue against any compromise in the abortion debate. Rauch’s title is “No Middle Ground,” his subheadline says the book “makes a case against centrism,” and the review itself says that it “seeks to debunk what [Ponnuru] views as an incoherent centrism.” None of this is true. (It is also, incidentally, incompatible with Rauch’s claim that I have “little to say” to centrists. Either I have little to say to them, or I am trying to make a case against them.)

My book argues that the center of American politics on abortion is not where most elite journalists think it is. The book argues for gradual moves toward the end of the abortion license. That is a centrist position, and one that dictates certain compromises while excluding others.

Rauch also raises the familiar idea that pro-lifers, to be consistent, should favor jailing women who seek abortions. He faults me for not facing up to this alleged implication of my views. He faults me, that is, for not being centrist enough, and also for not being extreme enough. It is true that I do not go into detail about what precise mix of penalties the law ought ideally to include.

I had two principal reasons for not going into such detail. Neither of those reasons involved any “flinch[ing]” on my part from the implications of my views, as Rauch has it, or any attempt to persuade the ambivalent by soft-pedaling those implications. My first reason is that voters and legislators are not yet in any position to enact ideal legal codes, and the case for letting them make law on abortion has to be made before any further steps can be taken. (My case, of course, includes a case for the general reasonableness of the pro-life position.) The second reason is that pro-life principles cannot by themselves determine every detail of an abortion law. Different jurisdictions

might find that deterring abortion requires them to adopt different sets of penalties from each other.

I do not believe that abortion is typically committed out of malice, and therefore do not believe that non-malicious killings need to be, or should be, punished as severely as we punish malicious killings. The child in the womb has a right not to be killed, but it does not follow from that right that someone who violates it must be punished with great severity. In fact, the punishment need not be harsher than what is reasonably required to deter abortion generally. And that might not be very harsh at all. The women seeking abortions may not have to be punished at all.

Now, there is a lot more to be said about this, and in retrospect, I think I should have addressed the issue more fully in the book. Many people of good will misguidedly believe that pro-life premises lead logically to draconian punishments for abortionists and their clients. For the reasons stated, and others, I think they are mistaken about that, and I wish I had said more about it. I will address it in other writings soon.

IV.

Other reviews made distinctive points of their own. Wesley Smith is, of course, a distinguished writer on bioethical questions, and I draw on his work extensively (with credit!). Reviewing *The Party of Death* in *The Weekly Standard*, however, he disagrees with my analysis of abortion:

But Ponnuru doesn't confront as forcefully the primary reason abortion is legal up to and including the moment just prior to birth. This involves competing liberty interests: the right to life of the unborn human being versus the right to personal autonomy of the already-born woman.

Abortion is legal not because a fetus isn't really a human being, or even because it isn't deemed a "person," a philosophical and bioethical notion that attributes moral value to possessing minimal cognitive capacities. Rather, the real nexus of the debate is whether or under what circumstances society should be able to force a pregnant woman to do with her body that which she does not wish to do, namely gestate and give birth. Ponnuru does not sufficiently explain why (in his view) a woman's autonomy right should come second to the right to life of a fetus, particularly early in pregnancy.

But Smith is just wrong on this point. Abortion is legal because seven justices of the Supreme Court made it so in 1973. They said that they ruled that way because the Constitution does not recognize the fetus as a person and therefore (somehow) the due process clause of the Constitution confers upon a pregnant woman the right to have an abortion. The Court's ruling and reasoning were absurd, but they are why our abortion law is what it is.

Now there have indeed been people who have argued along the lines Smith suggests. The philosopher Judith Jarvis Thomson has famously argued that even if human fetuses are persons with rights (as she is willing to concede they are from a fairly early point in development), those rights do not entail an obligation on the part of pregnant women to continue nourishing them. But as I note in the book, this defense is false to the nature of abortion. Perhaps it would work if abortion were a mere eviction from the womb. But the death of the fetus is in nearly every real case the goal of an abortion, and it is always the means to whatever its goal is.

My *National Review* colleague John Derbyshire used my book to write a long and inexplicably vitriolic attack on the pro-life movement and on me for the *New English Review*. (I had never heard of it either.) His passage on the Schiavo case tells you all you need to know about his outlook and methods. He excoriates me for defending Michael Schiavo against certain criticisms but not all of them. He concludes: “Michael Schiavo is a good man criminally traduced by brutal, unprincipled RTL fanatics, from whose number, on the evidence of this chapter, Ponnuru cannot with certainty be excluded.” That man is a fanatic; he disagrees with me.

I argue in the book for the pro-life position without appealing to revelation or religious authority of any type. Derbyshire considers my approach “disingenuous,” since “*Party of Death* is obviously inspired by religious belief.” If all I am doing is reasoning, he asks, why should my conclusions line up so conveniently with the Catholicism I profess? This criticism is fallacious as well as presumptuous. For the record: When I was an agnostic I opposed abortion for the same reasons I give in the book. I became a Catholic because I came to believe that Catholicism is true. If I didn’t think Catholic teachings were true, I wouldn’t be a Catholic. So the fact that my reasoning leads to conclusions in line with Church teaching—conclusions that the Church defends using the same reasoning—is no scandal. It is problematic only if one is committed to the view that religion is by its nature pervasively irrational: the very view, when applied to the sanctity of life, that I spend a great deal of time in the book refuting.

Neil Sinhababu, writing on *The American Prospect*’s website, engaged the book more seriously than any other pro-abortion reviewer. (As we will see, this isn’t saying much.) He deserves credit for indulging in no ad hominem attacks or speculation about my motives.

Sinhababu takes the view that not all human organisms are persons with rights, that there are human non-persons—a view I consider both wrong and dangerous. He believes that I am placing too much importance on the humanity of the human fetus. If the right to life attaches to any organism that

happens to belong to the human species, he asks, then what would happen if we met intelligent extraterrestrial life? “To ground moral status in biological humanity is to shrug at the enslavement of hobbits, the slaughter of kittens, and the destruction of all life beyond earth.”

Nice line—but no. From the premise that all human beings have a right to life it does not follow that all non-human beings lack it. Humanity is a sufficient condition for having the right to life, but not a necessary one. I even mention, in a footnote, that an alien could have the right to life. The key question would be whether those aliens have a rational nature, as humans do. Indeed, my premises would allow for more protection of those aliens than Sinhababu’s theory would. He believes that human beings and other types of beings have value to the extent that they have the immediately exercisable capacity to perform mental functions. That would leave immature or handicapped aliens, hobbits, and humans without protection.

(As for kittens: I do think that the killing of animals can be defended under conditions that would not justify the killing of human beings. Euthanasia for pets, for example, does not raise the same concerns as it does among humans. But it does not follow from my case for the right to life that any form of cruelty to animals is morally justified, let alone that all forms are; nor does it follow that the law should allow any or all such cruelty to be committed.)

V.

I have saved for last the dominant objection my reviewers have made to the proposition that all human beings—regardless of location, size, condition of dependency, age, or stage of development—have a right not to be deliberately killed. It is an objection that appears in the reviews by Berkowitz, Derbyshire, Rauch, and Sinhababu. It is not an argument; it is an objection to the application of reasoned argument to the controversy in question.

Berkowitz thinks that I have scanted “the wisdom embodied in custom and common sense” and disregarded “a complex intuition that seems to underlie the American ambivalence” about abortion. (Said intuition being that “the early embryo, though surely part of the human family, is distant and different enough from a flesh-and-blood newborn that when the early embryo’s life comes into conflict with other precious human goods or claims, the embryo’s life may need to give way.”)

Derbyshire believes that we should be guided by “feelings,” not by religion or reason. By relying on reason, I show myself to be “pitiless,” “frigid,” “inhuman,” and, worst of all, an “intellectual.” You would almost think that the demand for logical consistency was some kind of sinister Jacobinical

invention. Sinhababu is not above a vox-populi moment, claiming that “liberals and other ordinary people” think the way he does about the moral status of early-stage embryos.

Actually, most ordinary people and even most liberals do not agree with Sinhababu that birth should be the dividing line: Only about 10 percent of the population shares his view that eighth-month abortion should be legal.

Custom and common sense cannot resolve these issues. The custom of our country is to kill 1.3 million unborn children a year. That it is our custom cannot place it beyond moral scrutiny. We used to have different customs, and reason can help us to see why those customs were better.

The roughly even division of the country on abortion also suggests that there is at present no common sense of the matter. (We have no sense of it in common.) It may be that a large majority of Americans agrees with Rauch’s assertion that the moral status of a human fetus falls somewhere between that of an appendix and that of a ten-year-old, and that it is not analogous to anything else. But the question here is a binary one. Is it permissible to destroy the fetus, as it would be to destroy the appendix, or is it not, as it is impermissible to destroy the ten-year-old? Even if 80 percent of the population agreed that the fetus was “somewhere in between” these two cases, they manifestly do not agree on what that in-between status entails: which is the only purpose for which one would even bother to think about the question of its status in the first place.

As for our feelings, they are imperfect moral guides at best. They can and do change, in part in response to changes in the prevailing moral understanding. Our feelings about the morality of interracial marriage are a case in point. In the book I go through reasons for rejecting the common “arguments from intuition” in favor of abortion. For example, we sometimes hear it said that the high natural death rate of embryos can somehow justify abortion (or embryo-destructive stem-cell research). I point out in response—and I claim no originality for this point—that high rates of infant mortality have obtained in some times and places, and that this fact could not justify infanticide. And that we do not treat the high death rates for ninety-year-olds as a reason to turn nursing homes into free-fire zones.

I now think that this response was incomplete, because it gave too much credit to these ideas. For the most part, I now believe, the arguments from intuition are not arguments, and not based on intuition. Nobody actually “intuits” either that there is a high natural death rate for human embryos, or that this fact can justify abortion. People learn about the high natural death rate by reading about the science, and then some of them make an invalid

inference that we are therefore justified in deliberately seeking to bring about what nature often does.

I have come to believe that if we had no motives for embracing false ideas about human beings in the earliest stages of development—if we were thinking about the moral questions here as a purely abstract matter—nobody would be at all confused about whether embryos are living human organisms or whether it is morally acceptable to kill them.

Invoking intuitions, feelings, etc., allows for a highly convenient double standard for defenders of abortion, embryo-destructive research, and euthanasia. Rauch, recall, demands that pro-lifers' ideas pass rigorous tests of internal coherence. I have to show that the logical premises behind laws protecting the unborn are compatible with exceptions for the life of the mother, with refusals to throw mothers in jail, and so forth. I can't just say, well, putting the women in jail doesn't feel right. He, on the other hand, doesn't have to do anything but offer an unsupported assertion about the in-between moral status of the unborn, and call it centrism.

A libertarian blogger, Julian Sanchez, has tried to dress up this way of thinking about abortion:

It is, on its face, pretty outlandish to claim that some cluster of ten or twenty cells with no recognizable brain—no hopes or memories, no plans, no sense of self, not even (in the early stages) a capacity for pain—is a person, just like you and me, and that destroying that insensate cluster of cells is morally on a par with killing one of us. It is, in fact, so outlandish that if you have an argument that seems to establish that this is the case, that's a pretty good *prima facie* reason for thinking something has to be wrong with your argument. . . . What's valuable about the Derbyshire approach, at least as a starting point, is that it backs off from the familiar arguments involving theoretically freighted terms . . . and gets back to the sound gut reaction that it's just sort of crazy to treat a mindless ball of cells as morally no different than your Aunt Hortense. Ideally, though, you do eventually go further and say what the problem with the argument is.

What Sanchez is saying is that people's intuitions, feelings, or common sense may not prove the wrongness of the pro-life position, but establish a presumption against it: that they place a high burden of proof on its advocates.

If I am right in thinking that these intuitions and common-sense views do not actually exist, however, then of course they cannot even do the limited work that Sanchez believes they do. Moreover, his description of the conclusions that pro-lifers are attempting to prove is imprecise in ways that stack the deck against us. We're not treating a "mindless ball of cells"—a reductive way of putting it, of course—"as morally no different than your Aunt Hortense." (You don't owe the ball of cells a Christmas present.) These two things are morally equivalent only in the sense that they are human

beings (albeit at different developmental stages) and that they therefore possess inherent dignity and a right to life. (Indeed, these two things may actually be the same thing—the very young Hortense *just is* Aunt Hortense at the beginning of her life.)

VI.

Developments since the publication of *The Party of Death* have amply confirmed the political account given in it. Democrats did extremely well in the 2006 election, but not by highlighting their support for abortion. They achieved their most crushing Senate victory—the defeat of incumbent Rick Santorum in Pennsylvania—by running a pro-lifer. Pro-choice candidates, meanwhile, were more likely to highlight their support for raising the minimum wage than their stance on abortion. Some observers saw the Schiavo affair as a portent for a speedy move toward euthanasia in this country; that cause has barely advanced at all. While politicians remain convinced, with some good reason, that embryo-destructive research is a winning issue, some of the wind seems to be coming out of the sails there too.

Nobody has even tried to refute *The Party of Death*'s claims about the linkage among the issues of abortion, euthanasia, and embryo-destructive research; or about the realignment of the parties wrought primarily by abortion; or about the pro-life direction of public opinion; or about the bias of the press in dealing with life issues; or about how abortion advocacy has corrupted the academy.

The response, detailed above, to the book's central moral claims is also instructive. In 1970 and for many years thereafter, advocates of legal abortion portrayed themselves as the party of cool, dispassionate reason. Their opponents were the prisoners of superstition and emotion. Pro-abortionists back then tried—not, I think, well—to argue either that fetuses were not “alive” or “human” or that their killing could be justified philosophically. Today, they tend with few exceptions either to refuse to engage the argument at all or to retreat behind their feelings and other non-rational defenses.

There are, of course, very smart people on the other side of the debate. But I think *The Party of Death* and the reaction to it demonstrate something else that has changed in the last four decades: The intellectual high ground is now ours.

The Fictional Post-*Roe* Prison Rush

Kathryn Jean Lopez

“I want to put them in jail for a long time and make sure we have GPS on them for the rest of their lives. One strike and they’re ours. I want to know where they are forever.”

That was Republican presidential hopeful Mitt Romney in Iowa this August, talking about what he’d like to see done with those who are convicted of sex crimes against children. But to listen to pro-legal-abortion activists, he could have just as easily been describing what he and his fellow pro-lifers would want done with women who seek abortions in a United States after the overturning of *Roe v. Wade*.

Celebrated writer Anna Quindlen recently fell into this common abortion trap—assuming that pro-lifers are pining for the day they can toss pregnant women in jail—in her *Newsweek* column. Addressing pro-lifers, Quindlen asked: “How much jail time?”—for women who seek abortions in a post-*Roe* U.S. She insisted that those who oppose abortion have “only two logical choices: hold women accountable for a criminal act by sending them to prison, or refuse to criminalize the act in the first place. If you can’t countenance the first, you have to accept the second. You can’t have it both ways.”

Quindlen thinks there’s a vast pro-life conspiracy afoot. That some recent state bans on abortion in states like South Dakota have post-*Roe* activation provisions that explicitly indicate that women will *not* be sent to jail—“Nothing in this section may be construed to subject the pregnant mother upon whom any abortion is performed or attempted to any criminal conviction and penalty”—only deepens the conspiracy. Quindlen explained: “Lawmakers in a number of states have already passed or are considering statutes designed to outlaw abortion if *Roe* is overturned. But almost none hold the woman, the person who set the so-called crime in motion, accountable. Is the message that women are not to be held responsible for their actions? Or is it merely that those writing the laws understand that if women were going to jail, the vast majority of Americans would violently object?”

Quindlen’s suspicions, and her conclusions, are wrong. The answer to her bottom-line question—“How much jail time”—is: Life is a bit more complicated than that. The reality is not as black and white as pro-choice fright propaganda would have it. Still, she isn’t the first and won’t be the last person

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to ask the mistaken and misleading question.

In her 2006 book, *How the Pro-Choice Movement Saved America*, Cristina Page asserted that “Clearly, pro-life states are eager to prosecute women. In some instances, they have already found ways.” She pointed to a South Carolina case—a migrant farm worker from Mexico who drugged herself to miscarry and spent four months in jail—as evidence of widespread imprisonment to come. She continued:

That these convictions occur now, with *Roe v. Wade* intact, is an ominous sign. As a lawyer for the boy in the Michigan case [who was tried under Michigan’s fetal-protection law for killing his girlfriend’s unborn child by striking her belly with a baseball bat, at her request] pointed out, “What this case represents is a harbinger of things to come.” After all, *Roe* now protects most people most of the time. With *Roe* gone, the number of acts of desperation by women and girls will multiply, as will convictions. And since pro-life compassion seems to extend only to the unborn—indeed, for those making difficult decisions they revel in the harshest penalties—we may one day see women condemned to death for abortion.

Condemned to death? Is she kidding? In a country that has trouble banning even partial-birth abortion, i.e., infanticide?

But even Republicans sometimes fall into this jail-time-for-abortion-seekers trap. Former New York City mayor Rudy Giuliani, who thinks abortion should be legal, knows enough to stress to conservatives that he wants judges who stick to the Constitution—yet he still hasn’t stopped talking about how he doesn’t want women to go to jail. He told CNN in April, for example: “It is your choice, an individual right. You get to make that choice, and I don’t think society should be putting you in jail.” True, this is from a guy who clearly wants the choice for abortion to be legal—but bringing up jail should be an avoidable misstep for a former altar boy who once ran for Congress as a pro-lifer.

Former Tennessee senator Fred Thompson, who is otherwise believably pro-life, has made the same mistake—he doesn’t want to criminalize women, he’s said during his presidential deliberations. It’s been on his mind for a while, too. In 1994, during a Senate campaign debate, he said: “Should the government come in and criminalize let’s say a young girl and her parents and her doctor? I think not.”

I doubt I’ll convince Cristina Page and Anna Quindlen, but a quick memo to Republican politicians trying to convince primary voters they are pro-life: *Don’t* earnestly insist you don’t want to throw women in jail. Because guess what? I’m pro-life and I don’t want to either. In fact, *nobody* in the mainstream pro-life movement does—so even to discuss the issue in these terms is to play into the pro-abortion spin machine.

Pro-lifers Are People Too

Quindlen—like everyone else concerned about all those American women who supposedly will go directly to jail after *Roe* is overturned—misunderstands what most abortion opponents seek. We're not looking to further victimize women. They already are victimized—by abortion. They are frequently pressured into it; they are often unaware there's help out there for them if they want to keep the baby; in many cases, they suffer in silence for years after the abortion.

Perhaps nothing in the public-policy realm better illustrates the compassionate approach pro-lifers have toward women who find themselves seeking abortion than the “Women Deserve Better” message of Feminists for Life. The “women deserve better” campaign is threatening to the legal-abortion supporters: It complicates the black-and-white polarity they seek to project, of warm, compassionate “pro-choicers” versus heartless pro-lifers. That's why the “jail” scare tactic is so important to them.

But anyone who just visits a website like feministsforlife.org or silentnomoreawareness.org can learn the simple and essential truth: *Pro-lifers are pro-women*. Some of us even *are* women, and care deeply about what happens to our sisters.

The “Feminists for Life” message—which, in many ways, echoes the New Feminism of Pope John Paul II—breaks down caricatures. And it's essential to understanding what life might look like after *Roe* is gone.

Leslie J. Reagan, in her 1997 book *When Abortion Was a Crime: Women, Medicine, and Law in the United States, 1867-1973*, wrote: “The antiabortion movement has projected a fetal ‘voice’ to compete with and discredit the voices of real, live women, a group that only recently spoke of its experiences in public, political arenas. The fetus has been used to shift the debate away from women and their narratives about the crimes of illegal abortion. . . . The New Right has pushed forward a conservative political agenda hostile to feminism.”

But this contention just doesn't stand up, when it's put up against the stories of real, live women victimized by “choice”—the kind of women on whom the Feminists for Life shine a long-overdue spotlight. Just this summer, at a Capitol Hill press conference, the group introduced a lineup of speakers including the following (the description is from the FFL website):

- Karen Shablin converted from a “card-carrying member of NARAL” to a pro-life feminist position. She discusses her experience choosing to have an abortion and how she became pro-life. A health-policy expert and former state Medicaid agency head, Ms. Shablin is speaking for FFL on campus

because, she says: “I can’t undo my mistakes over the years—having an abortion, advocating abortion, but I can help others to learn from my mistakes. Every life counts.”

- Ann Lowrey Forster was known for her pro-choice letters to the editor when she became pregnant her sophomore year in college. She gave birth that summer, returning to school for junior year. Urged to abort and deserted by her boyfriend, Ms. Forster continued her pregnancy and graduated on time with honors. Now a pro-life feminist, married, with a toddler and a newborn, and a law clerk with a law firm in the South, Ms. Forster believes resources and support are critical for pregnant and parenting women.

- Joyce Ann McCauley-Benner was raped at 20 and chose not to abort, not knowing if her unborn son was the result of rape or of her relationship. She says, “I know what it’s like to want to run as far away as possible from a problem, how it feels to hang on to ‘if I wasn’t pregnant anymore, it would all be o.k. again.’” Ms. McCauley-Benner, who graduated from college while raising her son, works with a task force for racial justice. A mother of two sons, Ms. McCauley-Benner lives in the Midwest.

- Angelica Rosales founded a pregnancy center shortly after graduating from college and continues to run it in her hometown in the Southwest. Her own mother was advised to abort her and that continues to be a motivation for Ms. Rosales. Ms. Rosales presents the perspective of a woman who works daily with pregnant and parenting women, particularly college-age women, facing crisis situations and she sees firsthand how lack of support hurts women: “This failure to provide resources is a reflection of how far we still need to go to eliminate the root causes of abortion,” Ms. Rosales said.

What will happen after the Supreme Court overturns *Roe v. Wade*? It will depend, in great measure, on women like these, and on millions of ordinary women. Headlines will trumpet a new world of oppression for American women, in which they will be carted off to jail in their most desperate moments. In truth, however, the Court will have put the abortion decision in the hands of *the people*, where it should have been all along. And federalism will reign, as state after state will decide for itself what to do.

And what *will* all these people decide to do? Fred Thompson caused a little controversy earlier this year by not being clear how he would vote if his home state were to face that decision: How much abortion should be legal? Should there be an outright ban? Wouldn’t—couldn’t—women, in Tennessee and elsewhere, be hit with severe sentences for trying to get an

abortion? After all, if you believe abortion is murder, isn't it in the best interest of society to punish a mother who would do such a thing?

Before *Roe* and After

In pre-*Roe* New York State, as it happens, women who procured abortions were considered, according to the letter of the law, criminals (this was not the case in every state). But in practice—in the interest of shutting down doctors who performed abortions—women would customarily get immunity from any criminal prosecution if they would testify against the abortionists.

History, in other words, suggests that when tough anti-abortion laws exist, desperate women aren't rushed to the slammer. If that awful award-winning movie *Vera Drake*, about a woman who performed door-to-door illegal abortions with rudimentary household tools, did anything good it illustrated this point. Was it the kid—the one who nearly died after Mrs. Drake left her to bleed her baby away in her parents' toilet—who was brought to trial? No, it was Vera Drake herself. As an officer made clear to the girl and her mother, it's the abortionists they were after.

Albeit with exceptions, the historic record in the United States demonstrates that same attitude. Abortion was illegal in the U.S. prior to the Supreme Court's 1973 ruling—and women weren't being rushed to jail for seeking abortions. Women weren't prosecuted, because the law was never after them to begin with. According to *Dispelling the Myths of Abortion History*, a 2006 book by Joseph W. Dellapenna and other historians, law enforcement aimed at the “do no harm” community—the doctors who performed abortions. And even then, “enforcement in the United States focused on the revocation of medical licenses” in the 1930s, with an uptick in prosecutions in the 1940s and 1950s.

If pro-lifers contend abortion is murder, Quindlen and others will ask, how can this be? How can those who oppose abortion morally justify not throwing the book (or Book?) at, and slamming the jailhouse door on, pregnant women who seek to or obtain abortions in a *Roe*-less America? In response to Quindlen's *Newsweek* column, Amherst College professor Hadley Arkes explained:

In the tradition of legislating on abortion, a certain distinction was made out of prudence: On the one hand there may be a young, unmarried woman, who finds herself pregnant, with the father of the child not standing with her. Abandoned by the man, and detached from her family, she may feel the burden of the crisis bearing on her alone, with the prospect of life-altering changes. On the other hand, there is the man trained in surgery, the professional who knows exactly what he is doing—he knows that he is destroying a human life, either by poisoning a child or dismembering it.

And in perfect coolness and detachment, and at a nice price, he makes the killing of the innocent his office-work. Certain women may indeed be guilty of a callous willingness to destroy a child for the sake of their own self-interest. But the law makes a prudent, tempered choice when it makes the abortionist the target of its censure and brings solely upon him the weight of the punishment.

In his 2006 book, *Party of Death*, my colleague Ramesh Ponnuru thinks about the post-*Roe* world in a sensible and politically astute way: The end of *Roe* would not hand pro-lifers victory in all the political debates over abortion policy. It would give them the right to have those debates in the first place.

The result might be a surprising return to political moderation. It would be surprising for two reasons. First, many of the people who decry the absence of moderation in our politics—editorialists, affluent voters, “centrist” thumbsuckers—treat support for legal abortion as part of the definition of moderation. So for increased moderation to accompany the achievement of many pro-life goals would contradict much of the official discourse about political temperance. Second, abortion is obviously an emotionally polarizing issue. I suspect that one reason many people are happy to let judges set abortion policy is fear that the issue is too hot for the political process to handle.

Ultimately what life after *Roe* will look like is a question that could fill many a book, and will be much discussed and debated. Gregory Sisk, Orestes A. Brownson Professor of Law at the University of St. Thomas School of Law in Minneapolis, has written:

If and when *Roe v. Wade* is overruled, and if the public were to react initially with anxiety as provoked by extreme rhetoric from the cultural elite, those of us who stand for the dignity of all human life should respond firmly but calmly. And we should not be discouraged by temporary trends. Slowly the public will discover that any parade of horrors marched out by the media simply is not being realized, that dictatorship has not emerged, that women are not being rounded up and forcibly removed from public life, that decades of progress in equality between the genders has not been reversed, and that freedom has survived and in fact was never endangered. Because the general public will appreciate that the Supreme Court by overturning *Roe v. Wade* was taking nothing away but rather was returning a subject of great moral concern to democratic deliberation, allowing the people to chart their own course and create a culture of life.

That’s the truth of it. So let’s put an end to the hysterics—all the “jail” canards concocted by fear-fanning abortion advocates. Aborting the propaganda would be a baby step toward an eventual culture of life.

Boomers Go Bust

William Murchison

A long, long time ago I had a boss in the newspaper business whose favorite column lede (thus we ink-stained wretches were accustomed to spell “lead”) was, “I hate to tell you so, but I told you so.” It was an arch and at the same time muscle-flexing way to begin a disquisition: *I* knew how this thing would work out; *you* tried to argue with me, didn’t you? Well . . .

I think sometimes of my former boss as I read demographic stories—tales of weeping and woe, fashioned from dry-crisp statistics about the graying and, soon enough, the whitening and drying-out of whole populations, especially in the West but also in Japan and even China.

It’s not that world population isn’t increasing. It is. It just isn’t increasing fast enough to provide a reliable support base for the lavish promises government has made the boomers.

Yes, the boomers—them. That’s what it always comes back to, doesn’t it?—the vast, self-regarding cohort of people born between 1946 and 1964, and now starting to retire; starting in fact to wonder whether government’s promises to them are worth the newsprint on which those promises get discussed and anguished over. What if the Social Security well runs dry from lack of sufficient contributions? What if there’s not enough cash for Medicare? Projections have it that, to meet obligations, nearly 40 percent of American workers’ wages in 2050 will be needed to finance Social Security and government health-care programs. If there’s anything left over, we can pay our soldiers and sailors and maybe keep the national parks open.

What, in light of these circumstances, retrieves from memory my ex-boss’s prized reproach? What was it that plenty of people heard yet disbelieved and consequently ignored—to their cost? That birth is good, that’s what. That without the natural cycle of decline and replenishment, encouraged to operate in a natural way, all manner of unforeseen circumstances can strike, and strike hard.

I hate to tell you, but I told you so. Or, more accurately, many, many folk—theologians, pastors, writers, attorneys, mechanics, assembly line workers, teachers, homemakers, volunteers of different stripes—have pointed passionately to the consequences of devaluing and depreciating life; of portraying this life or that one as of no great interest to the larger society. Their

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warnings now start to come true, if in a peculiarly practical way, shorn of theological and moral postulates.

I'll get to those consequences in a minute. Something I caught on "Good Morning America" this week encapsulates present concerns. I want first to mention it.

It was a segment on couples who elect not to have children. I don't mean *can't* have children; I mean don't want the little rugrats around the house. The story highlighted two such couples. "Both the Smiths and the Jacksons," the GMA reporter related, "said that they love children, but added that it's hard to do it all, and that they're not willing to sacrifice their freedom for the sake of having kids."

One of the two wives elevated the matter to the level of political principle: "This is America. We're supposed to have a choice."

When later I got on ABC's website to check the actual quotes against my scribbled notes, I discovered that 262 people already had blogged about the story. What did they say? Most said the Smiths and Jacksons, if not necessarily right, were *within* their rights. Among the more trenchant comments:

"This is a personal decision that society's 'norms' should not dictate."

"It should be a lifestyle choice like any other."

"NO ONE has the right to judge another's choice."

That took care of the philosophical considerations. What of consequences?

Well, for one thing, deciding not to "start a family," as we used to say, is a measure of supreme economic prudence: "Instead of saving for a college fund, I save for travel."

It reduces the surplus population: "Having kids is a pretty selfish thing to do these days."

You know—6 billion people, and dwindling world resources.

Here, though, is the comment joining the GMA segment to the matter I would lay on the table for consideration: "As for the issue of 'who will take care of me when I'm old,' Hmmm, I'm thinking that with out [sic] the stresses of having kids, I may not get old and disabled. I'll just keep on going!!!!"

So, just as the writer said, Hmmm. Intuition and investigation suggest that quick conclusions about the valuelessness of kids are due some real-world rebuttal.

Conclusions on this line aren't from outer space. Most of us will recall the Rev. Thomas Malthus's dire declaration, in "An Essay on the Principle of Population as it Affects the Future Improvement of Society," published in 1798, that geometrical population increases would outstrip merely arithmetical increases in subsistence, causing impoverishment and mass starvation. Malthus (who meant well, we must recall) reckoned without the technological

advances and sheer populational energies that vastly increased food supplies in the 19th and 20th centuries.

Then there was the Zero Population Growth movement of the 1960s and 1970s—a movement that fit its time with glove-like exactitude. Everybody back then saw everything as falling apart and moral coercion as the answer.

Along came Paul Ehrlich, in 1968's *The Population Bomb*, to predict that in the '70s and '80s “millions of people [would] starve to death in spite of any crash programs embarked upon now.” He saw people in the abstract engulfing people in the particular: people everywhere, consuming, eating up, destroying.

Inevitably—this was 1968—Ehrlich wanted a federal Bureau of Population and Environment to decide the country's “optimum population size”—and make damn sure it didn't get exceeded. He proposed luxury taxes on cribs and diapers—except for the poor, who were having most of the babies, but, as I say, this was 1968, when embarrassing details were easy to overlook.

Again, inevitably, Ehrlich argued for the right to abortion in—the text suggests without quite saying so—all circumstances. “Biologists must point out,” he declared, “that . . . in many cases abortion is much more desirable than childbirth. . . . Above all, biologists must take the side of the hungry billions of living human beings today and tomorrow, not the side of *potential* human beings.”

Ah. Well. That made it all clear. Survival trumped all other considerations: that is, the survival of those fortunate enough already to have been born.

The truth was, heads were nodding in eager assent at least to Ehrlich's contention that birth wasn't the good thing we used to think it was. The baby boom—77 million boomers all told came rolling into and out of the nation's maternity wards in the crucial post-war years, 1946-64—no doubt encouraged boomers and their parents to suppose there wasn't much to worry about in terms of replenishment. Somebody would do it. Someone always did—enough someones to scare the wits out of Dr. Ehrlich and his readers.

This time the assumption proved as tenable as the assumption that “Negroes” would ride forever in the back of the bus, and that a Catholic's becoming president would mean the Pope's taking control here, and a woman's proper role was vacuuming the living room in high heels and pearl necklace.

In 2007, Allan C. Carlson and Paul T. Mero would write: “Europe is dying. So are the once dynamic ‘Asian Tigers.’ America is not far behind. In Germany and Italy, for example, more persons are buried each year than are

born: populations are shrinking; and those left are—on average—getting older, much older. Even under fairly optimistic assumptions, Italy’s population will fall from 57 million to 41 million by the year 2050 . . . Russia counts a net loss of 750,000 persons each year. By mid-century, Japan’s population is expected to fall by a third.” As for the United States, population continues to grow—not very fast at that—only because of immigration and out-of-wedlock births (*The Natural Family: A Manifesto*; Spence).

The American Enterprise Institute’s respected demographer Nicholas Eberstadt noted around Thanksgiving 2006 that “At the beginning of the 21st century, we are about to see [an] absolutely revolutionary demographic transformation. This one is due to a dramatic drop in fertility rates, a relentless march toward sub-fertility levels. Over a still-increasing sweep of the global map, the world’s population is not replacing itself. . . . more than half the world’s population today lives in places characterized by patterns of childbearing that, if left unchanged, would eventually result in population stabilization, and in an indefinite demographic decline, absent immigration. . . . Over the next 20 years, there is going to be a deceleration in the global labor force, the potential labor force for the world as a whole.”

No doubt we shouldn’t be unduly surprised: not when the audience for a morning talk show discounts the assertion that there’s anything wrong with going kidless, because if that’s the choice you make, fine. That leaves ample space, all the same, for facing up to the real-life consequences of a key ideological assumption from the past four decades, which is that 1) humans clutter up the planet and 2) what if this or that one, or these, those, whichever, sort of, you know, go to a better world before they reach this one?

The human life debate turns, and rightly so, on the question of life’s sacred character: life as God’s self-renewing gift. The beauty of such a postulate is the connection it opens up between, shall we say, the sacred and the profane: God as overseer of life’s practical, everyday, slogging-to-work, planning, spending, sweating, striving dimensions, no less than God as celestial authority figure. As the good old hymn goes, “This is my Father’s world.” Not as the ACLU sees things, perhaps. Yet there may be larger terms in which to consider the matter.

It is hard not to notice how many demographers and policy wonks have been attending to the serious practical considerations of the drop-off in American and Western births, due to abortions (1 million to 1.5 million a year in the United States since 1973) and our diminished appetite for family creation. The matter mainly is expressed as, who’s going to pick up the tab? The tab for what? For social programs initiated back when the durability of a large population to pick up future costs could be (or anyway was) taken for

granted. For instance, 1964, when the baby boom ended, was the year before the Great Society of President Lyndon Johnson enacted Medicare as a means of assuring affordable health care for the elderly—with the elderly’s votes as a nice bonus for the donors.

The drop in fertility renders these assumptions more than a little out of date. That, in addition to the generous benefit increases Congress has enacted. As Jeremy J. Siegel, of the University of Pennsylvania’s Wharton School, has noted in the *Wall Street Journal*, “In the U.S. in 1950 there were seven people of working age (20-65) for every retiree, and even today, there are almost five. But by 2030, when the last of the baby boom generation retires, that ratio will fall by nearly one half, down below 3 to 1.” Fine for whoever “one” is, a lot less fine for the three, more and more of whose earnings enter into the wealth-transfer programs that few seem to understand and that go under the identities of Social Security and Medicare. (Present taxes go immediately to pay for immediate expenses; nothing gets laid away for the future.)

That’s the United States. In Europe, whose birth rates are generally below replacement level, realities are grimmer and the commensurate pressures for immigration larger—even in the age of terrorism.

The question is large and complex. I pretend to no special competence in addressing the varied ins and outs. Graphic as the political and economic consequences of populational graying may be, a still more interesting question is what makes—I guess—ordinary people who watch “Good Morning America” susceptible to the argument that no consideration bulks larger than respect for choice in these matters. We have unhooked ourselves, perhaps unwittingly, from some major assumptions that used to govern life. These assumptions have many parts and aspects, but the chief of them, it seems to me, are:

1) Birth is natural. I am not speaking of “natural birth” contrasted with medical interventions of one kind and another. I am speaking of birth as What You Do Because It’s What You Do. You know, like wearing a hat used to be what you did. The old English Book of Common Prayer spoke of marriage (the estate taken for granted by the culture and the church as the norm for male-female relationships) as created, in part, “for the procreation of children, to be brought up in the fear and nurture of the Lord, and to the praise of his holy Name.” There was, additionally, the motive to have enough children so as to secure one’s old age.

I had friends in the ’50s and even the ’60s whose grandparents lived under the same roof with them. I remember the tobacco-stained fingers of Mr.

Pete Tullos—a half-spectral presence in the home of one buddy; a presence generally accoutered in white shirt and necktie; sitting quietly by the living room fireplace, in an upholstered chair. Of course he lived with his daughter's family. Where else?

This was before Choice. Or, rather, it was before free, untutored choice. Choice never roved beyond particular moral boundaries. You could choose to say, if you were the daughter, "OK, Pete, outta here. They've got a nice room for you at the Twilight Home." You could. But you wouldn't. There were assumptions, I say. One of those concerned the intertwined nature of family life and family obligations. Another assumption went hand in hand with this one. To wit:

2) Children, on their own terms, are a good thing. I don't really remember the start of the baby boom. I was four. That year my parents gave birth to a boy and the next year to a girl. (Gracious, it occurs to me, we're getting to be old coots!) Though recalling my siblings' births, I have no recollections of any rationale my parents offered for said births. It cannot have had anything to do with extra space that wanted filling. The home to which my siblings came from the hospital had two bedrooms, one bath, one living room, one kitchen, one dinette. Not large enough for a Good Morning America focus group, let alone five 20th-century Americans. Yet here, until the "the new house" was built in 1950, lived five 20th-century Americans committed (generally speaking) to the proposition that, yes, children were good.

It was not that William and Dorothy Murchison had been deprived of "choice"—any more than my friend Tommy Roe's mother had lacked choice in the matter of where her aged father should live. They simply exercised that choice in ways astounding by current yardsticks. Children were, to them, more precious than travel or hermetic privacy. So it was, indeed, with baby boom parents as a class. What odd ducks they now seem, these parents. The choice to obligate one's self, tie one's hands, commit to major expense for the sake of someone else? What kind of choice is that? How much more natural—so current reasoning insists—to choose "me" over "thee."

The abortion culture is of course the clearest instance of the new mode of choosing. To choose abortion is to choose "me." So also to choose—and to glory in—childlessness.

When, exactly, did people fall out of love with babies and the production thereof? And why? Was 1964, when the baby boom peaked, "the" moment, or was it *Roe v. Wade*? No reliable method exists for charting the moment that self-absorption begins to trump all other considerations. The moment when "me" becomes a graver, greater word than "you." It happened. And so Americans, like Westerners in general, fall back to figure what to do. What

do you do if you don't want to run out of workers willing to support non-workers? Naturally the first thing that comes to modern minds is denial. We're fine. More people are an annoyance and a danger. As one *New York Times* reader wrote this year, when the U.S. population reached the 300 million mark, "[A] majority of Americans, faced with increasingly crowded cities, suburban sprawl, mounting traffic jams, and growing environmental concerns, do not want further population growth." Possibly not. Do we want those Social Security checks? That seems so different a matter that various countries are offering economic subsidies to new parents: cash bonuses, tax breaks, extended maternity leaves. Bribery to do what once came naturally. Immigration—troublesome as the phenomenon can be, with practitioners of jihad never far away—becomes, without anyone's pushing it, another alternative. Don't forget those Social Security and Medicare checks!

The measurable incentive is to do something (whatever such a phrase may mean) before it's too late. The *New York Times* last year quoted an Austrian demographer: "If you have a fertility rate of 1.2 or 1.3 you need to do something about it—it's really quite a problem." You have labor problems, economic problems, and steep rates of population decline. (The Czech Parliament voted to double maternity leave payments and boost immigration from Bulgaria, Croatia, Kazakhstan, and Ukraine.)

I wonder if a larger problem does not intrude? To wit, what marvels might an ethic of life accomplish? A commitment, not to production of a certain quota of babies, but, rather, to the recognition of the abstract desirability of life? Life, precisely, *as* life?

The question, clearly, has its theological element. And yet all theological questions twine themselves, inevitably, around supposedly secular questions. Are not the purposes of hands and feet and heads and brains and shoulders and stomachs hard to distinguish as to worth? Hands for the service of God, and for prayer, but also for sawing and planting and nursing and driving, and for playing music and working out mathematical formulas; for making and enforcing and harmonizing laws. Even for writing checks to the Internal Revenue Service for transfer to other purposes.

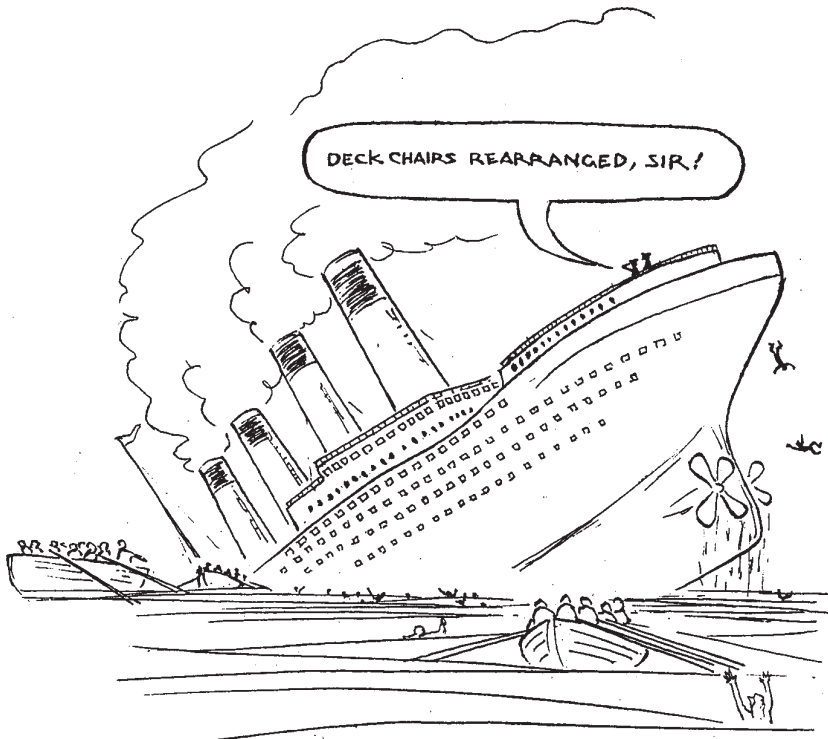
An ethic of life is at bottom an ethic. No Congress can create one, no president issue brisk orders to the cabinet for a Plan likely to overcome all objections. John D. Mueller of the Ethics and Public Policy Center, in Washington, D. C., notes that worship and fertility are vitally connected "because both acts devote scarce resources like time and money to another person (whether God or a child) for that person's sake rather than our own advantage. Both require us to raise the other person and lower ourselves in our scale of preference for persons: the Two Great Commandments (to love

God and neighbor) are empirically linked . . .”

Lucid observation, you might say; lousy context for receipt of same. Who in the Age of Choice is going to listen attentively to injunctions having to do with “raising” other people and “lowering” one’s self? Precept and example might help, if sufficient preceptors and exemplars could be found for the job. There’s your problem—the present conundrum, “you” vs. “me.” What finally can persuade modern folk to revive an ethic abandoned on account of cramping people’s styles, telling them how to live, and with whom?

Maybe nothing in this world can restore that ethic. Or maybe sheer reality can: de-population, labor shortages, the ruination of long-anticipated benefits from the government; developments that make many see things in new ways, with new eyes, new urgency.

In other words . . . someone told you so. Told you life had value, and not only in a spiritual, God-linked sense. Told you no collective action of any size or duration fails to leave footprints. The habit of self-absorption is hard to abandon when all’s well and you’re constantly assured that how you choose is no one’s business but your own. That’s until your choices start to matter on the grand scale: their nature and form, the reasoning and reflection behind them, the consequences they entail. It’s then that a turn in thought and behavior can come. When it does come, remember who told you so.



Making the Most of the Presidential Debates

Mary Meehan

There they are: the 2008 presidential candidates, all spiffed-up and ready to go. They are standing under television lights on a streamlined, red-white-and-blue stage. They're about to start another presidential debate, and millions of American voters are watching. Wouldn't you like to be the moderator who asks the tough questions?

If you were, you could ask "gotcha" questions of former Massachusetts governor Mitt Romney, a Republican, and Rep. Dennis Kucinich (D-Ohio), who have made dramatic leaps from one side of the abortion issue to the other. Or you could pursue former New York mayor Rudy Giuliani, who can leap back and forth in the course of one debate. During the first Republican presidential debate in May, Giuliani said it would be "okay" if the Supreme Court overturns *Roe v. Wade*, but also okay if it doesn't. He hates abortion, but thinks it should be legal. He supports the Hyde Amendment, which bars most federal funding of abortion, but think states should be able to fund it if they wish. And he admitted that he has supported abortion funding in New York.¹ Whoa!

We are in the early stages of the longest presidential campaign in our history. It seems bound to produce the greatest number of presidential debates, with a variety of formats and questioners. Now citizens at large can get into the game with in-person, e-mailed, or even videotaped questions. There are also many possibilities for questions about the candidates (though not necessarily directed to the candidates themselves) on websites, chat rooms, and blogs—not to mention old-fashioned candidate interviews in magazines and newspapers and on radio and television talk shows. All of these offer an opportunity to break through stereotypes, encouraging voters to think about abortion in ways they hadn't considered before. Good questions can change the whole framework of the abortion debate.

One way to do this is through a "thought experiment." This is another term for a hypothetical question, though it often packs more punch than a traditional hypothetical. Another approach takes politicians' best and highest principles and asks how they affect the issue. Still another explores candidates' slogans—for example, by asking *how* they would make abortion rare. Finally, there's the possibility of asking an obvious, but usually overlooked question. ("Sir, have you actually *read* the opinion in *Roe v. Wade*?") Let's explore all of these options.

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A Couple of Thought Experiments

“As a Catholic,” Gov. Bill Richardson of New Mexico says, “I am personally opposed to abortion. As difficult as this decision is, I am committed to protecting the right of every woman to make her own decision and will continue to support the rights of the individual against the mandates of the state.” Rudy Giuliani declares, “I hate abortion. I wish people didn’t have abortions.” Yet he also says that “I would respect a woman’s right to make a different choice.”²

Decades of attacking this claim of a personal/public split have not made a dent. Citing Catholic teaching against abortion hasn’t made much difference, either. In fact, it has intensified a major problem: that many Americans believe abortion is solely a religious issue. It also has reinforced the idea that Catholics are the *only* religious people involved in the politics of abortion. Actually, many people of other faiths are active politically either for or against abortion.³

A great irony is that many politicians do not care very much about the issue. They simply adopt the prevailing view in their political party, especially if they want to compete at the presidential level. Many are not especially religious, either, though they may know how to say “God bless America” and to talk about how their faith has influenced their politics in non-controversial areas. A useful thought experiment for such candidates is: “Well, Governor, let’s pretend, for the sake of argument, that you lost your faith or even that you never had any. Instead of being the, um, devout Christian that we know you to be, imagine that you’re not influenced by any religious doctrine. How, then, would you view abortion? Would you look at scientific evidence on when a human life begins? Would you think you should be *more* committed to protecting human life, since you believe that life on earth is the only one we’ll ever have? Or would you echo the Dostoevsky character by saying that if there’s no afterlife, then everything is permitted?”⁴

These questions are guaranteed to get the candidate’s attention. But you may hear some stammering—and see some panicky, deer-in-the-headlight looks—before you receive answers.

Another thought experiment is this: “Senator, imagine a situation in which most politicians had two sets of convictions, one personal and the other public, on every major issue. Wouldn’t this cause problems in communications with their constituents? Might it raise questions about character and integrity?”

This question is not an academic one. Politicians have used the “personally opposed” ploy for decades in dealing with abortion. Many Democratic

politicians now say they personally oppose the death penalty, yet pledge they will support it as a prosecutor, judge, or governor. In many cases, this stance reflects political pressures and public-opinion polls.⁵ Yet death-penalty laws themselves exert pressure on public officials. Federal judges who believe the death penalty to be wrong on ethical or religious grounds have two choices. They can contradict the obvious meaning of the U.S. Constitution and claim that it forbids the death penalty.⁶ Or they can uphold and apply the death penalty despite their personal convictions, stepping on their consciences and believing that their oaths of office require them to do so. Most states also have a death penalty; so many state judges, prosecutors, governors, and prison wardens face the same problem.

This is one of many reasons why I believe people who oppose abortion, but support the death penalty, should rethink the second position.⁷ The death penalty trains many public officials to go against their ethical convictions; it accustoms them to the personal/public split. It apparently did this with the late Justice Harry Blackmun, author of the 1973 abortion opinions in *Roe v. Wade* and *Doe v. Bolton*. Not long after those decisions, he told a friend in Minnesota: “I share your abhorrence for abortion and am personally against it. Yet, every state in this nation, by statute, permits abortion under at least some circumstances. So it was with the difficult issue of capital punishment. I am personally against it and yet found the Eighth Amendment issue something apart from my personal convictions.”⁸ This in no way excuses the shoddy work of Blackmun and his colleagues in *Roe* and *Doe*. But it does help explain how judges can separate personal convictions from professional action and still sleep well at night.

Senator Ron Wyden (D-Ore.) has a “personally opposed” position on doctor-assisted suicide. He voted against it in 1994, and again in 1997, when it was on the Oregon ballot. He was worried about its impact on the elderly poor, and he remarked that “my religion, Judaism, taught me about the infinite value of human life.” But a majority of Oregon voters twice approved assisted suicide, and Wyden said he would “fight to preserve Oregon’s rights in this matter.” Lobbying the Clinton administration, threatening filibusters in the Senate, and pressing a friend-of-the-court brief in the Supreme Court, he has defeated—or helped defeat—every effort to use federal drug law against Oregon doctors who prescribe drugs for assisted suicide. Although a liberal Democrat, he has become a fierce states’ rights advocate on this issue. Now he says his fears about the elderly poor have proved to be unfounded. But how can he know this? Critics of the Oregon law stress that its reporting requirements are a sham. Since it has no penalties for doctors who fail to report that they have prescribed drugs for assisted suicide,⁹ it looks

suspiciously like an honor system rather than a law.

Had Senator Wyden *led* anti-suicide forces in the 1994 ballot campaign, Oregon might not have adopted its assisted-suicide law in the first place. Oregon voters approved it by only 51-49 percent in '94. But in 1997, they reaffirmed it by 60-40 percent. Soon after, a state agency decided to fund assisted suicide for poor people under the Medicaid program. "The commission decided it would be discriminatory if the poor were not allowed access to this medical service," the agency head explained. So killing is now a "medical service" that the state is happy to fund for poor people. Just as it funds abortions for the poor.¹⁰

Politicians, and the rest of us, should not try to have it both ways. Especially on issues of life and death, our personal and public positions should be the same. This leads to consistent action on our convictions—and to those many-splendored words, "honor" and "integrity." It would be good to have serious discussion of those words during the presidential campaign. "Senator, is there any conviction you would risk your political career over? Anything you feel that deeply about?"

Or a candidate might be asked to comment on the great play about conscience in politics, *A Man for All Seasons*, which attributes these words to Sir Thomas More: "I believe, when statesmen forsake their own private conscience for the sake of their public duties . . . they lead their country by a short route to chaos."¹¹

Best and Highest

Following the best and highest principles of either liberals or conservatives leads to a pro-life stance. At their best, liberals fiercely defend the little people of our country: poor people, blue-collar workers, immigrants, political dissidents, ethnic minorities, mental patients, the abused and the neglected. This tradition should lead to a strong defense of unborn children. There is no one smaller, weaker, or more defenseless than an unborn child. So one might ask: "Governor, in the debate over destroying human embryos to obtain their stem cells for research: Do you have any trouble with the idea of declaring the smallest human beings to be 'surplus' and denying them all legal protection? Or with the idea of dividing children into the 'wanted' and the 'unwanted' and saying that it's a good idea to abort the 'unwanted'?"

Old-time liberals were optimistic about the possibility of progress. They looked to the future with hope instead of despair, and they saw children as a sign of hope. They didn't think poverty or other handicaps predestined children to failure and unhappiness. Instead, they demanded, "Let's change

conditions that keep people down. *Right now!*” So an interviewer could say to Senator Barack Obama (D-Ill.), “Senator, you have impressed many Americans with your book about *The Audacity of Hope*.¹² Why aren’t you hopeful about the possibilities for unborn children?”

The civil-libertarian stance of liberal Democrats depends on the right to life itself. The dead have no freedom of speech, freedom of the press, or right of assembly. They have no right to trial by jury or equal protection of the laws. Legalizing the homicide of one class of human beings destroys, in one fell swoop, both their right to life and all of their other rights. In principle, it also places at risk the rights of everyone else. All of this should be self-evident to civil libertarians. So when Senator Obama says that he trusts women to make the abortion decision,¹³ it’s well to ask, “But doesn’t this violate the right to life proclaimed by our Declaration of Independence? And why do you trust the powerful with a decision on whether or not to destroy those who have no power?” One might also ask Obama, who used to teach constitutional law, about a statement by the late Eugene Quay. An attorney who fought the elite of his profession as they sought to loosen restrictions on abortion in the late 1950s, Quay told his colleagues that “the state cannot give the authority to perform an abortion because it does not have the authority itself. Those lives are human lives, and are not the property of the state.”¹⁴

The medieval notion of chivalry has influenced the conservative tradition, and chivalry requires defense of the weak and oppressed. And conservatives at their best always defend the principle of justice. Edmund Burke, the British statesman and conservative hero, exemplified this in his efforts to secure justice for England’s colonies in America and by his criticism of British oppression in India. Abraham Lincoln and his Republican Party demonstrated it in their opposition to slavery. A conservative interviewer, noting this tradition, could approach Rudy Giuliani this way: “You have said, Mr. Mayor, that abortion choice should be left to the woman, since she is the one probably most affected by the decision.¹⁵ But isn’t the unborn child—whose life is at stake—more radically affected? Isn’t abortion a terrible *injustice* to the child?”

Conservative candidates such as Senator John McCain (R-Ariz.), who oppose abortion but support embryonic-stem-cell research, should also be asked about justice. Do they believe it is all right to destroy human embryos in order to obtain their stem cells because the embryos cannot feel pain? Pain is not the primary ethical issue in killing. If we anesthetize people and then kill them, that does not make homicide acceptable. The basic objection to any homicide is that for one human being it ends life itself—sheer existence

and all the good that comes with it. Inflicting pain adds to the injustice, but the greater evil is destroying life. Conservatives like McCain should also ponder a comment by Rev. Russell E. Saltzman, a Lutheran pastor and a diabetic who—theoretically at least—could be helped personally by the results of embryo research. Saltzman said it “is not right for big, strong human beings to benefit themselves by preying upon weak, little human beings.”¹⁶

Conservatives believe people should take responsibility for the results of their own actions. In the abortion context, this is best expressed by saying that parents have obligations toward the children they bring into existence. The first obligation here, as in medicine, is “Do No Harm”; the second is to provide the care and training children need until they can provide for themselves. *These obligations apply equally to both parents.* Most of the 2008 candidates are men, and it would be good to hear them speak about men’s responsibility to their own children. To help them along, a presidential debate moderator might ask, “Is abortion really just a women’s issue? How about the men who abandon wives or girlfriends who are pregnant—or pressure them to have abortions? Would you like to send any message to American men about such behavior?” Millions of women would like to hear these questions asked, and millions of men need to hear good answers. Not just counsel to meet their obligations, but also some words about the joy children can bring to their lives.

The view that the right to life of the unborn conflicts with a parental right to liberty is of recent vintage—and should be challenged strongly. The right to life underlies and sustains our right to liberty as well as our other rights. Correctly interpreted, the rights to life and liberty are in harmony; the key is to acknowledge that both apply to *all* human beings.

Yet Senator Hillary Clinton (D-N.Y.), a strong supporter of *Roe v. Wade*, has used examples of two Communist dictatorships to suggest a conflict between the two rights. In the old Romania, she said, the government wanted more children; so women “were rounded up at their workplaces” monthly and taken to clinics where they were “told to disrobe while they were standing in line” and were “examined by a government doctor with a government secret police officer watching.” If pregnant, she said, they were closely watched to be sure they “didn’t do anything to that pregnancy.” In China, she added, women were allowed to have only one child, were monitored closely, and could be forced to have abortions or sterilization to prevent more births.

It’s not clear why Senator Clinton put her description of Chinese practice in the past tense, because coercive population control is still widespread in China.¹⁷ Nor is it clear why she implied that states in the U.S. might go from

banning abortion to monitoring women's reproductive cycles. They didn't do that when abortion was illegal in the past. "Senator," an enterprising reporter might ask, "don't Romania and China have histories and traditions radically different from ours? Wouldn't our traditions and our Fourth Amendment's ban on unreasonable searches prevent what happened in Romania and what still happens in China?" Another reporter might ask, "When some of our states had laws authorizing compulsory sterilization of the 'feeble-minded,' didn't those laws come from eugenics, rather than from abortion opponents? And haven't eugenicists supported abortion, especially for minorities and for the handicapped unborn?"¹⁸

Democratic candidate John Edwards, the former senator from North Carolina, should also be pressed on the eugenics question. Edwards, often viewed as a champion of poor people, told NARAL Pro-Choice America that "I support public funding for abortion services for low-income women and others who depend on government for their healthcare." Public funding of abortion is one reason why minority and poor women have an abortion rate far higher than white and middle-class women. "Senator," a brave reporter might ask, "haven't you and other liberals done much of the heavy lifting for eugenics?" Or an interviewer might ask him about a remark by Ellen McCormack, who once ran as a pro-life Democratic presidential candidate. "Abortion is put forth as a solution for the poor," McCormack said, "but I think the poor want better housing, more jobs and food on their tables. I don't think aborting their babies makes them any happier. I think it probably contributes to their misery."¹⁹

Of the 2008 presidential candidates now in the race, all of the Democrats and Rep. Ron Paul (R-Tex.) oppose the war in Iraq. Paul, an obstetrician by occupation, also opposes abortion; but the antiwar Democrats support it.²⁰ If the Democrats viewed abortion as another type of warfare, some might have second thoughts. Abortion doctors do not even pretend to meet just-war standards. They kill civilians only—and the smallest, youngest civilians who cannot defend themselves or escape. Euphemisms abound in both war and abortion. Some people speak of "softening up" an adversary with a bombing campaign or "taking out" a leader or troop concentration. Others talk about "terminating a pregnancy" or "evacuating the products of conception." Just as new generations of weapons make warfare more horrendous, new techniques of abortion do the same: suction machines and saline abortions, followed by D & X (or partial-birth) abortion. Many people who work in abortion clinics suffer long-term reactions—nightmares, drug and alcohol abuse, thoughts of suicide—similar to those of many combat veterans.²¹ So a question for any candidate opposed to the war is: "What about the violence and

killing involved in abortion? Shouldn't you oppose that as well? Shouldn't you offer peaceful alternatives to it?"

Taking Slogans Seriously

We are so used to slogans and sound bites that they become background noise. Often, though, it's worthwhile to ask what a slogan really means. Supporters of legal abortion have glorified the concept of the "right to choose." Usually, though, they neglect to say what choice they have in mind, because they want to avoid the word "abortion." So we hear "pro-choice" and "pro-choicers," "freedom of choice" and even "the choice issue."

Interviewers might break through the euphemisms and the rhetorical fog by asking, "So why should we worship at the shrine of choice?" They could note that most of us are anti-choice on some issues. Liberal Democrats, for example, tend to be anti-choice on racial discrimination, domestic violence, torture, the death penalty, and most wars. Many conservatives agree with part of that list, and some agree with all of it. Virtually everyone, except the "perps" themselves, opposes rape, assault and battery, and ordinary homicide. "What's wrong with being anti-choice on abortion, Governor? In our scale of values, shouldn't human life rank higher than choice?"

Several candidates who support abortion choice also say we should try to reduce the number of abortions or even make them rare. Rudy Giuliani often mentions adoption as an alternative and notes his efforts to increase adoptions when he was Mayor of New York. We need more discussion of this issue in the presidential debates. In "open adoption," a birth mother receives photos and letters about her child from the adoptive parents, and may even have regular visits with her child. How is this working in practice? Why do so many Americans adopt children from other countries? Have the federal tax credits for adoption had much effect? How about the federal Adoption and Safe Families Act of 1997—how effective is that? The federal government is more deeply involved in adoption than most people realize, and federal candidates should be aware of the federal programs and their results. At least two Republican candidates, Senator Sam Brownback of Kansas and Senator John McCain of Arizona, have adopted children as well as birth children.²² Perhaps they could encourage more Americans to take a serious look at the adoption alternative.

Perhaps Senator Clinton could do the same. According to Clinton, she and the late Mother Teresa "shared the conviction that adoption was a vastly better choice than abortion for unplanned or unwanted babies." Abortion foes remember well the 1994 National Prayer Breakfast in which Mother Teresa delivered a strong pro-life message in the presence of President and

Mrs. Clinton. Less well known is the fact that Mother Teresa met with the Clintons after that talk and asked Mrs. Clinton to help her establish a home for babies awaiting adoption in Washington, D.C. Mrs. Clinton, now Senator Clinton, did help set up the home and took part in the opening ceremony in 1995—something that columnist Cal Thomas called “a gracious and pro-life act.” Thomas thought Clinton was “serious about this” and “should be taken at her word and encouraged to raise the adoption alternative as often as she can.”²³

Candidates should also be asked about the work of pregnancy-care centers around the country. Are existing centers doing an adequate job in providing information, maternity and baby supplies, housing where needed, and referrals to other agencies? Should they receive federal government subsidies (as many do now for abstinence education) or state subsidies (as they already do in several states)?²⁴ This discussion could provide useful education for the public. Many Americans are totally unaware of the pregnancy-care centers, or else know of them only through abortion groups’ attacks on them. It would be good for them to hear about the work of Heartbeat International, Care Net, the National Life Center, Birthright, and the Nurturing Network. It would be good for them to know that the centers need and welcome more volunteers.

Interviewers might also ask presidential candidates about the Democrats for Life proposal for federal legislation to reduce abortions. Rep. Lincoln Davis, a Tennessee Democrat, recently introduced this in the House as the Pregnant Women Support Act. Many pro-life Democrats in the House are co-sponsors. So are Rep. Chris Smith of New Jersey, the veteran pro-life Republican leader, and Rep. Duncan Hunter of California, one of the Republican presidential candidates. The bill would authorize grants to states for advertising campaigns on help that’s available to pregnant women and new parents. It would support adoption counseling and provide useful information to parents of handicapped babies. It would counter economic pressures that push many people toward abortion.²⁵ Discussion of the bill during presidential debates could help steer the national conversation on abortion to a far greater emphasis on positive alternatives.

The only problem is that Rep. Tim Ryan (D-Ohio), who generally votes against abortion but is very pro-contraception, introduced a bill with many provisions similar to that in the Davis bill. But it waters down some of the Davis provisions—and also promotes “family planning” (which in practice includes abortifacients). The Democratic House incorporated a version of the Ryan bill into a huge appropriations bill it passed in July. Included was a major increase in funding for the Title X “family planning” program—and

thus for Planned Parenthood, the biggest promoter and provider of abortion in the country.²⁶ (As of this writing, the bill faces a conference committee with the Senate.) Democratic presidential candidates are likely to say they support the Ryan provision as a wonderful initiative to reduce abortions. So anyone who talks about the Democrats for Life proposal should understand what may prove to be a very successful effort to co-opt it.

Overlooked Questions

One obvious question for a “personally opposed” candidate is: “Governor, *why* are you personally opposed to abortion?” Or to Rudy Giuliani, “Mr. Mayor, what is it about abortion that you hate? Do you just hate surgery in general—or is there something about destroying a human life that troubles you at a deep level?” If sufficiently drawn out about their personal views, some of the candidates themselves may begin to wonder about the personal/public split and the question of integrity.

For many years, Democratic presidential candidates have treated *Roe v. Wade* as sacred writ that must be defended at all costs. The current crop of Democratic candidates runs true to form. It would be extremely interesting to find how many of them actually have read the verbose opinions in *Roe* and its companion case, *Doe v. Bolton*. Do they realize, for example, that *Doe*’s extremely broad version of a mother’s health (“all factors—physical, emotional, psychological, familial, and the woman’s age”)²⁷ means that an abortion may be done at any stage of pregnancy and for any reason? Just placing this truth before a national audience would be a major achievement. Prompting Democratic candidates to back away from the *Doe* health definition would be an even greater one.

It would also be useful to find how many candidates of either party have read criticisms of *Roe* by legal scholars. A few of the lawyers may have done so. Senator Joseph Biden (D-Del.) once acknowledged that most constitutional experts do not present *Roe* as an opinion “that is well written and well reasoned.” It would be fair to ask him, then, why he fights so fiercely against every Supreme Court nominee who might vote to overturn it.²⁸ Publications such as *Legal Times* and the *National Law Journal* should ask candidates about criticisms of *Roe* from legal scholars of the left, right, and center.

There are legions of good questions to ask the presidential candidates about *Roe*. All can help millions of American voters in the hard work of sorting through the candidates. Some questions may even lead one or two major candidates to qualify their support of *Roe*. And when *Roe* begins to weaken from within, final blows from the outside may destroy it quite

suddenly. In “Darby’s Castle,” the song by Kris Kristofferson, the castle seemed impressive and should have lasted a very long time. “And the gables reached as high as the eagles in the sky / But it only took one night to bring it down.”²⁹

NOTES

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Sacred Cows, Whole Hogs & Golden Calves

Paul Benjamin Linton

The pro-life movement is bedeviled by three ways of thinking that seriously impede its progress in eradicating the scourge of abortion from our law and our land. The first, which I call the “Sacred Cow” syndrome, is the uncritical acceptance of the opinions of certain legal experts—law professors and others—whose advice is unsound in theory and counterproductive in practice. The second, which I call the “Whole Hog” mentality, is the conviction that nothing short of an outright prohibition of all abortions (except, perhaps, those necessary to save the life of the mother) is ethically acceptable. The third, which I call “Golden Calf” worship, is the belief that recognition of the “personhood” of the unborn child—through a Supreme Court decision or a constitutional amendment—will make all (or virtually all) abortions illegal throughout the United States.

I was forcefully reminded of these ways of thinking when I read a report of an interview Charles E. Rice, professor emeritus of law at Notre Dame, gave to a Colorado radio station (KGOV) on December 12, 2006. Professor Rice is an editor of the *American Journal of Jurisprudence*, chairman of the Center for Law & Justice International (New Hope, Ky.), a director of the Thomas More Center for Law and Justice (Ann Arbor, Mich.), and visiting professor of law at Ave Maria Law School (Ann Arbor). He is regarded as the preeminent legal expert in the pro-life movement by many individuals and organizations, including the American Life League, to whom he serves as a consultant. He is well known for his “purist” views on abortion and his criticisms of “incremental” efforts to cut back on the number of abortions through laws regulating abortions. He is also known for his support of efforts to establish the constitutional “personhood” of the unborn child, either through litigation or by a constitutional amendment. I cite Professor Rice because many in the pro-life movement follow (or share) his views. For the good of the movement, however, those views need to be confronted and challenged.

In his December 12, 2006, radio interview, Professor Rice expressed the opinion that if *Roe v. Wade* were overruled and the issue of abortion returned to the states, hundreds of laws *regulating* abortion would have to be

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repealed before laws *prohibiting* abortion could be enacted, because such regulatory laws recognize abortion as a lawful procedure. (Professor Rice cited the Indiana informed-consent law as just one example.) But this reasoning does not withstand even a moment's scrutiny, and fails utterly to take into account why abortion regulations were enacted in the first place.

It is a basic rule of statutory construction that, to the extent an earlier enacted law conflicts with a later enacted law, the latter repeals the former even if the later law does not expressly repeal the earlier law. This rule is known as the doctrine of implied repeal. Although state legislatures that intend to enact laws *prohibiting* abortion *may* decide to repeal their existing laws *regulating* abortion, they would not have to do so in order to enact a prohibition. They could simply enact the prohibition—which, under the implied-repeal doctrine, would repeal the mass of laws regulating abortion to the extent that they conflict with the prohibition (arguably, the regulations would continue to apply to those few abortions that were not prohibited under the new law).

Professor Rice may deplore the adoption of abortion regulations because, for the most part, they were part and parcel of legislation repealing pre-*Roe* abortion prohibitions. Although, as a legal matter, pre-*Roe* prohibitions did not need to be expressly repealed in order to enact post-*Roe* regulations, as a political matter the pre-*Roe* laws may have been repealed as the price that had to be paid for enacting any laws regulating abortion. The regulations were aimed at restricting the “abortion liberty” to the maximum extent allowed by law, and providing a series of test cases for determining and limiting the ultimate reach of that “liberty.” This strategy is generally known as “incrementalism.”

The incremental strategy seeks to reduce the number of (and perceived need for) abortions, while simultaneously chipping away at the foundations of *Roe v. Wade* until the Supreme Court is prepared to discard whatever remains of *Roe*. In *Planned Parenthood v. Casey* (1992), the Supreme Court reaffirmed what it characterized as the “core holding” of *Roe*, that states could not prohibit abortion before viability. The Court's failure to overrule *Roe* (which both “purists” and “incrementalists” had sought) obviously disappointed the pro-life movement and certainly set back efforts to restore state authority to protect unborn human life. At the same time, however, it must be noted that *Casey* upheld much broader state authority to regulate abortion before viability than had theretofore been allowed. In so doing, the Court overruled, in part, two of its earlier decisions, *City of Akron v. Akron Center for Reproductive Health* (1983), and *Thornburgh v. American College of Obstetricians & Gynecologists* (1986).

As a result of the Court's decision in *Casey*, states may impose meaningful and detailed informed-consent requirements for both adults and minors; may insist that some or all of the information given to women be provided by physicians themselves, as opposed to their agents; may impose short waiting periods for both adults and minors; and may require the informed consent of a parent of a minor seeking an abortion. Many states have seized the opportunities offered by *Casey* and have enacted legislation consistent with that decision. There is now an impressive body of peer-reviewed statistical evidence set forth in social-science and economics journals—journals that cannot be described as pro-life in any respect—that regulatory legislation, particularly parental-notice or parental-consent laws and public-funding bans, as well as mandatory waiting periods, significantly reduces the number of abortions. In addition to the impact of these measures, adoption of comprehensive clinic regulations has driven many marginal abortion operators out of business. Fewer abortions and fewer abortion clinics mean more lives saved.

None of this appears to mean much to Professor Rice, however. In both his radio interview and his published writings, he has described laws regulating abortion, such as parental consent or notice and informed consent, as “unwise,” and neither “practical” nor “prudent” (Rice, *The Winning Side: Questions on Living the Culture of Life*, St. Brendan's Institute, 1999, p. 227), but not necessarily immoral (pp. 226-27, 229-31). He concedes that these laws reduce the numbers of abortion (“a requirement that an unmarried minor obtain parental consent before an abortion does decrease the number of abortions from those under a previously unrestricted law,” p. 239), but asserts that they implicitly, if not explicitly, recognize abortion as a lawful procedure and undermine the principle that “human life must be legally respected” (p. 236).

Professor Rice poses the questions: “If every abortion is the murder of an innocent human being, how can a movement be pro-life unless it insists that the killing be stopped, absolutely? Is it effectively pro-life to ‘settle’ instead for a rule that the killings can be done only for certain reasons, under certain conditions and with prescribed formalities?” (p.236). “The incremental approach,” he concludes, “should be rejected not as necessarily immoral but as counterproductive” (p. 237). Rice advocates a “no exceptions” strategy under which pro-life legislators “would decline to vote for laws that provide funding for *any* abortions [including life of the mother], laws that outlaw abortions subject to exceptions such as life of the mother, rape, incest, etc., or laws that equate abortion to getting one's ears pierced by allowing it for a

minor provided she has parental consent, or the approval of a court, before she can legally kill her child” (p. 243; italics added).

What are the practical consequences of adopting such a “no exceptions” strategy, that is, a strategy that forsakes the opportunity to reduce the number of abortions through practical, regulatory measures in the name of maintaining a theoretical moral consistency? The consequences, which cannot be denied, are that tens of thousands of unborn babies who might have been born alive—because of a parental-consent or parental-notice law, an informed consent law, a law mandating a waiting period, a law denying public funding of abortions (subject to the exceptions for life, rape, and incest currently required by the Hyde Amendment), or a law making it more difficult for an abortion clinic to operate—will instead die at the hands of abortionists.

Professor Rice and those who follow (or share) his views may view this consequence with equanimity. I cannot. In my judgment, it is profoundly *immoral* not to save those lives that can be saved, even if—for the time being, because of the Supreme Court’s abortion jurisprudence—not all can be saved. Unlike the “purists” who insist on a morally perfect law (which may not be politically possible, as the failure of South Dakota’s abortion referendum last fall revealed), “incrementalists” recognize that we live in an imperfect society and that there are many thousands of lives that can be saved by regulatory measures that fall short of outright prohibition. Incrementalists certainly do not disagree with purists about the end to be achieved (establishing legal protection for *all* unborn human life), but they vigorously disagree with them that *some* legal protection is worse than *none* while we all work toward completely just laws.

And for those who look to the Roman Catholic Church for moral guidance in this area, it must be noted that the official teaching of the Catholic Church disagrees with the purists, as Professor Rice himself acknowledges (pp. 225-27, where he recognizes, with certain qualifications, that incremental laws are morally defensible if, in his view, impractical and imprudent). In his encyclical *Evangelium Vitae* (“The Gospel of Life”), the late Pope John Paul II made it crystal clear that it is morally permissible to support and vote for imperfect laws so long as “perfect” laws (which remain desiderata) are not politically achievable and the “imperfect” laws represent an improvement in restricting abortion over the legal status quo. That is precisely what abortion regulations achieve. It may not be possible to rescue everyone from a sinking ship, but surely it would be immoral and irresponsible not to save *some* simply because not *all* could be saved. And to take an example from our own history, it may not have been politically possible, before the Civil War and the Reconstruction Amendments, to eliminate slavery

in the Southern States, but it was certainly within Congress's power to ban slavery in the federal territories. Was such legislation "immoral" because it did not tear out slavery root and branch from the entire country?

Many in the pro-life movement entertain the fond hope that the Supreme Court may be persuaded—someday—to recognize the "personhood" of the unborn child under the Fourteenth Amendment, based upon the scientific and medical evidence of the child's humanity. Forsaking any effort at saving lives now by incremental legislation, purists gaze at this far horizon and sigh, "If only it were so." But, in the absence of a constitutional amendment defining the unborn child as a constitutional person (which, for reasons discussed below, is no legal panacea either), the prospect of a Supreme Court decision adopting personhood is *exactly* like the horizon—you can see it, but you can't get there. (I have previously written on this subject—in "How Not to Overturn *Roe v. Wade*," *First Things*, November 2002—and refer interested readers to that article. I will just briefly touch on the highlights of that article here.)

In *Roe v. Wade*, the Supreme Court held that the unborn child is not a "person" within the meaning of the Fourteenth Amendment. Although both Justice White and then-Justice Rehnquist dissented from the Court's *other* holdings in *Roe* (recognizing a fundamental right to obtain an abortion, devaluing the state's interest in "potential" life prior to viability, and adopting the trimester scheme), neither justice dissented from the "personhood" holding. Indeed, *nineteen* justices have sat on abortion cases since *Roe v. Wade* was decided—and not one has ever said that the unborn child is, or should be regarded as, a constitutional "person." Anyone who doubts this need only refer to Justice Scalia's dissent in *Casey*. Justice Scalia wrote, "The States may, if they wish, permit abortion-on-demand, but the Constitution does not require them to do so." This statement, in a dissent that Chief Justice Rehnquist, Justice White, and Justice Thomas joined, quite obviously is not compatible with a recognition of constitutional personhood.

The notion that the Supreme Court can be forced to recognize that, as a matter of scientific and medical evidence, the unborn child is a human being—*i.e.*, that it is alive, developing, and genetically human—is equally naive. In his *Casey* dissent, Justice Scalia wrote that the question of when human life begins is not "a legal matter" capable of resolution by a court, but, instead, is "a value judgment" that may be made only by the political branches of government. That hardly suggests that Justice Scalia, much less the other members of the Court, is willing to resolve the question of when human life begins. That may come as a shock to many, but it should be very sobering to

all. To speak in spiritual terms, the problem with the Supreme Court is not an intellectual one (inadequate information about the unborn child), but a volitional one (an unwillingness to recognize the obvious). Every justice on the Supreme Court understands that the purpose and effect of an abortion is to kill an unborn child.

Even if the Court were willing to consider a “personhood” decision (for which there is no evidence whatsoever, as Professor Rice admitted in his December 12, 2006, radio interview, and in his book, *The Winning Side*, at p. 243), the legal impact of such a decision (or its equivalent, the Paramount Human Life Amendment, which Professor Rice endorses) would be considerably less than what Professor Rice and others claim for it. With the exception of the Thirteenth Amendment, which prohibits slavery and involuntary servitude, the Constitution is a limitation on *governmental* conduct, not *private* conduct. The Due Process Clauses of the Fifth Amendment and the Fourteenth Amendment prohibit the federal government and the states from depriving anyone of life, liberty, or property “without due process of law.” These clauses do not apply to the conduct of private parties, as the Supreme Court has made clear on numerous occasions (see, e.g., *DeShaney v. Winnebago County*). But virtually all abortions are performed by private physicians in their own offices or by physicians operating in freestanding clinics that have no governmental affiliation. Recognizing the “personhood” of the unborn child would not affect the legality of those abortions under the Due Process Clauses.

Nor would a “personhood” decision provide protection to unborn children under the Equal Protection Clause of the Fourteenth Amendment. Although a “personhood” decision might prevent states from enacting laws *allowing* abortion, it would *not* require states to enact laws *prohibiting* abortion. The states, in fact, might choose to have *no* law on abortion, in which case abortion would remain legal. Most states are so-called “code” states, which means that conduct is not criminal unless it is defined and proscribed by a statute of the state. If the state fails to define certain conduct as a crime, then it is not criminal to engage in that conduct. Even in the minority of states that recognize “common law” crimes, abortion was not generally recognized as a crime in English and American common law before “quickening,” the stage of pregnancy when the pregnant woman first detects fetal movement (usually 16 to 18 weeks’ gestation), as the Florida Supreme Court observed in a pre-*Roe* decision, *State v. Barquet* (1972). But the vast majority of abortions are performed long before “quickening.” The upshot is that, in the absence of a law prohibiting abortion, abortion would remain legal, notwithstanding a “personhood” decision.

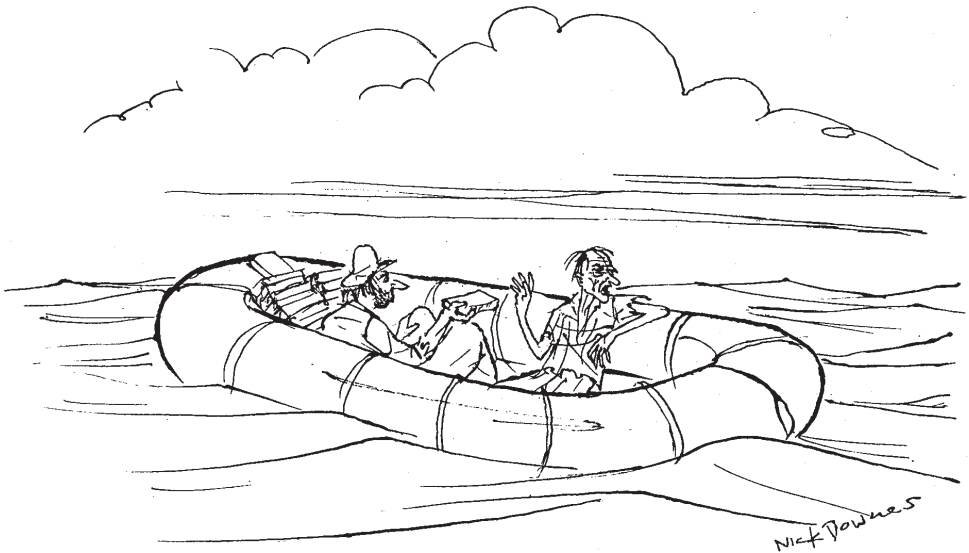
Advocates of “personhood” have argued that if the Constitution is interpreted (or amended) to define the unborn child as a constitutional “person,” then it would violate the Equal Protection Clause for a state not to treat the killing of an unborn child any differently than the killing of a person who has already been born. Even if that argument is conceded, what is the practical judicial remedy for such an equal-protection violation? No court, especially no *federal* court, is empowered to extend, by court decision, the reach of a *state* criminal statute to conduct that the statute clearly does not cover (e.g., extending homicide statutes, which generally apply only to born persons, to the unborn). In the alternative, a court, in theory, could hold that the homicide laws are unconstitutional (because they fail to treat born and unborn victims the same) and threaten to strike them down unless the legislature promptly extends the homicide laws to unborn children. Any bets on whether a court—state or federal—is likely to do that?

Finally, even on the unlikely supposition that a “personhood” decision (or amendment) would authorize courts to require homicide laws to be extended to the unborn, extension of homicide law principles to abortion would result in some unforeseen consequences. First, pregnant women themselves would not be exempt from criminal prosecution, as they generally were under pre-*Roe* abortion laws (there is no record in American law of any woman having been prosecuted, convicted and sentenced for consenting to an abortion or having performed an abortion on herself.) There is no “maternal” exception to the homicide laws for the killing of a *born* child. Thus, there would be no such exception for killing an *unborn* child if the homicide laws were to apply to the born and unborn alike. Second, if the homicide laws were applied to abortion, it is at least arguable that abortions could be performed for reasons relating to the pregnant woman’s physical health. Under self-defense principles recognized in all states, a person may use lethal force not only to prevent death, but also to avoid serious (or grave) bodily injury.

In sum, there is no basis for believing that the Supreme Court would recognize the “personhood” of the unborn child, absent a constitutional amendment. Moreover, neither a “personhood” decision nor a “personhood” amendment would require states to adopt laws prohibiting abortion, at least no requirement that could be judicially enforced. To place the legal protection of unborn children beyond the power of a court or legislature to deny would require a constitutional amendment, but one that directly addresses abortion *qua* abortion. A “personhood” amendment, *by itself*, would not provide that protection. The pursuit of “personhood,” especially as an alternative to reducing abortions through appropriate regulatory measures, is a counsel of despair dressed up in the guise of a false hope.

PAUL BENJAMIN LINTON

Everyone in the pro-life movement must work toward the day when *Roe v. Wade* is overruled and the states (and the federal government) have the authority, once more, to extend the protection of the law to the most vulnerable members of the human family. Until that day, however, we should also work toward reducing the number of abortions by appropriate regulatory legislation. Such legislation saves lives and reduces the perceived need for abortion. In the battle between the “purists,” who will not act to save a single life unless they can save all, and the “incrementalists,” who want to save all but are willing to save some rather than see all perish, it should not be difficult to see who occupies the moral high ground.



“Please. Have you any idea what goes in those survival meals?”

The Foundations of American Freedom

Patrick J. Mullaney

Anthony DeCicco, 73, the former mayor of Raritan, N.J., is known to his friends by the nickname “Shakey.” While he was mayor, DeCicco couldn’t help but notice the conduct of some of Raritan’s young: They’d taken to congregating near Shakey’s restaurant on First Avenue and using language that offended the sensibilities of the town’s passing citizens, in particular its elderly. Under his leadership, Raritan responded by enacting into law an ordinance—under the municipal Peace and Good Order Code—simply outlawing the use of obscenity in public.

This caused a predictable stir. The cry came that our liberties were at risk, that a despot was at hand. But those who knew Shakey couldn’t see it that way. They saw Shakey not as attempting to restrict the liberty of speech, but rather to define its proper scope, toward the end of protecting innocent folks from embarrassment at the hands of those who did not properly regard their dignity. To the people of Raritan, what’s right is right.

Through this small event, Anthony DiCicco had raised a much larger issue. He had acted upon the proposition that freedom of speech, freedom in general, has an external condition: an inherent requirement of decency in its exercise. In fact, he seemed to be saying that a freedom without that requirement is not a freedom at all. It is an abuse.

At about the same time, the question of freedom was being considered in another part of the world by another man, John Paul II. As we’ll see, in their different ways these two men shared much the same thoughts, thoughts worthy of a deeper look both for their contents and for what they imply about the American experiment.

While Shakey began with a concern for Raritan’s elderly, John Paul II began with a concern for saving souls. In his 1993 encyclical, *Veritatis Splendor*, he called attention to a passage in the Gospel of Matthew: “Then someone came to Him and said, ‘Teacher, what good must I do to have eternal life?’ and He said to him, ‘Why do you ask me about what is good? There is only one who is good. If you want to enter into life, keep the commandments.’ He said to him, ‘Which ones?’ And Jesus said, ‘You shall not murder; you shall not commit adultery; you shall not steal; you shall not bear false witness; honor your father and mother; also you shall love your neighbor as yourself.’”¹

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John Paul II comments on the passage as follows:

From the context of the conversation, and especially from a comparison of Matthew's text with the parallel in Mark and Luke, it is clear that Jesus does not intend to list each and every one of the commandments required in order to "enter into life", but rather wishes to draw the young man's attention to the "*centrality of the Decalogue* . . . Nevertheless we cannot fail to notice which commandments of the Law the Lord recalls to the young man. They are some of the commandments belonging to the so-called "second tablet" of the Decalogue, the summary (cf. *Rom* 13:8-10) and foundation of which is *the commandment of love of neighbor*: "You shall love your neighbor as yourself" (*Mt.* 19:19; cf. *Mk* 12:31). In this commandment we find a precise expression of *the singular dignity of the human person*, "the only creature that God has wanted for its own sake." The different commandments of the Decalogue are really only so many reflections of the one commandment about the good of the person, at the level of the many different goods which characterize his identity as a spiritual and bodily being in relationship with God, with his neighbor and with the material world . . . The commandments of which Jesus reminds the young man are meant to safeguard *the good* of the person, the image of God, by protecting his *goods* . . .²

As the path to eternal life is freely chosen (or rejected), a proper understanding of freedom is essential. John Paul II writes: "The commandments thus represent the basic conditions for love of neighbor; at the same time they are the proof of that love. They are the *first necessary step on the journey towards freedom; its starting point.*"³ Freedom, according to John Paul II, is found within the reality of God, accepted in faith. Its exercise is conditioned by religious truths—the commandments, the obligation to love one's neighbor, and, ultimately, the dignity of the human person. Faith in God, truth, and freedom are thus inexorably intertwined, freedom being attached in an "essential and constitutive relationship to [religious] truth," each working in a fundamental and harmonious relationship and placing them all "at the service of the practice of love,"⁴ at the service of the dignity of the human person.

It is also worth noting that freedom is a journey.⁵ One does not begin by being free. Peoples, families, nations—all become free by perfecting their relationship with truth. That being so, we should be able to observe any journey towards freedom, or away from it; our observations will reveal the journey's constituent steps. We may ask what particular exercises of freedom have led to what destinations; what has been a good result; what has been a bad result, and why?

America's journey towards freedom was taken up by Yale Law School's Akhil Reed Amar in his recent work *America's Constitution; A Biography*.⁶ Professor Amar frames the trip in terms of the Great Seal of the United States, describing it as "a grand yet perpetually unfinished pyramid gesturing upward, with a blank space next to the apex"⁷ that is waiting to be filled.

He also uses as a metaphor the physical layout of the Constitution itself, noting that America's journey is marked by what originally constituted us—the 1789 Constitution—and what has changed about us—its Amendments. Upon each Amendment the original Constitution has not been edited. Rather, each has been added to it, allowing both the original contents and those later substituted to remain in place. The Constitution and its Amendments thus collectively mark a 218-year journey, evidencing the evolution of American values in a document holding possibly “more in its postscript than in its original composition.”⁸

While America's journey toward freedom is a vast topic, it may be best understood through the prism of slavery. Slavery permeated America's original political climate, as reflected in its original Constitution. For example, Article I granted legislative power to slaveowners, through its “Three Fifths” Apportionment Clause that allocated congressional seats to individual states based upon population, and, in turn, defined population partially in terms of slave ownership. That is, a state's population was determined in Article I by adding “*To the number of free persons . . . three-fifths of all Other Persons.*” Those Other Persons—counted as “three-fifths” of a person through compromise of the Founders—were, of course, slaves, making slave ownership a sanctioned path to political power.

Slavery's political influence extended beyond Congress to the presidency. Under the original Constitution, the Electoral College influenced the election of the president much more than it does today—and its membership requirements were based in part upon how many seats a state had in the House. Indirectly, then, through Article I's Three-Fifths Clause, slavery affected the election of the president and, thereafter, his appointment of cabinet members and judges, including those of the Supreme Court.⁹

Slavery's constitutional effects extended beyond the broadly political to the very detailed and practical. The Fugitive Slave Clause of Article I required that any slave escaping from one state into another be “delivered up on Claim of the Party to whom such Services or Labour be due.” Free states were thus forced to return runaways to slave states. And the institution itself was protected by Article I, Section 9, which banned congressional prohibition of the slave trade—delicately described as the “Migration or Importation . . . of Persons”—for nineteen years, until 1808.

Subsequent events have saved the Founders from being regarded with revulsion rather than reverence.¹⁰ While slavery's ultimate consequence was the horrors of the Civil War, the Reconstruction aftermath was legally impressive. Between 1865 and 1870, slavery was banned (the 13th Amendment),

former slaves were afforded citizenship and the guarantees of due process and equal protection of the laws (the 14th Amendment, Section I), congressional seats were apportioned by counting the “whole number of persons in each State” (the 14th Amendment, Section II), and the right to vote was guaranteed regardless of “race, color or previous condition of servitude” (the 15th Amendment).¹¹ These democratic principles have also been manifested in legislative acts such as the Civil Rights Act of 1964 and numerous judicial acts, including *Brown v. Board of Education* in 1954.¹²

America’s history with slavery, preserved within the Constitution, demonstrates a progression of values, of the correction of prior imperfections with standards that are more just. That progression evidences a change in America’s exercise of freedom since the Founding, one in accord with John Paul II’s conditions: substantive choices ultimately grounded in the reality of God and the action of faith, yielding the truth of the dignity of the human person. To use John Paul II’s words, in America’s journey from slavery to freedom “the good of the person” has been safeguarded “by protecting his goods.”¹³

Having survived its flawed beginning, America now faces another difficult challenge on its journey: We have arrived at the rights and wrongs of life itself. It is now the life issues—abortion, euthanasia, therapeutic cloning, embryonic-stem-cell research, pre-implantation genetic manipulation and the disposition of supernumerary embryos, among others—that test the obligations and the limitations of freedom. These issues ask once again, What will next be written on the blank tablet at the end of our Constitution? What will next stand upon the apex of our Great Seal?

We do well to begin with the Supreme Court’s 1992 decision in *Planned Parenthood v. Casey*.¹⁴ In considering the dimension of personal liberty that *Roe v. Wade* had sought to protect in allowing abortion, the Court offered the following: “*At the heart of liberty* is the right to define one’s own concept of existence, of meaning, of the universe and of the mystery of human life” (italics added).¹⁵ This definitional right, it continued, “originate(s) in the *zone of conscience*” and is one that “must be shaped to a large extent [by] the [woman’s] conception of her *spiritual imperatives*” (italics in original).¹⁶

The liberty of the Supreme Court seems to be entirely different from the one John Paul II was discussing. *Casey*’s freedom is grounded in the self, not in God and his teachings accepted in faith. As a result, *Casey* does not have as its object a fundamental obligation to the dignity of the human person. In fact, it is bound by no obligation. Except for a vague requirement of “conscience,” the legitimacy of one’s free acts—that which forms “the heart of liberty”—is defined solely by one’s desires.

Its initial standard seeming a bit loose, the Court attempted to save liberty from being defined as naked license—and sanctioned atrocities—through its invocation of conscience. But *Casey*'s "conscience" is as undisciplined as its liberty. In the Western tradition conscience has always been an exercise of the practical reason which first accepts and then applies external mandates—such as the commandments, the obligation of love of neighbour, and the truth of the dignity of the human person—to particular situations, yielding a practical judgment which must be acted upon in accord with those mandates. It accepts rules and uses reason to apply those rules. Having no such restraints, the *Casey* conscience—as well as its "spiritual imperatives"—is really no different from its freedom. In allowing or prohibiting a free act, the conscience need not judge in favor of John Paul II's standard of respect for the dignity of the person. It need not judge in favor of *any* standard. It may judge—and allow—essentially whatever it pleases. One would think that John Paul II had actually read *Casey* when he wrote: "Certain currents of modern thought have gone so far as to *exalt freedom to such an extent that it becomes an absolute, which would be the source of values.* [Emphasis in Original.] *The individual conscience is accorded the status of a supreme tribunal of moral judgment which hands down categorical decisions about good and evil.* [Emphasis Supplied.]"¹⁷

To be sure, *Casey*'s classic existential ideal does not require that liberty be exercised in violation of John Paul II's conditions. It does not, in fact, *require* abortion. But it does not prohibit these violations either. It does, in fact, *allow* abortion. John Paul II is simply not free to affirm an act such as abortion: Limiting his freedom are God, faith, and religious truths. His freedom, being restrained within these truths, is from sin and not restraint. He has no *choice* but to condemn abortion as the killing of innocent persons.

We must now stop to ask where the *Casey* liberty may lead. We may not need to look further than our short discussion of slavery. From the Founding through the Civil War many of our predecessors, as well as our law—both, no doubt, after due consideration of "existence, of meaning, of the universe and of the mystery of human life"—found it within the scope of *their* liberty to enslave their fellow man for their own gain. This ethic—adopted into the mores of the public square, the political process, and the Constitution—allowed historical mischief of a scale that made it impossible for the United States to continue in a united fashion. The nation simply disintegrated. What allowed its re-integration, one may well argue, was what John Paul II says is essential: a different kind of liberty, one that exempts no exercise of the free will—national to personal—from God, faith, and the truths of which he speaks.

We can perceive an important trend in the American experiment. Exercises

of the two different types of freedom lead to different results, some good, some not so good. But if we suggest the possibility that John Paul II's freedom is to be preferred over *Casey's*, we immediately run into a great contemporary American reality: diversity.

Our fascination with diversity must be understood in terms of *Casey's* freedom. It is said to *celebrate*, to acknowledge value in, the mere fact that there is more than one point of view on a particular topic. This fascination has deep historical roots. The Darwinian premise that life is without plan or purpose fits hand in glove with the Hobbesian premise that there are no real rights and wrongs.¹⁸ If life itself is random, generated by some blind force of physical nature, so must be its rules. There can be no commandments without a purposeful commander. We make up our own rules as we go along and, except where survival itself is at stake, one rule is intrinsically no better than another.¹⁹

It follows that virtually all points of view, save one, are equally valid and must, therefore, be accepted. We know this as tolerance. The fact of a point of view becomes its value. *Casey*, which tolerates virtually any point of view, becomes inevitable. The only view that must be rejected is the one that rejects the Darwinian-Hobbesian proposition, one that insists both upon a purposeful commander and fidelity to his commandments.

It is here that we see the clash between *Casey's* and John Paul II's freedoms. Each is intolerant of the other. Each must be. They are in direct conflict.

The oddity of total acceptance resulting in necessary rejection has come to have great practical import. Consider, for example, the child of diversity, the "Wall of Separation" between church and state. That Wall, built initially to protect churches from government interference, has been built ever higher to protect the sanctity of diversity. The contents of religious thought—not just institutional influence—are now excluded from any act of government in the name of tolerance of those diverse points of view that do not accept the truth of that thought. Daniel Dreisbach, professor of law at the American University in Washington, D.C., has made some very interesting observations of this harshly intolerant edge of diversity:

A wall is a bilateral barrier that inhibits the activities of both the civil government and religion—unlike the First Amendment, which imposes restrictions on civil government only. In short, a wall not only prevents the civil state from intruding on the religious domain but *also prohibits religion from influencing the conduct of civil government* . . . The religious provisions [of the First Amendment] were added to the Constitution to protect religion and religious institutions from corrupting interference by the national government, not to protect the civil state from the influence of,

or overreaching by, religion. As a bilateral barrier, however, the wall unavoidably restricts religion's ability to influence public life, thereby exceeding the limitations imposed by the First Amendment.

Herein lies the danger of this metaphor. The "high and impregnable" wall constructed by the modern Court has been used to inhibit religion's ability to inform the public ethic, to deprive religious citizens of the civil liberty to participate in politics armed with ideas informed by their faith, and to infringe the right of religious communities and institutions to extend their prophetic ministries into the public square. *Today, the "wall of separation" is the sacred icon of a strict separationist dogma intolerant of religious influences in the public arena. It has been used to silence religious voices in the public marketplace of ideas and to segregate faith communities behind a restrictive barrier.* [Emphasis Supplied.]²⁰

It doesn't take much imagination to see the risks inherent in today's American experiment. The silencing of "religious voices in the public marketplace" excludes the elements John Paul II taught were necessary to a free society: God, faith, religious truth. In their absence we fall ever deeper into the Darwinian ideology, removing from man any final end in God, reducing both man and truth to nothing more than material facts we can know through the observations of science.²¹

Webster's defines the soul as the animating principle of life. In America's clash of ideologies is the war for its soul. Will America be animated by a principle which protects life—in its Constitution, in its democratic acts, and in its personal acts—out of respect for the dignity of the human person? Or will America allow life to continue to be cheapened—through a Constitution that does not protect life but finds virtue in a liberty to take life; through democratic acts allowing human life to be destroyed for scientific research, and through a personal ethic allowing genetic manipulation and the discarding of unwanted embryos?

John Paul II saw the consequences of removing God and truth from any human endeavor. In *Fides et Ratio* he wrote that human reason may not profitably or successfully pursue any truth unless guided by the content of religious faith.²² In *Evangelium Vitae* he spoke of the truth of life, of how through faith life's intrinsic dignity makes known to all the inalienable right to life, the safeguarding of which is the reason for any political community.²³ In *Evangelium Vitae* he also considered the political consequences of removing God, faith, and religious truth from the societal treatment of life. He wrote that a democratic society that ignores faith's requirements, and questions or denies the inalienable right to life by legislative or constitutional acts, violates its own principles of equality.²⁴ Such a society will undermine itself. It will disintegrate.²⁵

In considering America's path, we see in the culture which spawned *Casey*

a national liberty noteworthy for what it fails to include. We see in our history the consequences of a secular liberty unrestrained by religious truth. What should we do? We should have hope.

Our story began with Anthony DeCicco, a simple man who acted in conscience in favor of the dignity of the human person, and against a freedom which allowed that dignity to be rendered irrelevant. It is quite likely that America will once again face a time of reckoning over the type of liberty it adopts; we can, indeed we must—each in our small way—keep alive the truth of what freedom must be.

NOTES

1. Mt. 19:16.
2. *Veritatis Splendor*, n. 13.
3. *Ibid.*
4. *Ibid.*, n. 17.
5. See *Veritatis Splendor*, n. 13, where John Paul II quotes St. Augustine. “‘The beginning of freedom,’ St. Augustine writes, ‘is to be free from crimes . . . such as murder, adultery, fornication, theft, fraud, sacrilege and so forth. When once one is without these crimes (and every Christian should be without them), one begins to lift up one’s head towards freedom. But this is only the beginning of freedom, not perfect freedom.’” *In Iohannis Evangelium Tractatus*, 41, 10:CCL 36, 363.
5. Amar, *America’s Constitution: A Biography*, Random House (2005).
7. *Ibid.*, p. 406.
8. Congressman John Vining, *Annals*, 1:735 (Aug. 13, 1789).
9. For a detailed discussion of the Electoral College and the effect of the Three-Fifths Clause on executive power, see Amar, pp. 90-98.
10. For a discussion of the pro-slavery nature of the founding regime, see Amar, p. 468.
11. For a detailed discussion of the Reconstruction Amendments, see Amar, pp. 351-401.
12. Slavery is, of course, not the only evidence of America’s journey to freedom. Women’s rights, in particular suffrage guarantees, must be included. For a detailed discussion see Amar, pp. 403-467.
13. *Veritatis Splendor*, n. 13.
14. 505 U.S. 833 (1992).
15. *Ibid.*, at 852.
16. *Ibid.*
17. *Veritatis Splendor*, n. 32; see also nn. 54-61 for a discussion of conscience as an exercise in practical reason and judgment as well as its relation to religious mandates.
18. See Dembski, “Science and Design,” *First Things* (Oct. 1998).
19. See Canavan, “*The Empiricist Mind*,” *Human Life Review* (Spring 1999).
20. See *First Things*, December 2006, p. 67.
21. Schonborn, “Reasonable Science, Reasonable Faith,” *First Things* (April 2007).
22. *Evangelium Vitae*, nn. 2, 20.
23. *Ibid.*, n. 20.
24. *Ibid.*
25. *Ibid.*

Ten Reasons Why We're Winning

Frank Pavone, M.E.V.

The pro-life movement is closer to achieving its goal of restoring protection to children in the womb than most people involved in the movement realize. As I travel the nation and work full-time to end abortion, I see many signs of this success and speak about it frequently. This article summarizes some of those signs. They are “motives of credibility”: reasons for believing that the end of abortion in America will come sooner than we think, and that we will not have to wait for the next generation to plan and carry out victory celebrations. That will be *our* task.

It is important to note that this does not mean we underestimate the obstacles in our way, nor the amount of labor and patience it will take to achieve the victory. Nor must we lose sight of the fact that the closer we get to victory, the harder the other side will push back, and the more hostile they will become. This should not, therefore, be interpreted as an invitation to relax our efforts or to take our progress for granted, but rather to intensify our efforts and to recruit more people to join a winning team.

Nor do these signs of victory mean that any of us knows the exact manner in which abortion will end. If we gathered a hundred pro-life leaders and asked them precisely how they think abortion will be eradicated, none of the answers may correspond to what will actually happen. Yet we are able to discern the key weaknesses of the abortion movement, and the encouraging pro-life dynamics that the other side can do nothing to stop. We who are pro-life cannot afford to ignore these dynamics, and should not miss out on the encouragement they bring.

Sign 1: The survivors

One of the signs of progress is the strong and ever-growing involvement of youth in all aspects of the fight to end abortion. Many people notice this at the March for Life, but it can also be seen in every other facet of the movement. Yet it is not simply the *presence* of youth that is reason for hope; it is the *motivation* they have. If you ask them why they are involved, they will tell you, “It could have been me.”

These young people realize that *Roe v. Wade* is a personal insult to them, because it says that they were not persons when they were in the womb. In

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speaking up for the unborn, these youth are also speaking up *for themselves*. They likewise realize that among the tens of millions killed by abortion were people who would have been their friends, neighbors, classmates, spouses, brothers, sisters, and cousins. This is an awareness and motivation that the abortion advocates can do nothing to stop.

Psychologists have identified “abortion survivor syndrome” and at least ten different types of abortion survivors. While we know what abortion does to the child who is aborted, we have yet to fully understand what it does to all the children who are born. One of the dynamics that is clear, however, is that the pro-life movement receives a new strength and motivation each day from these survivors. The phenomenon is summed up by rap singer Nick Cannon, who released a music video called “Can I Live?” It’s about his mother’s decision not to abort him, and shows how she changed her mind. A reporter asked Nick, “Are you becoming some kind of pro-life activist?” He responded, “It’s not so much that I’m pro-life; I’m just pro-Nick.”

Sign 2: “I regret my abortion”

Another clear sign of progress is the wave of women and men across the world who are speaking out about how they regret having their child killed by abortion. These men and women are living testimony that abortion doesn’t work, and that instead of solving a problem, it creates more problems of its own. These men and women are inspiring others to acknowledge their own pain, seek healing from their abortion, and likewise become voices for life.

There is nothing that abortion advocates can do to stop this tidal wave. In fact, it puts them in quite a dilemma, because for decades they have been saying, “Listen to the voices of women!” Now, if they practice what they preach, they hear those women’s voices repudiate that same preaching.

The “Silent No More Awareness Campaign” (a joint project of Priests for Life and Anglicans for Life) provides these women and men an opportunity to share their testimonies in public gatherings (most notably every January 22 in front of the Supreme Court), before the media, in pulpits, and in legislative hearings. As Jennifer O’Neill, the campaign’s National Celebrity Spokeswoman, says, “Experience trumps theory.” Though the pro-life movement has put up the signs along the road of abortion saying “Wrong way,” many have ignored those signs. Now, having reached the dead end, these women and men have repented, turned around, and have themselves become the sign pointing society away from the road of abortion. (For more information, see www.SilentNoMoreAwareness.org.)

Sign 3: Abortion research

A third motive for confidence is the growing mountain of medical, psychological, and sociological evidence that abortion harms women, men, and families. Even researchers who identify themselves as pro-choice are coming to this conclusion, and publishing their research. Websites—such as www.AfterAbortion.org—provide an excellent starting point for surveying this growing mountain of evidence.

Abortion advocates try to hide and bury this information, particularly by making it difficult to get it published. But so much of it continues to come out that their efforts to hide it cannot succeed much longer. This again places those who advocate abortion in a dilemma. They say they care about women's health. But if they do, then they will have no honest rationale for ignoring the harm that abortion does to women's health.

This growing evidence is one of the ways abortion really destroys itself. The more it continues, the more it reveals itself as an enemy of the human family.

Sign 4: Few doctors, fewer mills

“Having the right to abortion doesn't mean a [expletive] thing if you can't access it.” So said abortion advocate Barbara Ellis at the 1996 meeting of the National Abortion Federation. The greatest fear the abortion industry has is not that *Roe v. Wade* will be reversed. Rather, their biggest fear is that abortion will remain legal and there won't be any doctors to do it. About 86 percent of counties in America do not currently have an abortionist. Fewer and fewer doctors—even if they consider themselves pro-choice—want to perform the procedure. They consider abortionists to be the losers of the medical profession, and they are right.

The booklet “*Access: The Key to Pro-life Victory*,” published by Life Dynamics, quotes abortionists complaining about this problem. The underlying reason for it was summed up by Tom Kring, director of the California Family Planning Clinic, when he said, “Abortion has a stigma attached to it that is increasingly scaring doctors and clinics” (*Family Planning World*, Nov.-Dec. 1991). No matter how much money, political strength, and media access the abortion movement has built up, they have not succeeded in taking the stigma out of abortion. As a result, abortion-clinic staff have a hard time persevering in their jobs. Because of staff turnover, *over half* of America's freestanding abortion clinics have closed since 1993. At that time there were over 2,000 such clinics; now there are only about 740.

The irony here is that the very concept of “choice” is killing the abortion industry. They have trumpeted the “right to choose,” and now more and more doctors are exercising their “right to choose” not to perform the procedure.

Abortionist Herbert Hodes summed it up in *Glamour* magazine in September 1991 when he said, “That how the anti’s are going to win . . . fewer and fewer doctors will perform abortions.”

Sign 5: The flow of conversions

Another reason for confidence is simply to look at the flow of conversions. In which direction does it go? It goes from pro-abortion to pro-life. There is, for example, an international organization of former abortion providers called the Society of Centurions. These men and women—to whom I have the privilege of ministering—once served as doctors, nurses, technicians, security guards, and in other roles to operate abortion mills. Now they have repented of their killing and become pro-life. Some of them have high-profile testimonies, but most of them try to get on with more normal lives in the privacy of their own communities.

Since when, however, have you heard of an organization of former pregnancy-resource-center directors who have repented of saving babies and have become pro-abortion? It just doesn’t happen. With the sole exception of some politicians who are pressured by party leadership, the flow of conversions is in one direction, and that is in the direction of pro-life.

Sign 6: No more arguments

Another sign of victory is that the other side has run out of arguments. In the years leading up to *Roe v. Wade*, abortion supporters made all kinds of promises about how legalizing abortion would improve society. It would reduce child abuse, strengthen family life, and so forth. Yet all the evidence has contradicted those promises, as over three decades of legal abortion have seen these problems become worse. Moreover, all the arguments from medicine, science, psychology, sociology, law, ethics, and religion support the pro-life view.

Abortion supporters used to call the procedure a decision “between a woman and her physician.” Now they say it’s a decision “between a woman and her *God*.” When abortion supporters run out of arguments, they appeal to God, as a way of closing down all argument. This is also what happened toward the end of the slavery debate in this country.

We too, of course, appeal to God—but not as the substitute for other arguments, but rather as their foundation.

Sign 7: Even in politics . . .

We even see evidence of pro-life progress in the political arena.

Each election cycle, pro-life political action committees succeed in electing

most of the candidates they endorse. In the elections of 2006, for example, the pro-life Susan B. Anthony List won 17 of the 29 races in which it backed a candidate, for a success rate of 59 percent, whereas the pro-abortion Emily's List won only 13 of its 30 races, for a 43 percent success rate. In those races where Emily's List candidates faced off against candidates supported by the National Right to Life (NRLC) Political Action Committee, the NRLC PAC won 14 out of the 18 races! Moreover, the NRLC PAC had an overall success rate of 53 percent.

It is noteworthy that the pro-abortion political action committees have been losing most of the races they support *despite outspending the pro-life groups by wide margins*. That's because on election night, it's not dollars that are counted, but actual votes. And voters for whom abortion matters in their decision vote in favor of pro-life candidates by a two to one margin. In 2006, some 36 percent of voters said that abortion affected their vote. Within that group, 23 percent voted pro-life and only 13 percent pro-abortion.

Even though the political climate of the 2006 elections was hostile to many pro-life candidates, it was for reasons other than abortion. Voters' behavior on the abortion issue continued to be an advantage to the pro-life side. Voter surveys have also shown that the intensity of motivation for the pro-life side is stronger. Opinion polls also show that newer, younger voters are more pro-life and want to see abortion eliminated or more highly restricted.

Sign 8: Legal evidence mounts

In constitutional history, the rights of groups that have been oppressed—such as African Americans, children, women, and workers—have eventually been vindicated as Courts heard more evidence of the harm that was done to these groups, and then reversed prior court decisions. The courts are on the road to doing the same thing for the unborn. The National Association on Embryonic Law has compiled significant research in this regard, as can be seen at www.priestsforlife.org/government/intro.htm.

Dred Scott v. Sandford (1856) is the most commonly cited instance. The slaveholder's *right to property* eclipsed and subsumed the slave's right to freedom. But the Constitution was eventually amended to correct the error. In *Lochner v. New York* (1905), employers' *right to contract* eclipsed and subsumed the workers' rights to humane conditions and hours. These abuses were corrected by subsequent Supreme Court decisions like *Muller v. Oregon* and *Bunting v. Oregon*. The "separate but equal" doctrine of *Plessy v. Ferguson* (1896) sanctioning segregation was overturned by *Brown v. Board of Education* 58 years later. *Hammer v. Dagenhart* (1918) institutionalized

child labor. But this was overturned 23 years later by *United States v. Darby*. A new development—a “pedagogical moment”—occurred here in constitutional law. The question was whether constitutional rights applied to children too. The answer was yes.

Now it is time for the “embryonic moment,” the recognition that the rights of the Constitution apply also to the unborn child. In various cases, the evidence of the unborn child’s humanity, as well as of the harm abortion does to women, is being introduced in court. Even if a particular court decision is not favorable, the evidence that is introduced into the record becomes material that future cases can invoke. The evidence that abortion harms women was presented to the Supreme Court and was referenced in its April 2007 *Gonzales v. Carhart* decision on partial-birth abortion.

Sign 9: Legislation galore

At both federal and state levels, the last several years have seen unprecedented legislative progress on behalf of the unborn child.

For the first time, our nation has made an abortion procedure illegal—that is, partial-birth abortion. Moreover, other federal laws and policies have increased the legal status of unborn children, protecting them, for example, from being killed after a failed abortion (the Born-Alive Infants Protection Act) or from acts of violence other than abortion (the Unborn Victims of Violence Act).

On the state level, laws that regulate abortion, such as parental-involvement laws, informed-consent laws, and clinic-regulation laws, have been shown to reduce the numbers of abortions. (See the research of Michael J. New, Ph.D., at www.heritage.org/Research/Family/cda06-01.cfm. For a comprehensive, state-by-state review of the progress being made in pro-life legislation, consult the book *Defending Life* published by Americans United for Life.)

Sign 10: Corruption uncovered

A key reason we are winning is that abortion destroys itself. One cannot practice vice virtuously, and therefore, a movement that supports abortion will be filled with other evils as well, and those evils will be exposed sooner or later. As they are exposed, the abortion movement is losing many of its supporters.

The book *Lime 5*, published by Life Dynamics, contains hundreds of documented cases of the medical malpractice, sexual abuse, injury, and unintended death that routinely occur in so-called “safe and legal” abortion clinics. Abortion is the most unregulated surgical industry in the nation,

with fewer safeguards overall for the women than veterinary clinics have for the animals. I helped gather some of the information that is in *Lime 5*, and it represents only a fraction of the evidence that is in our possession. In my work with former abortionists, I have heard over and over again the consistent story of abortionists not sterilizing the instruments, employing “anesthesiologists” who have no training in anesthesia, performing “abortions” on women who were not pregnant, falsifying medical records, and much more.

Hundreds of taped phone calls made at Life Dynamics to abortion clinics nationwide have also uncovered the fact that all but a few of these facilities will deliberately cover up statutory rape, rather than carry out their legal obligation to report such instances to state authorities. The abortion industry creates a safe haven for sexual predators. Details are available at www.ChildPredator.com. In some states, legal action is being pursued against these clinics.

Beyond the abuse of the patients, the abortion clinics are rampant with violations of OSHA standards and other employment laws. A long list of details can be seen at www.ClinicWorker.com.

What all this means is that the abortion industry is highly vulnerable to negative public opinion and to legal action having nothing to do directly with the legality of abortions. Clinics can be closed—and are closing—and abortionists being jailed for reasons having nothing to do with what people think about abortion, but rather for reasons related to malpractice, abuse, and other illegal activity.

In some states, such as Florida and Alabama, the state health departments are beginning to crack down on the corruption in the abortion industry, and have closed multiple clinics for reasons of public safety. Actually, *Roe v. Wade* contains the seed of the demise of the abortion industry when it says that the procedure must be carried out in ways that ensure the health of the woman, and that remedies should be pursued against doctors who fail in this regard. Indeed, as the standards that apply to legitimate medical procedures are brought to bear on the abortion industry, many of these abortion mills have to close. They cannot, nor do they even wish to, practice vice virtuously.

We are winning indeed.

In Cases of Rape

Stephen Vincent

When a woman who has been the victim of rape enters the emergency room of a Catholic hospital in America, what type of medical treatment will she receive?

Surprisingly, there is no simple answer to this question—because the treatment of a rape victim depends largely on the protocol a particular hospital follows. And here's something that will surprise many people who know of the Catholic ban on contraception: Most Church-affiliated health facilities are authorized to dispense emergency contraception (EC) or Plan B to rape victims to prevent pregnancy from occurring. Though the Church has always taught the immorality of contraceptive acts within marriage, since at least the 17th century moral theologians have held that a woman can defend herself not only against the act of rape but also against the effects of the aggressor's sperm—i.e., pregnancy. Today, a woman's defensive methods would include drugs that inhibit conception by preventing ovulation or treatments that act upon sperm. Strictly speaking, according to orthodox Catholic theologians such as William E. May, taking anti-ovulent drugs after rape is not an act of contraception but an act of defense against the aggressor's sperm unjustly penetrating the victim's ovum.

However, once conception has occurred, the Church always has held that no acts aimed directly against the new life may be taken, even with the best of intentions. Archbishop Henry J. Mansell of Hartford, Conn., stated the Church's stand succinctly during a press conference last March outside the state's legislature, which was considering a law that would require all Connecticut hospitals, including the four affiliated with the Catholic Church, to provide Plan B to sexual-assault victims. "We are not opposed to emergency contraception for women who are victims of rape," he explained. "What we are opposed to is abortion."

Forced Conformity

Laws forcing health facilities to provide emergency contraception have become a flashpoint of contention between church and state, with at least seven states passing such bills in recent years, some with exemptions or conscience clauses, others with compromises that allow Catholic facilities simply to refer a rape victim to another facility.

Stephen Vincent writes from Wallingford, Connecticut.

Claiming that emergency contraception may sometimes act on a woman's uterine wall to bar the implantation of an already fertilized ovum—and thus abort a newly formed human life—some U.S. bishops have opposed such laws as a violation of the First Amendment guarantee of religious freedom. The Catholic Church must not be forced by civil law to act in ways contrary to its moral law, they say. These bishops have fought passage of such bills or at least demanded a conscience clause that would exempt Catholic facilities from dispensing emergency contraception to every rape victim who requests it.

State legislators pushing the bills, on the other hand, have viewed the Church's position as a form of religious fanaticism that runs contrary to public-health policy and therefore must be overcome. To these lawmakers, the exotic Catholic view on the human dignity of embryos—akin in some minds to the Jehovah's Witnesses' ban on blood transfusions—cannot be allowed to influence public-health policy that is based on compassion towards victims of sexual assault.

The issue is clouded by the fact that not all responsible Catholic voices agree on what is allowable within Catholic morals and practice. Can the Church licitly follow these civil mandates to provide EC, can it live with referrals and other compromises, or must it resist all these laws on principle, with the predictable impasses, staredowns, and negative publicity that the secular media reserve for Catholic teachings on sexuality?

Given the Catholic Church's wide network of health-care facilities throughout the United States, as well as the sensitive First Amendment religious issues involved, the question over protocols is more than an internal Church debate. It affects health care in America and church-state relations in a practical, everyday way.

The main disagreement among bishops, Catholic theologians, and ethicists today involves the circumstances under which high doses of contraceptives (EC or Plan B) may be administered to rape victims. This debate hinges on precisely how the emergency contraceptive in question is thought to act within a woman's body and what degree of certainty is required about whether the EC regimen can ever cause an abortion of a newly fertilized ovum, and thus the destruction of innocent human life.

Some Catholic authorities say that simply testing a rape victim for pregnancy is sufficient. If she tests positive, emergency contraception may not be administered; if the test shows no pregnancy, the pills may be given to prevent conception. This is often called the "pregnancy method." Other Church leaders require that hospitals go a step farther and seek to determine if the rape victim has ovulated recently or will ovulate soon. This is known

as the “Peoria protocol” because it was developed by a Catholic hospital in the Diocese of Peoria, Ill., under Bishop John Myers (now the archbishop of Newark, N.J.). In this regimen, the mere possibility that a victim may conceive as a result of the rape is enough for the contraceptive pills to be withheld.

A third camp within the Church holds that emergency contraception should not be given under any circumstances, since it is virtually impossible to determine with accuracy whether pregnancy has occurred mere hours after a rape, or whether pregnancy may occur after a negative pregnancy test. There is no reliable test for ovulation, they point out.

Beyond Cases of Rape

The confrontation between the Church and legislatures reaches beyond the medically correct and compassionate medical care of rape victims. Abortion and euthanasia advocates view emergency-contraception bills as helpful wedges in getting the Catholic Church out of health care altogether and removing its strong moral stand from the industry. Speaking on a blustery first full day of spring at Connecticut’s capitol building, Archbishop Mansell claimed that the proposed law trampled the First Amendment’s freedom of religion. He stated that without a religious or conscience exemption, the law might have the effect of forcing the Church out of health care in the state. He stated, “Catholic hospitals will not be forced to practice medicine in violation of their deeply held religious and moral beliefs.”

The Connecticut case became famous in March 2006, when the bill was first proposed. Testifying before a legislative committee, state victim advocate James Papillo, a Catholic deacon, stated that the bill was a violation of religious freedom and added that his office had not received one complaint from rape victims about procedures at Catholic facilities. A firestorm of criticism followed from pro-abortion legislators, who called for Papillo’s removal from the governor-appointed post. Papillo, who holds a law degree as well as a Ph.D., stood firm, insisting that Catholic hospitals provided excellent and compassionate care to rape victims that could serve as a model for all state facilities.

The Protocol ‘Wars’

As Catholic parties argue in learned journals over the proper protocol for rape victims, dioceses and individual Catholic-affiliated hospitals have been choosing which path to take, with each of them claiming to fulfill the requirements laid down by the U.S. bishops’ *Ethical and Religious Directives for Catholic Health Care Services*, the most recent edition

published in 2001. Section 36 reads, in part,

A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent ovulation, sperm capacitation, or fertilization. It is not permissible, however, to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction or interference with the implantation of a fertilized ovum.

The directive does not specify exactly what “appropriate testing” entails, and leaves room for the very debate that is going on. Yet it appears that the document claims there are *some* circumstances in which emergency contraception can be used in rape victims. Thus, the view of the third group mentioned above, that EC can never be licitly used, is evidently discounted.

But Msgr. William B. Smith, professor of moral theology at St. Joseph’s Seminary (Dunwoodie) in Yonkers, N.Y., claims that the document is “normative” but not binding on individual bishops or health facilities. He said that the Peoria protocol may be “defensible in theory, but I don’t think it’s practical . . . How quickly can [emergency-room personnel] determine the fact that ovulation has taken place? For it to work, you would almost have to assume that every woman coming to an emergency room is using natural family planning and has the charts of her cycle with her.”

Msgr. Smith allowed that Catholic hospitals have a legitimate desire to treat rape victims with compassion and protect them against post-rape pregnancy, “but principles are true in pleasant circumstances or unpleasant circumstances. If it were up to me, emergency contraception would never be given in Catholic facilities” due to the possibility of abortion.

Taking the same stand is Judie Brown, president of American Life League in Stafford, Va.: “Realizing that there is no test capable of proving with one hundred percent accuracy that a preborn baby has or has not been conceived, it is clear that there is never a circumstance in which a Catholic hospital should provide Plan B. Not only is the provision itself against Catholic teaching on the subject of contraception, but it is well known that the pill kills preborn children.”

Of course, not all Catholic experts agree. The Peoria protocol was developed under Bishop Myers, a strong and eloquent defender of preborn life. The pregnancy approach is approved by the Catholic Health Association, which cites recent research to contest the view that EC works to expel a newly fertilized ovum by making the uterine lining hostile to implantation.

Franciscan Brother Daniel Sulmasy, a medical doctor and head of ethics at St. Vincent’s Medical Center in New York City, published a lengthy

paper on the issue in the December 2006 issue of the *Kennedy Institute of Ethics Journal*, in which he defends the pregnancy approach. He claims that those who would ban EC in all rape cases, or require the ovulation approach, raise the level of certitude required in a medical procedure to impossible levels.

“If we are morally bound never to act whenever we risk indirectly causing human deaths, then most medical procedures would need to be banned,” he writes. Advocates of the ovulation approach are inconsistent, he claims, because they do not call for ovulation tests before X-rays or the administration of medications such as antibiotics that could possibly harm a preborn child. In these cases, a pregnancy test is thought by most to be a sufficient precaution. “The degree of certitude that some demand is simply incompatible with the physical, intellectual, and moral finitude that characterizes the human condition,” Brother Sulmasy observes.

He also claims that recent research shows beyond a reasonable doubt that emergency contraception or Plan B rarely, if ever, causes an abortion of a newly fertilized ovum. Admitting that he learned in medical school 20 years ago that the high doses of contraceptives contained in EC sometimes act on the uterine wall to prevent implantation, he says that more recent research shows that this most likely is not the case. While it is true that the literature of the drug companies that make oral contraceptives state that the drugs may at times adversely affect the uterine wall, Brother Sulmasy explained, this is because the companies are slow to change their inserts. “These inserts are more the work of lawyers seeking to protect against liability than of medical experts explaining the latest scientific research,” he claimed.

Still, Brother Sulmasy is not ready to say that EC *never* may cause an abortion. He does assert that, given the low rate of post-rape pregnancy and the small likelihood that EC may adversely affect the uterine wall, that the chance of abortion is less than negligible. Therefore, it is morally licit to test a rape victim for pregnancy and to administer EC if the test is negative, without requiring ovulation tests, he concludes.

Dr. Eugene F. Diamond is a leader among those who favor the Peoria protocol or ovulation approach. In the winter 2003 issue of the *National Catholic Bioethics Quarterly*, he criticizes the Catholic Health Association for changing its stand from the ovulation to the pregnancy approach, and strongly suggests that the switch reflected more a desire to escape the conflicts with state mandates and secular mindsets than a careful assessment of new scientific research. “Without overstating the case,” Dr. Diamond writes, “the evidence for postfertilization effects are so formidable that the question is no longer if but rather *how often*” contraceptives act as abortifacients.

“Ovulation method approaches such as the Peoria protocol are real world ethical methodologies,” he concludes. “They are good faith attempts to protect human life and to give Catholic witness to our commitment to the sanctity of even microscopic human life.”

Msgr. Kevin McMahon, a moral theologian at St. Charles Borromeo Seminary in Wynnewood, Pa., helped formulate the ovulation approach that was promulgated by the Pennsylvania Bishops Conference. In a 2002 article in *Ethics and Medics*, published by the National Catholic Bioethics Center, he plainly states, “Contrary to the claims made by some, scientific evidence does support the view that contraceptives have an abortifacient effect.” To support his view, he quotes from the *Physicians Desk Reference* regarding the effect of combination oral contraceptives: “Alterations include changes in . . . the endometrium [uterine lining] which reduce the likelihood of implantation.”

He concludes: “The ovulation approach meets the appropriate testing standard of Directive 36 while the pregnancy approach does not. The former does so in three important ways: First, it is clearly directed toward preventing conception. Second, it seeks to protect the life of any child who may be conceived as the result of rape by limiting the use of contraceptives to cases in which one is morally certain that their effect is not abortifacient. Third, it works to ensure that Catholic hospitals will not perform an abortifacient act.”

The key term in his analysis is “morally certain.” Msgr. McMahon admits that ovulation tests are not 100 percent accurate and that emergency contraception may not prevent ovulation in all cases. There is a small possibility that even under the ovulation approach, the administration of EC may cause an abortion.

Brother Sulmasy describes the difference of certitude in terms of probability. “If EC drugs do cause indirect abortions, the proportion of cases in which these events occur if one uses the ovulation approach instead of the pregnancy approach will be on the order of 0.004 percent instead of 0.04 percent of cases. And that, in a nutshell, is the question for prudential judgment that is being debated.”

The Head of a Pin?

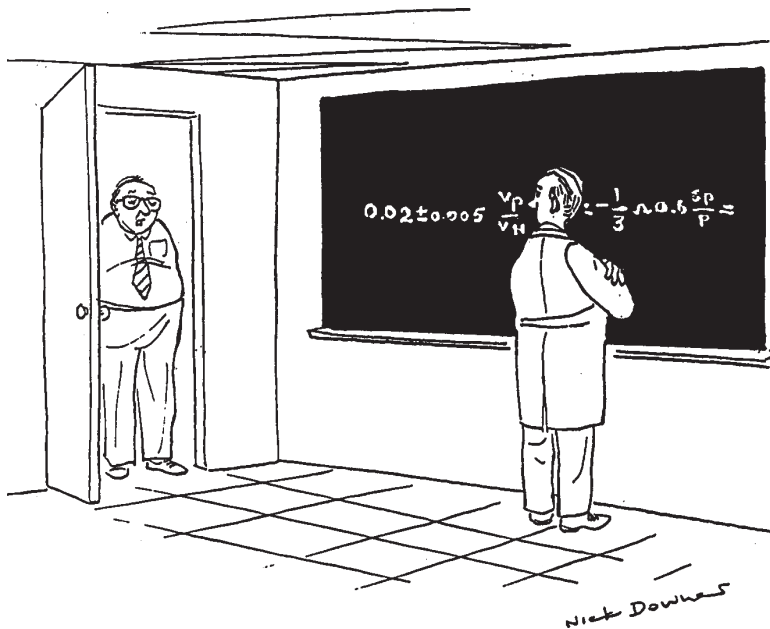
Is this a case akin to debating the number of angels dancing on the head of a pin? What precautions should be taken when the beings in question are newly fertilized ova, tiny human lives? The debate reminds me of the one over what to do with the countless frozen embryos that were created through in vitro fertilization (see “Where Do Frozen Embryos Belong?,” *Human*

Life Review, Summer, 2001). Some responsible ethicists think it morally licit to implant these embryos in a woman who is willing to bring them to term and give birth to a baby (embryo adoption). Others say that the very act of artificial implantation is a violation of sexual ethics and the marriage bond and the only moral option in an admittedly difficult situation is to allow the frozen embryos to die a “natural” death, as they do over time.

In the post-rape protocol debate, one source of disagreement may come from a slightly different view of the goods to be protected. Those who support the pregnancy approach tend to stress the good of protecting a rape victim from becoming pregnant by the aggressor’s sperm while also highlighting the very small possibility of abortion occurring from emergency contraception.

Those, on the other hand, who support the Peoria protocol or ovulation approach tend to stress the need to go to all reasonable lengths to prevent abortion. They see testing for ovulation as a small additional step that may help preserve at least one human life that may result from the tragic crime of rape.

One’s prudential judgment of the procedures needed to ensure “moral certitude” may be closely tied to whether one emphasizes harm to the woman who may conceive by rape or harm to the child who may be aborted. The pressure from legislatures seeking to mandate emergency contraception will ensure that this issue remains at the forefront of Catholic and pro-life moral debate.



“You think you’ve got problems.”

Human at Conception:

The 14th Amendment & the Acquisition of Personhood

Benjamin D. Horne

Long-established Constitutional law entitles each individual to human rights and the equal protection of the law. Ratified on July 9, 1868, the Fourteenth Amendment states: “. . . nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” Currently, however, the law protects an individual only after “viability”: the point at which that individual, as a fetus, could survive outside the womb. In the 1973 *Roe v. Wade* decision, the Supreme Court declared: “Texas urges that, apart from the Fourteenth Amendment, life begins at conception and is present throughout pregnancy, and that, therefore, the State has a compelling interest in protecting that life from and after conception. We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer.”¹

When Does Life Begin?

Since 1973, much effort has been expended to determine when life begins and personhood is gained. But a person’s opinion about when life begins can vary based on his cultural heritage, religious background, and scientific understanding (see Table 1).² Religious definitions of when life begins vary from conception to specific gestational milestones to birth, but usually depend on when the soul or spirit enters the new being.³ Philosophical and socio-cultural views of when life begins vary considerably.⁴

Scientific views of life’s beginnings also spread across the spectrum of time from conception to after birth.⁵ Except for the ones that designate conception as the beginning of life, these designations involve “phenotypes”—

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characteristics that arise from the expression of the organism's DNA, and from the interaction of its DNA with its environment.⁶

A major difficulty in determining when life begins is the problem of what life is in the first place. It may be easy to identify life when we see it, but establishing a simple, concise definition is not easy.⁷ While some in the U.S. Congress and in South Dakota claim that life begins at conception, this is not clear. At conception, a sperm's single-stranded DNA and an ovum's single-stranded DNA unite within a single cell, creating a new and unique human.⁸ But whether this constitutes life is questionable, since life may be defined as, for example, "the condition that distinguishes organisms from inorganic objects and dead organisms, being manifested by growth through metabolism, reproduction, and the power of adaptation to environment through changes originating internally"⁹—and whether these conditions exist at conception is debatable, since 1) it will be many months before the new human is able to adapt to the environment outside the womb, and 2) it will be years before the new human can reproduce.

As for the religious definition of life, it's difficult to prove: How, after all, does one measure whether the soul has united with the body? Amidst the many definitions of life, the assignment of one point at which a developing but unborn human becomes alive or gains life—and thus deserves legal protections—is difficult at best.

Human at Conception

But in the context of legal rights and protections for the unborn, the question of when life begins may be irrelevant: While the two issues are usually discussed interchangeably, the point when life begins and the event whereby personhood is obtained are not necessarily the same. Consider that the law recognizes that a dead body cannot be desecrated (this is a third-degree felony in Utah¹⁰). Furthermore, the legal tradition of using wills and trusts that are established prior to death, or probate court afterwards, to provide due process in the disposal of a decedent's property also recognizes that rights exist after death. Thus some rights to liberty and property remain, and due process is provided, even if a person does not have life. Further, as noted in the *Roe v. Wade* decision, the unborn have been recognized in some situations to have rights and to be entitled to protections of the law (although the Court claimed that "the unborn have never been recognized in the law as persons in the whole sense"¹¹—which is reminiscent of the assertion that a slave is to be counted as only three-fifths of a person).

Because the Fourteenth Amendment addresses personhood and does not address whether or not a person has life, the most pertinent issue for the

entitlement to rights and protections under the law is whether the unborn offspring of human parents is a person or not. If it is determined that personhood is gained prior to “viability,” the Court has declared that the right to life would be effective and *Roe v. Wade* would be reversed: “The appellee and certain amici argue that the fetus is a ‘person’ within the language and meaning of the Fourteenth Amendment. In support of this, they outline at length and in detail the well-known facts of fetal development. If this suggestion of personhood is established, the appellant’s case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the Amendment.”¹² (Note that the Court did not require life to have begun for the collapse of *Roe*’s case, only the establishment of personhood).

In the past, membership in the human race was determined by the presence of characteristics, such as brain size and ability to use complex language,¹³ that take years after birth to become fully manifest. But owing to advances in human understanding, beginning with the description of the DNA molecule¹⁴ and continuing with the many recent (largely post-*Roe*) developments in molecular genetics, it is now possible not only to clearly define the one event at which a new person comes into existence and gains personhood, but also to quantify this event scientifically: *The event at which a new, unique person is formed and personhood is gained is the event wherein a genetically unique, one-celled human is formed. This event occurs no earlier than when a human sperm penetrates the zona pellucida of a human ovum during the fertilization process, creating a one-celled human who possesses a full complement of human DNA, and occurs no later than when that first cell begins the process of mitosis to divide into two cells.*

Through all of human history it was always the human DNA that endowed those who possessed it with their membership in the human species.¹⁵ Human DNA is the component of each human that makes him or her a person, regardless of the many and varied definitions of when life begins.

A Human Being Is a Person

The connection of human DNA to personhood is based partly on standard terminology and biological knowledge that have existed for centuries. The novelty of the concepts expounded herein involves the connection of the recent molecular understanding of DNA to the assignment of beings to the species *Homo sapiens*.

That is, a person is a human being,¹⁶ a human being is a member of the species *Homo sapiens*,¹⁷ and membership in that species is traditionally based on human phenotypes that do not fully manifest until adulthood.¹⁸ These

definitions connect personhood to membership in the species *Homo sapiens*.

Black's Law Dictionary upholds this conclusion and acknowledges that personhood can be gained prior to birth (please note that *Black's* has no entry for "human being" or "*Homo sapiens*"):

Person: 1. A human being. – Also termed *natural person*.

Person not deceased: A person who is either living or not yet born.¹⁹

homo: 1. A male human, 2. A member of humankind; a human being of either sex.²⁰

Note that "*homo*" is the Latin term for "man" and is the source for the scientific name for the human genus, "*Homo*." The *Oxford English Dictionary* also supports the conclusion that a person²¹ is a member of the human race.²² While the first edition of *Black's* was published in 1891, 19th-century definitions published in *Webster's Unabridged Dictionary* in 1864—four years prior to the ratification of the Fourteenth Amendment—support the idea that a person is a member of the human race.²³ Thus standard terminology, utilized widely in this society for a long period of time, establishes the connection of personhood, humanness, and membership in the species *Homo sapiens*. This was known in 1973 at the time of the *Roe v. Wade* decision.

Personhood Is Determined by Human DNA

How do we determine which organisms meet the criteria for membership in the species *Homo sapiens*? Traditionally, we have looked at phenotypic qualities—usually either physical characteristics²⁴ or the biological ability to produce offspring within the species, while not being able to do so with members of other species.²⁵ The most unique physical characteristic of humans is the size of the brain and the abilities this produces (e.g., use of complex language), characteristics that are not manifest until after birth.²⁶

Since a phenotype is the consequence of DNA expression, the traditional methods of species assignment are an estimation of the underlying genetics. Different DNA sequences will produce different phenotypes, including the distinctions in anatomical and physiological characteristics that traditionally have been used to distinguish between species, because the DNA code is a universal code for all forms of life.²⁷ It simply takes years of human DNA expression for the traditional species-defining phenotypes to be fully expressed.

Thus, physical human features such as the size of the brain and the ability to successfully interbreed with other humans are phenotypes arising from human DNA. Developing or possessing such human phenotypes is the consequence of expressing the information contained within human DNA. These phenotypes do not occur from the DNA sequence of another species.

When Is Personhood Acquired?

It became possible only relatively recently to differentiate between species at the molecular level based on differences in DNA sequence. Using “molecular phylogenetics,” with assumptions about the rate of random mutation and the accumulation of new mutations over time, evolutionary distance between species can be computed.²⁸ Through these calculations, historical divergence of species can be deduced, and the species to which an individual organism belongs can be determined.²⁹

Given DNA’s central role in coding for the characteristics of a cell, for groups of cells that form tissues, and for groups of tissues that form organs, DNA sequence differences are the most basic source of distinction between species.³⁰ Thus, if it possesses human DNA, even a single cell can be a unique human.³¹

While the adult human is constructed of countless numbers of cells, in all humans this adult structure results from one initial cell that divides into multiple daughter cells which themselves divide into more cells.³² Most of these daughter cells specialize to perform tissue- and organ-specific functions. But, with few exceptions (and ignoring small errors of duplication), each of the adult body’s non-reproductive cells contain essentially the same DNA that existed in the initial single cell.³³ Thus, personhood is acquired in the event in which a single-celled being with human DNA is formed. In the usual case (i.e., sexual reproduction), this event is conception; in the case of a human clone, the event would be the creation of the clone.

Further Considerations

One of the primary arguments favoring abortion has been that the fetus is simply tissue in the mother. The DNA of the “tissue” in question, though, arose not solely from the body of the mother but through sexual reproduction. DNA is heritable information, which each new person receives from his or her two human parents. That is, the “tissue” is not tissue of the mother, despite the fact that it is, in the typical case, contained for the initial nine months of its existence within the mother’s body. It is, as evidenced by its DNA, a human being distinct from its mother and father.

Another argument in the abortion debate is that personhood cannot exist at conception because a potential for “twinning” exists during the first few weeks following fertilization and, thus, it is not clear what form the zygote will take or how many persons may actually exist. “Twinning” is the process in which the pluripotent cells of a developing zygote physically separate into two (i.e., twins) or more (i.e., triplets, quadruplets, etc.) groups of cells that subsequently develop independently. However, twinning is not

the creation of a new individual in the way that conception unites two single strands of human DNA to create a new organism. Twinning is the *natural cloning process* (or asexual reproduction) in which one or more pluripotent cells are naturally separated from a developing but conserved human individual, forming a duplicate who subsequently develops independent of the original.³⁴ When twinning occurs, two or more new and unique persons exist independent of their parents.

Conclusions

The knowledge that establishes personhood based on a human being's membership in the species *Homo sapiens* has existed for a considerable period of time. The determination of membership in that species has, however, until the recent post-*Roe v. Wade* era, been based on phenotypic characteristics, such as brain size, that become manifest only after birth. With the modern understanding of the molecular structure of DNA and the molecular basis of inheritance, membership in *Homo sapiens* can be quantified at conception, and personhood can be shown to be acquired at one and only one event. In the usual case, conception is the event in which a human being obtains his or her DNA sequence and acquires personhood.

This knowledge ends the need for reliance on theology or speculation as to when life begins: *A unique being possessing the DNA to make him or her a member of the species Homo sapiens is a person—and is thus entitled to the equal protection of the laws and to the rights of due process under the law.* A one-celled human being is as human, and as much of a person, as the most educated, most renowned, and most powerful Supreme Court justice.

NOTES

1. *Roe v. Wade*, 410 US 113 (1973); section IX.B.
2. Gilbert SF. "When does human life begin?" *DevBio: A Companion to Developmental Biology*. <http://7e.devbio.com/printer.php?ch=21&id=162>. Accessed August 19, 2006. P. 1.
3. *Ibid.*, pp. 3-8.
4. *Ibid.*, pp. 1-3, 8-10; *Roe*, section VI.1-8.
5. Gilbert, pp. 10-16.
6. Jorde LB, Carey JC, Bamshad MJ, White RL. *Medical genetics*. Second edition. St. Louis, MO: Mosby, Inc., 1999; pp. 63-64.
7. Campbell NA. *Biology*. Third edition. Redwood City, CA: The Benjamin/Cummings Publishing Company, Inc., 1993; p. 4.
8. Alberts B, Bray D, Lewis J, Raff M, Roberts Y, Watson JD. *Molecular Biology of the Cell*. Third edition. New York: Garland Publishing, Inc., 1994; pp. 1030-1034.
9. *Random House Webster's Unabridged Dictionary*. Second edition. New York: Random House, 2001; p. 1110.
10. Utah code. 76-9-704. Abuse or desecration of a dead human body.
11. *Roe*, section IX.B.

12. *Roe*, section IX.A.
13. *Random House Webster's Unabridged Dictionary*. Second edition. New York: Random House, 2001; p. 916.
 "Homo sapiens:
 1. The species of bipedal primates to which modern humans belong, characterized by a brain capacity averaging 1400cc (85 cubic in.), and by dependence upon language and the creation and utilization of complex tools;
 2. Humankind."
14. Campbell, pp. 660-666. Alberts B, Bray D, Lewis J, Raff M, Roberts Y, Watson JD. *Molecular Biology of the Cell*. Third edition. New York: Garland Publishing, Inc., 1994; pp. 98-99.
15. Alberts et al. (note 14), pp. 99-102.
16. *Random House Webster's Unabridged Dictionary*. Second edition. New York: Random House, 2001; p. 1445.
 "Person:
 1. A human being, whether man, woman, or child;
 2. A human being as distinguished from an animal or thing."
17. *Ibid.*, p. 931.
 "Human Being:
 1. Any individual of the genus *Homo*, especially a member of the species *Homo sapiens*."
18. See note 13.
19. *Black's Law Dictionary*. Eighth edition. Thomson West, 2004; p. 1178.
20. *Ibid.*, p. 753
21. *The Compact Oxford English Dictionary*. Second edition. Oxford: Clarendon Press, 1998; p. 1315.
22. *Ibid.*, pp. 794, 1031.
23. *Webster's Unabridged Dictionary*. Royal Quarto edition. Springfield, MA: G&C Merriam & Co., 1864.
 Consider the following definitions:
 "Person:
 1. The exhibition or representation of a character in dialogue, fiction, or on the stage.
 2. The part or character which any one sustains, either by office or in the ordinary relations of human life.
 3. **The corporeal manifestation of a soul; the outward appearance, expression, &c.;body.**"(p.974)
 "Soul:
 1. The spiritual, rational, and immortal part in **man . . .**" (p.1262)
 "Man:
 1. **An individual of the human race, a human being, a person.**" (p.806)
 "Human:
 1. **A human being; one of the race of man.**" (p. 643)
 "Body:
 1. **The frame of an animal; the material organized substance of an animal, whether living or dead**, as distinguished from the spirit or vital principle.
 2. The main, central, or principal part, as of an animal, tree, army, country, &c . . .
 3. **A person; a human being.**" (p. 147)
24. Campbell, p. 467.
25. *Ibid.*, p. 468.
26. *Ibid.*, pp. 660-663.
27. *Ibid.*, p. 8.
28. *Ibid.*, p. 14. Graur D, Li WH. *Fundamentals of Molecular Evolution*. Second edition. Sunderland, MA: Sinauer Associates, Inc., 2000; pp. 99-247.
29. Graur et al., pp. 176-181. Noonan JP, Coop G, Kudaravalli S, Smith D, Krause J, Alessi J, Chen F, Platt D, Pääbo S, Pritchard JK, Rubin EM. Sequencing and analysis of Neanderthal genomic DNA. *Science* 2006; 314:1113-1118.
30. Alberts et al., pp 99-102.
31. Campbell, p. 7.
32. Alberts et al., p.32.
33. *Ibid.*, pp. 102-103
34. *Ibid.*, p. 1011

Table 1. Comparison of the single event in which humanness is obtained to the multiple current and historical sources or authorities for defining when life begins.(1-5) Humanness is acquired at one and only one event, is quantifiable, occurs regardless of whether life has begun, and does not require theological or social constructs.

| “When does Life Begin?” | Gestational Age | “When Do You Become Human?” |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|------------------------------------------------------------------------------------------------------|
| Science (fertilization/conception), Religion (Catholic, Hindu, Buddhist), Culture (Pythagoreans/Hippocrates). | 0 days | At fertilization, when a unique DNA sequence is created (or, for a human clone, when first created). |
| Science (gastrulation—i.e., formation of the primitive gut). | 2 weeks | N/A |
| Aristotle (“Animation” for males at 40 days), Religion (archaic—Catholic: “ensoulment” for males, Islam: “ensoulment” at 40-120 days). | 6 weeks | N/A |
| Science (the basic nervous system is formed). | 8 weeks | N/A |
| Aristotle (“Animation” for females at 80 days), Religion (archaic—Catholic: “ensoulment” for females). | 12 weeks | N/A |
| Archaic—English and American Common Law (“Quickening”). | 16-18 weeks | N/A |
| Science (the thalamus is formed). | 20 weeks | N/A |
| Science (human brain waves can be detected via electroencephalogram). | 25 weeks | N/A |
| US case law and Science (“Viability” is gained after sufficient pulmonary development, with the fetus able to survive outside the womb [possibly as early as 24 weeks]). | 28 weeks | N/A |
| Science (full fetal development), Religion (Judaism, some Protestant), Culture (Romans, Greeks), Plato (“Ensoulment”), Traditional rule of tort law. | 40 weeks | N/A |

Figure 1. Since a human being is a person and the Fourteenth Amendment to the US Constitution addresses the rights and protections of persons, possession of human deoxyribonucleic acid (DNA) by a single-celled being makes that one cell a unique person who is entitled to Constitutional protections and rights. When life begins or whether life has begun is irrelevant to these rights and protections.

Human DNA (diploid set obtained at conception)

↓

Member of the human species, *Homo sapiens*

↓↑

Human Being

↓↑

Person

↓

A person is entitled by the 14th Amendment to equal protection and human rights

Viewing Abortion Objectively

Donald DeMarco

Whether one is a journalist or a judge, a senator or a scientist, a physician or a philosopher, objectivity is not merely an ideal, but a standard. This is the consensus view; the alternatives—bias, prejudice, subjectivity, and partiality—are universally denounced.

Nonetheless, human beings, given as they are to allowing themselves to be swayed by private preferences, often find this standard laudable in theory but rejectable in practice. In this regard, they are only too willing to be champions of the second best (a distant second best, we might add). The urban philosopher, Lewis Mumford, draws attention to this human foible without denying the knowability of the objective world: “What was once called the objective world is a sort of Rorschach ink blot, into which each culture, each system of science and religion, each type of personality, reads a meaning only remotely derived from the shape and color of the blot itself.”

If objectivity is an easily rejected standard, in general, how can we hope to be objective about so explosive an issue as abortion? We will take a critical step in the direction of objectivity if we can defuse the present abortion controversy by placing it in a radically different culture, one that is quite remote from the present day—mid-18th-century England. Let us consult a poet known to posterity only as “Anonymous.”

Epitaph on a Child Killed by Procured Abortion

O thou, whose eyes were closed in death's pale night,
Ere fate revealed thee to my aching sight;
Ambiguous something, by no standard fixed,
Frail span, of naught and of existence mixed;
Embryo, imperfect as my tort'ring thought,
Sad outcast of existence and of naught;
Thou, who to guilty love first ow'st thy frame,
Whom guilty honour kills to hide its shame;
Dire offspring formed by love's too pleasing pow'r!
Honour's dire victim in luckless hour!
Soften the pangs that still revenge thy doom:

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Nor, from the dark abyss of nature's womb,
Where back I cast thee, let revolving time
Call up past scenes to aggravate my crime.

Two adverse tyrants ruled thy wayward fate,
Thyself a helpless victim to their hate;
Love, spite of honour's dictates, gave thee breath;
Honour, in spite of love, pronounced thy death.

The title is mercilessly candid. It does not euphemize the subject of the poem by relating it to an act of "reproductive freedom," a mere "choice" or some other equally evasive phrase. Nor does it cloud the notions of "child" or "killing" by replacing them with "fetus" or "interruption of pregnancy." A good poem must be honest.

The first two lines call our attention to an unwanted child-in-the-womb who is killed by abortion. There is irony here in that the mother would have considered herself a victim had she not aborted her child (whose visible reality would have been an "aching sight" for her).

And what exactly is that unborn child? The following four lines describe it in paradoxical terms: nothing and yet something, imperfect though capable of evoking sharp guilt. The embryo clings to existence as it tries to avoid slipping back into nothingness. It is not yet fully personalized through love. It is nameless and alluded to in metaphysical terms. Yet it cannot be ignored. It is not a metaphysical concept; it is a mother's child.

The next two lines introduce the tension between "love" and "honour." Love is equated with sexual love; honour with respectability. How can such love and such honour coexist? They cannot. One or the other must be sacrificed. Shame may appear to be more unbearable than abortion. There is nothing exactly cold-blooded here. It is like *Sophie's Choice* (the 1982 motion picture based on William Styron's novel), where only one of two goods can be saved. The woman in the poem chooses her honour and in so doing is unable to save her child from its "luckless hour."

Sex is pleasurable. Dishonor is disgraceful. It is not difficult to understand how one would choose the former and avoid the latter (lines 9 and 10). Yet there is the residual need to soften the pangs of guilt. There are disturbing memories, disquietude, regret, and a desperate desire for peace of mind. Are we called by nature to choose the higher good? And what is that higher good?

The final four lines bring the tension between the two "tyrants" into sharp focus. There is sexual love, on one hand, that initiates new life, and a sense of honour, on the other, that seems to be incompatible with that new life.

Who should be the victim? Should it be the new life or “honour”? Would that it could be neither. But in the constitution of things, in the seeming incompatibility of these two goods, one must perish.

If the above poem provides us with an objective account of the nature of procured abortion it is this: a) abortion is not a desirable act; b) it kills an unborn child; c) it leaves its mark on the aborting woman’s psyche; d) it arises in the tension between two goods, namely the pleasure of sexual love and the desire not to bring an unwanted child into the world.

The poem evokes sympathy precisely because of its objectivity. It is a ballad, as it were, that people can easily relate to because of its inherent realism. It does not provide a solution, though it hints at one. Love should be broad and affirming enough to embrace both the loved one as well as love’s natural consequences. When love is narrowed to the pleasures of sexuality, it invites a tragic situation.

The poem’s philosophy is reminding us that: a) love, that is *genuine* love, is difficult; b) abortion is anxiety-ridden; c) the unborn child is an unignorable reality. These objective insights, though recorded poetically in 1740, remain valid. They represent a real picture of abortion that has perdured through the ages. They are timeless and transcultural.

Robert Frost famously stated that “Home is the place where, when you have to go there, they have to take you in.” Using this dictum as a literary launching pad, the celebrated science-fiction writer, Philip K. Dick, added that “reality is that which, when you stop believing it, doesn’t go away.” Reality does have staying power. Our beliefs are evanescent.

Reality persists independently of our beliefs. Novelist John O’Hara’s well-known comment, “George Gershwin died on July 11, 1937, but I don’t have to believe that if I don’t want to,” is actually an admission that subjective preferences have no effect on objective realities. Morticians do not have such literary luxuries.

Reality can be harsh, and T. S. Eliot was on safe ground when he declared that “humankind cannot bear very much” of it. Freud was most sympathetic toward this human frailty, to the point where he virtually approved exchanging reality for illusion. According to the Father of Psychoanalysis, “Illusions commend themselves to us because they save us pain and allow us to enjoy pleasure instead. We must therefore accept it without complaint when they sometimes collide with a bit of reality against which they are dashed to pieces.”

The recent Supreme Court decision on partial-birth abortion (*Gonzales v. Carhart*) goes to considerable lengths to exchange illusions for reality. The ruling refers to the prenatal human as a “child” and an “infant.” It repeatedly

acknowledges the humanity of the unborn child and identifies abortion and “killing.” This new candor for the Supreme Court will be painful to abortion advocates who prefer to view the issue inobjectively.

Rich Lowry offers us a good example of the inobjectivity of pro-abortionists in an article in *National Review*, where he discusses their characterization of the pro-life position as an attempt to impose a “theocracy”: “It doesn’t take any particular religious faith to think that embryos in the womb are humans deserving protection—the key claim of abortion opponents. But their critics don’t want to hear it . . . For such self-professed advocates of reasoned discourse, they show an appalling tendency to want to shout down the other side with their swear word of ‘theocracy.’ They are emotional, self-righteous and closed-minded. They are, in short, everything they accuse Christian conservatives of being.”

We have far less to worry about from threats of a “theocracy” than from a “Media-ocracy” (or even a “Mediocracy” that champions the distant second best).

Life, to be sure, is difficult. It may even be an ordeal. That one will remain serenely objective in a state of emotional distress is, in fact, highly unlikely. The tension between objective reality and subjective preferences was likened by the ancient Greeks to a war. This war, in its primordial, mythical setting, raged between the intimate connection between *being* and *truth* and the desire to separate them from each other. They called it a “gigantomachia,” a struggle between giants and gods, and therefore a great and arduous undertaking.

Plato alluded to the ontological implications of this fierce struggle as “a battle of gods and giants going on between them over their quarrel about reality” (*Sophist* 246A). According to Plato’s imagery, “One party is trying to drag everything down to earth out of heaven and the unseen, literally grasping rocks and trees in their hands; for they lay hold upon every stock and stone and strenuously affirm that real existence belongs to that which can be handled and offers resistance to the touch. They define reality as the same thing as body, and as soon as the opposite party asserts that anything without a body is real, they are utterly contemptuous and will not listen to another word.”

John Henry Cardinal Newman borrowed this imagery from Plato when he viewed the “pride and passion of man” as “giants” contending against “such keen and delicate instruments as human knowledge and human reason.”

Abortion is both a gigantic and titanic war (“gigantomachia” and “titanomachia”) quite in accordance with this rich literary image. It is the

struggle between gravity and grace, the carnal and the rational. Objectivity does not come easily. It requires a victory over pride and passion, the material and the bodily. But it is essential if we are to achieve justice. The gigantomachia that has been waged since *Roe v. Wade* in 1973 has finally brought about a hard-earned glimpse of objectivity. Yes, as “Anonymous” observed in 1740, abortion is about killing another human being, however frail and undeveloped that being is. It is an act that leaves its disturbing imprint on the mother’s psyche, and reveals a love that was too small to embrace life.

Objectivity may exact a high price in terms of sheer struggle, but it is indispensable if we are to begin the work of love and justice.

Anne Ridler and the Poetry of Life

Edward Short

Poetry might not seem the most persuasive means of changing minds in the debate over abortion. What was it Yeats said?

The rhetorician would deceive his neighbors,
The sentimentalist himself; while art is but a vision of reality.

Yet reality is at the heart of the abortion debate and even if poetry can offer only “a vision of reality,” it can still identify the abstractions that often falsify the debate.

One poet whose work is ideal for this purpose is Anne Ridler. Born in Warwickshire in 1912, the only daughter of Henry Christopher Bradby, a housemaster at Rugby, and his wife Violet Milford, Ridler went to Downe House (where Elizabeth Bowen was schooled), spent six months in Florence and Rome, and then took a diploma in journalism at King’s College, London in 1932.² Between 1935 and 1940, she worked at Faber and Faber as T. S. Eliot’s secretary. In her memoir, she recalled: “After reading through a pile of manuscripts he once confided, ‘Sometimes I feel I loathe poetry.’” In 1938, she married Vivian Ridler, Printer to the University of Oxford, with whom she had two sons and two daughters. Throughout her married life in Oxford, she and her family attended St. Mary’s Church, where Newman gave his great Anglican sermons. Ridler published 11 volumes of poetry over nearly 50 years; she also wrote verse dramas and, in her later years, librettos. For 30 years, she sang in the Oxford Bach Choir. She was also a peripheral member of the Inklings, the group surrounding C. S. Lewis that included J. R. R. Tolkien and Charles Williams. The chief contemporary influences on her work were Eliot, Auden, and Louis MacNeice. Like them, she was also influenced by Donne, Marvell, and the devotional poets of the 17th century, Herbert, Traherne, and Vaughan. The themes of her poetry are varied, rooted as they are in the family, and range from love and separation to the power of place, faith in God, marriage, the birth of children, and something that does not figure as much as it once did in poetry: the eternal. She died in 2001.

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In her poem “For a Child Expected,” Ridler tills ground largely passed over in English poetry.³

Lovers, whose lifted hands are candles in winter,
Whose gentle ways like streams in the easy summer,
Lying together
For secret setting of a child, love what they do,
Thinking they make that candle immortal, streams forever flow,
And yet do better than they know.

So the first flutter of a baby felt in the womb,
Its little signal and promise of riches to come . . .

The poem captures the hopes that crowd the threshold of birth:

. . . whatever we liked we took:
For its hair, the gold curls of the November oak
We saw on our walk;
Snowberries that make a Milky Way in the wood
For its tender hands; calm screen of the frozen flood
For our care of its childhood.

But the birth of a child is an uncontrollable glory;
Cat’s cradle of hopes will hold no living baby,
Long though it lay quietly.
And when our baby stirs and struggles to be born
It compels humility; what we began
Is now its own.

How different this celebration of the joys and obligations of pregnancy is to what one encounters at Planned Parenthood, which counsels pregnant women “to compare the benefits, risks, and side effects of each of your options. For example, both medication abortion and early vacuum aspiration are extremely safe. But current data suggest that medication abortion may carry a higher risk of death than early vacuum aspiration abortion. Even so, both procedures are much safer than abortion later in pregnancy or carrying a pregnancy to term.” *Medication abortion, vacuum aspiration . . .* One has to wonder whether those who routinely use such language recognize that we have a moral obligation to eschew false witness. Eliot, with Dante in mind, said that one charge of poetry is “to purify the dialect of the tribe / And urge the mind to aftersight and foresight.”⁴ Advocates of abortion use language

to mask their assault on the unborn. Ridler's poetry uses ordinary language with extraordinary precision to show how all our history and all our future unite in the unborn, how the birth of a child fuses foresight and aftersight.

Time and hope and moral responsibility necessarily figure in her understanding of these things. In "Christmas and Common Birth," Ridler considers why we celebrate the birth of Christ in December, a time usually associated with death.⁵

Christmas declares the glory of the flesh:
And therefore a European might wish
To celebrate it not at midwinter but in spring,
When physical life is strong,
When the consent to live is forced even on the young,
Juice is in the soil, the leaf, the vein,
Sugar flows to movement in limbs and brain.

To stress the strangeness of midwinter for such a celebration, Ridler describes what mothers-to-be experience, when

. . . before a birth, nourishing the child
We turn again to the earth
With unusual longing—to what is rich, wild,
Substantial: scents that have been stored and strengthened
In apple lofts, the underwash of woods, and in barns;
Drawn through the lengthened root; pungent in cones
(While the fir wood stands waiting; the beech wood aspiring,
Each in a different silence), and breaking out in spring
With scent sight sound indivisible in song.

Yet Ridler sees in the paradox of Christ's birth at what she calls "the iron senseless time" home truths that many choose to reject.

It is good that Christmas comes at the dark dream of the year
That might wish to sleep ever.
For birth is awaking, birth is effort and pain;
And now at midwinter are the hints, inklings
(Sodden primrose, honeysuckle greening)
That sleep must be broken.
To bear new life or learn to live is an exacting joy:
The whole self must waken; you cannot predict the way

It will happen, or master the responses beforehand.
For any birth makes an inconvenient demand;
Like all holy things
It is frequently a nuisance, and its needs never end . . .

One of the first needs of a child is the need for a name. In naming our children, we name our hopes and dreams; we commemorate our dearest memories; we invoke the heroism of the saints and the wisdom of the prophets; we unite the living and the dead. In her poem “Choosing a Name,” Ridler shows how names are a kind of poetry, a making—and, for the children they christen, a launching into history, which children remake.

My little son, I have cast you out
 To hang heels upward, wailing over a world
 With walls too wide.
My faith till now, and now my love:
 No walls too wide for all you hide.
I love, not knowing what I love,
 I give, though ignorant to whom
 The history and power of a name.
I conjure with it, like a novice
 Summoning unknown spirits: answering me
 You take the word and tame it.

To Ridler, names are not epistemological fictions but tokens of our faith and love.

Even as the gift of life
 You take the famous name you did not choose
 And make it new.
You and the name exchange a power:
 Its history is changed, becoming yours,
 And yours by this: who call this, calls you.

Maternal solicitude has rarely been given more moving expression. Where else in all our English poetry is there a prayer like this?

Strong vessel of peace, and plenty promised,
 Into whose unsounded depths I pour

This alien power;
Frail vessel, launched with a shawl for sail,
Whose guiding spirit keeps his needle-quivering
Poise between trust and terror,
And stares amazed to find himself alive;
This is the means by which you say *I am*,
Not to be lost till all is lost,
When at the sight of God you say *I am nothing*,
And find, forgetting name and speech at last,
A home not mine, dear outcast.

Beside this cry of love, the legalism of the advocates of “choice”—a cruel euphemism for the disposal of life—is more than a little inhuman. To appreciate Ridler’s poems about children and childbirth we have to step back and see them in some context.

When we think of English poetry about children we tend to think of Blake and Wordsworth. Ridler was influenced more by the childhood poems of Traherne and Vaughan.⁶ A century before Rousseau’s *Emile* (1762), which began the vogue for treating childhood as a happy hunting ground for theory, Traherne urged that “we must disrobe ourselves of all false colors and un-clothe our souls of evil habits; all our thoughts must be infant-like and clear: the powers of our soul free from the leaven of this world, and disentangled from men’s conceits and customs.”⁷ Vaughan echoed this in one of his most famous poems, “The Retreat,” in which he wrote:

Happy those early days! When I
Shin’d in my Angel-infancy.
Before I understood this place
Appointed for my second race,
Or taught my soul to fancy aught
But a white, Celestial thought . . .⁸

Traherne and Vaughan took their view of childhood not from theorists but from Scripture. As Traherne wrote: “Our Savior’s meaning . . . [that] he must be born again and become a little child that will enter the Kingdom of Heaven is deeper far than is generally believed.” When Wordsworth and the Romantics began extolling the spiritual acuity of childhood in the early 19th century they were adopting the rather less reverent ideas of Rousseau, who saw children not so much as creatures made in the image of their Creator but as *tabulae rasae*, laboratory mice that could validate his educational theories.⁹

Lord Byron took the Swiss writer's measure rather unsparingly when he called him "the self-torturing sophist, wild Rousseau." Samuel Johnson was no kinder, calling him "a rascal, who ought to be hunted out of society."¹⁰ No one can read Rousseau's *Confessions* (1782-89) without recognizing that the man most responsible for turning children into sentimental abstractions was unbalanced. He was also a hypocrite: In 1745, he set up house in a Paris hotel with a chambermaid with whom he proceeded to have several children, all of whom he summarily deserted. It was not from these that he derived his theories about the inherent goodness of children. No sooner were they born than he sent them off to foundling hospitals, despite the protests of their mother.¹¹

Notwithstanding Rousseau's theorizing and Wordsworth's "Intimations of Immortality" (1807), with its famous claim that "The Child is Father of the Man," the Victorians rejected the notion that children were the source of all goodness. In rejecting one fallacy, however, they adopted another. Max Beerbohm gives a vivid picture of the Victorian nursery. "Children were not then recognized as human creatures. They were a race apart; savages that must be driven from the gates; beasts to be kept in cages; devils to whose voices one must not listen. Indeed, the very nature of children was held to be sinful. Lies and sloth, untidiness and irreverence, and a tendency to steal black currant jam, were taken to be its chief constituents. And so nurseries . . . were the darkened scene of temporal oppression, fitfully lightened with the gaunt reflections of hell-fire."¹² The novels of Dickens corroborate this, as do Samuel Butler's *The Way of All Flesh* (1903) and Sir Edmund Gosse's *Father and Son* (1907). And yet what chilling significance Beerbohm's words have acquired! "*Children were not then recognized as human creatures . . .*"

Upper-class nurseries might have had something penal about them but they were little paradises compared to what awaited children of the slums. Lady Violet Bonham Carter, the daughter of the Liberal prime minister H. H. Asquith, and one of the last standard-bearers of Liberalism in England, wrote about "the tortures of commercial exploitation to which the children of the poor were mercilessly sacrificed in the mills and in the mines during the Industrial Revolution, little more than a hundred years ago." (She was writing in 1947.) Children from the slums and workhouses of London were sent up to the mill-owners in cartloads from the age of seven and put at the mercy of their masters until they were 21. Lady Violet found these practices odious.

That many of the enlightened philanthropists, humanitarians, and reformers who had fought for the abolition of slavery in the British Dominions, should have tolerated and defended the slavery of children in the factories and mines of England appears to

us to-day fantastically inexplicable. We must, I suppose, accept the explanation that they were deluded fatalists, bowing to what they believed to be melancholy economic necessity. They were convinced that poverty was inevitable and incurable and that any interference with economic processes could only result in disaster for all mankind. This belief may explain their callous acceptance of industrial suffering in the factories and mines. It cannot explain their refusal to protect the child chimney-sweeps—the “Climbing Boys”—whose fate Lord Shaftesbury declared to be ten times worse than that of the factory children . . . It was not until 1875 . . . that Lord Shaftesbury at last succeeded in carrying this bill which brought these horrors to an end.¹³

With this chastening precedent lodged in her mind, Lady Violet might have become an influential defender of children, especially when their very survival was endangered by the abortion bill that David Steel introduced into the House of Lords in 1967. But she chose a different course, as her diary proves.

Monday 17 July: Went to H. of L. Abortion alas! Comes on Wed . . . Met Frank (Longford) who is passionately against it & engaged me in an argument about it . . . Appalled at David Steel producing a foetus (half an inch long) in the H. of C!¹⁴ “What wld your father have felt?” I said he wd have been deeply interested. I have never seen Frank so near real anger! . . .

Wednesday 19 July: Abortion debate. Opened by Lord Silkin . . . Then (a body blow) my dear Archbishop [Michael Ramsey]. He began by saying that the present laws of Abortion were shockingly bad—& urgently needed reform. But there were certain features of the present Bill he cld not support & he therefore felt obliged to abstain on the second reading. [Later, Lady Violet was quoted in the *Daily Mail* as telling Ramsey, “Michael, I never thought of you as a moral coward.”] I felt despair because his leadership in this issue is so vital . . . However, to my amazement and relief when the division was called it did go through—overwhelmingly! It had been a thinnish House throughout & the majority of the speakers had either had fierce indictments from the R.C. lobby (who turned out and spoke in force) or critical and half-hearted support . . . Of the R.C.’s Frank Longford made the most violent & the worst speech I thought. He usually lacks indignation to a fault—but this Bill really inflamed him & he dragged in Euthanasia & all sorts of other irrelevancies . . .¹⁵

To compare these entries with Lady Violet’s earlier passage decrying Victorian heartlessness is to be reminded of Mrs. Jellyby, the reformer in Dickens’s *Bleak House* (1852-3) who is so busy interfering in the lives of other people’s children that she neglects her own.¹⁶ If Lady Violet was so appalled by the treatment doled out to the children forced to sweep chimneys—Charles Lamb called them “these dim specks, poor blots, innocent blacknesses”—why could she not see the far more horrifying treatment that legalized abortion would dole out to the unborn?¹⁷ The Victorians had no monopoly on moral blindness. Legalized abortion in England and America shows the callousness of our own attitude towards children, which, for all

our protesting otherwise, links us more than we care to admit to the ruthless slave-drivers of Victoria's age.

This is why Anne Ridler matters as a poet. She reminds us of truths that have been forgotten by those who continue to see children in unreal, abstract, expendable terms. In "For a Christening," Ridler celebrates the reality of love in the life of the newborn. If she is prepared to affirm reason's ability to grasp reality, she is not oblivious to the mysteriousness of life. Addressing the newborn, she says:

Distinguished stranger to whom we offer food and rest;
Yet made of our own natures; yet looked for with such longing.
Helpless wandering hands, the miniature of mine,
Fine skin and furious look and little raging voice—
Your looks are full human, your qualities all hidden . . .

The close attention she pays her growing boy in her poem "A Matter of Life and Death" reinforces the sense of mystery that children nurture in all of us.

Down the porphyry stair
Headlong into air
The boy has come: he crouches there
A tender startled creature
With fawn's ears and hair-spring poise
Alert to every danger
Aghast at every noise . . .
And perfect as his shell-like nails,
Close as are to the flower its petals,
My love unfolded with him.
Yet till this moment what was he to me?
Conjecture and analogy;
Conceived, and yet unknown;
Behind this narrow barrier of bone
Distant as any foreign land could be.

The wonder of children is their perennial gift:

His smiles are all largesse,
Need ask no return,
Since give and take are meaningless
To one who gives by needing

And takes our love for granted
And grants a favor even by his greed.
The ballet of his twirling hands
His chirping and his loving sounds,
Perpetual expectation
Perpetual surprise—

The mysteriousness of life is deepened by time. In the epigraph to her poem “2 October 1983,” Ridler quotes Thomas McFarland on Coleridge: “The eyes looking out from our time-eroded bodies are the lights of a soul that does not change.” Ridler’s sense of the sanctity of life is always uppermost in her sense of its preciousness. Addressing her husband after 40 years of marriage, she writes:

Once I recalled in a poem
Your hopeful infant gaze repeated
In the lover whom I cherished,
But could not see old age.
Seeing it now, I wonder
At the joyful mystery
That a man’s life should age him
Yet leave him still the same,
And cherished, honored, ever.

What the writer of this poem would have thought of any “hopeful infant gaze” being denied life to make way for “reproductive rights” is not difficult to imagine. But then Ridler must have found much that was dismaying in a world where to honor and to cherish had become empty vows. Here we encounter again the theme of words. They meant a good deal to the woman who took the rigorous Eliot as her mentor. The double-talk behind the arguments for abortion could only have been anathema to her.¹⁸ In this, she concurred with Ben Jonson, who recognized that “wheresoever manners and fashions are corrupted, language is. It imitates the public riot. The excess of feasts and apparel are the notes of a sick state; and the wantonness of language of a sick mind.”¹⁹ The force of Ridler’s poetry inheres in its precision. Most of us discover that love is knowledge by the grace of God; here the discovery is expressed with a radiant succinctness.

Where are the poems gone, of our first days?
Locked on the page

EDWARD SHORT

Where we for ever learn our first embrace.
Love come of age
Takes words as said, but never for granted
His holy luck, his pledge
That what is truly loved is truly known.
Now in that knowledge
Love unillusioned is not love disenchanting.

Here, I will end with a poem about another christening, a work that epitomizes the pro-life power of this unjustly neglected poet.

Choir, candles, kindred faces,
Isobel goes in a gaggle of children,
'Issued from the hand of God'
To a plentiful drench of holy water,
Unprotesting, unperturbed.
Tiny chrysalis, lapped in shawl,
So parceled, signed, and answered for.
But heart to heart against my shoulder
What I hold is something different:
Life beating with secret purpose;
What I see, face to face,
Is recognition,
Spark of the eternal light.

NOTES

1. This is from Yeats' poem "Ego Dominus Tuus," (1917), from *Collected Poems of W.B. Yeats*. Macmillan, London, 1956. p. 157.
2. Bowen wrote a witty essay about her school days at Downe House, which she attended from September 1914. Speaking of her young self and her classmates, she says: "We cannot really have been emotional girls; we were not highly-sexed and any attractions had an aesthetic, snobbish, self-interested tinge. Conversations over the radiator were generally about art, Roman Catholicism, suicide, or how impossible somebody else had been. At nine o'clock a bell rang from the matron's room and we all darted back to our bedrooms and said our prayers." Later, when she returned to the place, she was dismayed to find that it had been turned into a shrine to Charles Darwin (he had lived in the house and died there before it became a school). "I have never liked scientific people very much," she admits, "and it mortifies me to think of them trampling reverently around there on visiting days, thinking of Charles Darwin and ignorant of my own youth." See "The Mulberry Tree" (1934) in *The Mulberry Tree: Writings of Elizabeth Bowen*, edited by Hermione Lee, New York, 1987.
3. All quotations from Ridler's poems are from Anne Ridler, *Collected Poems*, Manchester, 1997.
4. This is from "Little Gidding" (1942), one of the *Four Quartets* which Eliot composed between 1936 and 1942.
5. Clement of Alexandria ventured May 20th as the date of Christ's birth; the 25th of December

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- was only settled on in the later 4th century. For a trenchant look at the history of the Nativity, see G.K. Chesterton's "The History of Christmas," which first appeared in *G.K.'s Weekly* on December 26, 1935.
6. It might be helpful to furnish dates for these poets. Henry Vaughan (1621-95); Thomas Traherne (1637-74); William Blake (1757-1827); and William Wordsworth (1770-1850).
 7. Thomas Traherne, *Poems, Centuries and Thanksgivings*, edited by Anne Ridler, Oxford, 1966. This quotation comes from "The Third Century," one of his long meditative prose poems, p. 266.
 8. Henry Vaughan. *The Works of Henry Vaughan*, Edited by L.C. Martin, Oxford, 1957, p. 419.
 9. To be fair, Rousseau's ideas on education were not entirely bad. As R.G. Collingwood pointed out, "Rousseau's conception of education depends on the doctrine that the child, undeveloped though he may be, has a life of his own, with his own ideals and conceptions and that the teacher must understand and sympathize with this life, treat it with respect, and help it to develop in a way proper and natural to itself. This conception, applied to history, means that the historian must never do what the Enlightenment historians were always doing, that is, regard past ages with contempt and disgust, but must look at them sympathetically and find in them the expression of genuine and valuable human achievements. Rousseau was so much carried away by this idea as to assert (in his *Discourse on the Arts and Sciences*) that primitive savagery is superior to civilized life [hence my charge that the effect of his theories was to *sentimentalize* children]; but that primitive savagery he later withdrew," though not before the damage had already been done in terms of his influence. One can clearly see that influence in multiculturalism's refusal to discriminate between the savage and the civilized, and its occasional tendency to exalt the savage and denigrate the civilized. See Collingwood, *The Idea of History*, rev.ed., Oxford, 1994, p. 87.
 10. See Boswell's *Life of Johnson*. Ed. by George Birbeck Hill and L.F. Powell, Vol. II, Oxford, 1934, p. 12. Rousseau was eventually hounded out of France and given sanctuary in England by David Hume, with whom, however, he eventually quarreled.
 11. See Paul Johnson's essay on Rousseau in his brilliant book, *Intellectuals*, New York, 1988, pp. 1-27.
 12. Max Beerbohm. "A Cloud of Pinafores," in *More*, New York, 1922, p. 195.
 13. This is from an essay entitled "Childhood and Education" that Bonham Carter contributed to a book of essays edited by the once famous (now largely forgotten) intellectual historian Ernest Barker called *The Character of England*, Oxford, 1947, p. 221
 14. According to Mark Pottle, the editor of Bonham Carter's diaries: "Steel produced the seven-week-old embryo when moving the third reading of the Medical Termination of Pregnancy (Abortion) bill, after an all-night sitting of the Commons 13-14 July, 1967. He used it to emphasize the point that the bill allowed for abortion only at an early stage in pregnancy, before the embryo could be said to have a human form: 'This is what we are weighing against the life and welfare of the mother and family' (*Hansard* vol. 750, col 1347)." Lady Violet should have found Steel's show-and-tell appalling for its moral obtuseness, not its grisliness.
 15. From *Daring to Hope: The Diaries and Letters of Violet Bonham Carter 1946-1969*, ed. by Mark Pottle, London, 2000, pp. 318-319. To answer the question put to Lady Violet about what her father would have felt about abortion: He would have abominated it. (Her response, that he would have found it interesting, is tell-tale evasion.) Asquith might have been over-fond of brandy and of playing bridge while tens of thousands of his countrymen were blown to bits in the trenches but he was not an unconscionable man. He was also well-educated enough (City of London School, Balliol) to identify sophistry when he saw it. He would not have seen any compelling logic in the proposition that we must kill the unborn to make the world safe for professional abortionists.
 16. It is typical of Dickens's optimism that he should have drawn Mrs. Jellyby's eldest daughter Caddy, who bears the brunt of her mother's madcap philanthropy, as the quintessential survivor. Chesterton called her "by far the greatest, the most human, and the most really dignified of all the heroines of Dickens."
 17. See "The Praise of Chimney-Sweepers" by Charles Lamb. *Essays of Elia and Last Essays*, Oxford, 1961, p. 157.
 18. Here is a typical piece of double-talk from the still influential Labour historian, Kenneth O. Morgan from his survey, *The People's Peace: British History 1945-1989*, Oxford, 1990, p. 260: "The campaign to have abortion legalized made similar progress [to the campaign to have

sodomy legalized], and David Steel passed a bill to this effect in 1967, despite pressure from Roman Catholic and other religious lobbies. Henceforth, the terrors of back-street abortions and other non-professional ways of terminating pregnancies could be avoided." The resolute use of the passive, the dreary euphemism, the rhetorical puerility of this sentence speaks volumes about the defenders of infanticide.

19. Ben Jonson. *The Complete Poems*, edited by George Parfitt, Penguin, 1975. p, 403. This is from a long discursive prose piece that Jonson wrote called *Timber: Or Discoveries* about poetry, language, society, and other and other related matters, drawn from his reading.



"If I didn't believe so strongly in the separation of church and state, I'd call the cops."

APPENDIX A

[Nicholas Frankovich is managing editor of Fordham University Press. The following essay appeared August 15, 2007 on the First Things website (www.firstthings.com) and is reprinted with permission.]

The Seamless Garment Reconfigured

Nicholas Frankovich

Hawks and social conservatives in the United States find themselves in a delicate coalition that will either solidify or disperse. Can it survive Giuliani and his campaign for the Republican nomination for president? He says he's against terrorism and abortion and would fight the former but tolerate the latter. None of us engaged in this conversation are at risk anymore of being aborted, and so some pragmatic conservatives favor Giuliani for what they see as his commitment to common sense.

You have probably already discovered one distinct advantage of supporting abortion rights if you have loved ones who have had an abortion. It's just easier. Betray your qualms about the practice in general and they are liable to feel you've betrayed them, and then you in turn are liable to feel their resentment. If your sole objective is to avoid social conflict, you might well calculate that the ticket is to keep your thoughts to yourself and say you're pro-choice.

Expedience is the oxygen politicians run on, but they can't say that, and so they invoke or invent principles that enable them to pander and call it philosophy. "Government should stay out of the bedroom." It's a catchy tune, but the lyrics don't match the purported theme. Abortion doesn't take place in the bedroom. Consensual sex does. So does rape. So what are they saying? They're not saying anything. They're conjuring a taboo. "Reproductive freedom." They don't mean you should be free to reproduce. They mean something almost opposite. They mean you should be able to terminate your child if you reproduced but didn't mean to, or did mean to but have since changed your mind. Recall the confused mother in *South Park* who, seeking to spare her eight-year-old son any more of her parental inadequacy, sets out to get abortion made legal through the fortieth trimester.

Pare away the politicking and posturing and anti-Catholicism, the circumlocution and the bumper stickers designed to distract us from the train of thought set in motion by the unique and almost unspeakably profound intimacy of the relationship between a pregnant woman and her gestating child—pare all that away and what remains is the opinion that what is wrong with the effort to enshrine in law your right to life is that by itself it's unbalanced. You also have a right to die, which, when you were literally an infant (that is, incapable of speech, of articulating your right to anything), you required a proxy to weigh and consider. That was your mother. What could possibly be the rationale for designating anybody else?

What has since become the operative, though largely tacit, argument for abortion rights did not figure in Justice Blackmun's opinion in *Roe v. Wade*, which stipulates your right to abortion only in the active voice. As for your right to have

been aborted, or not, the Court in *Roe* was silent. But follow its conclusion (not its argument, which is shaky, but its conclusion, which is firm) down to its logical roots. Your right to have been born was already established or at any rate never in question. Your right to have been aborted was what was contested. To secure that, you have to accept some restriction on your corresponding right to life. It's not absolute. Those twin rights, your right to live and your right to die, are equal under the law and are equally subordinated to the mother's right to choose between them.

This line of reasoning comes into full view only when abortion rights are situated in the larger context of the right-to-die movement, for whose cause most Americans harbor some sympathy, as the controversy surrounding Terri Schiavo a couple of years ago led analysts on the pro-life side to consider with renewed interest. People trying to put themselves in Schiavo's place thought that if they were she they would want to die. Others thought, with equal emotion, that they'd want to live. If I think I should enjoy the right to die, or to live, I think you should too. Most of us still try to justify our moral convictions by some reference to the Golden Rule, the categorical imperative, the ancient wisdom that any moral code be universalized so that whatever good I would wish for myself I would wish, *ceteris paribus*, for you and you and everyone.

Here is the wellspring of the passion and tenacity that have marked the antiabortion movement for forty years now: To observe the Golden Rule when thinking about this moral issue means that you try to identify not only with the woman having the abortion but also with the child being aborted. Joan Andrews, who during the period 1979 through 1986 was arrested more than a hundred times for demonstrating at and, in some cases, vandalizing abortion clinics, wrote in one of her letters from prison that her aim was "to wipe out the line of distinction" between the unborn and everyone else. "I don't want to be treated any differently than my brother, my sister. You reject them, you reject me."

That such intensity of identification with the aborted burns on both sides of the abortion debate is something Andrews and her activist peers may have been slow to appreciate. Pretty much cotemporaneous with the movement to establish the legal right to abort has been the movement to establish the legal right to have been aborted. In wrongful-life litigation, as it is called, an adult usually acts on behalf of a child whose right to die *in utero* was frustrated by the failure of medical practitioners to inform the parents of fetal abnormality. And at least one adult has filed a wrongful-life suit on her own behalf, maintaining that her having been born constitutes a violation of her right not to have been.

For the most part, the case for wrongful life—to be distinguished from wrongful birth, the idea that parents can sue a doctor for the hardship caused them by the birth of a child they would have aborted had they been told the child was deformed or disabled—has not been well received by the legal community. Perhaps this is because the pro-choice principle rendered in the passive voice would lead to a question that, though it completes the logic of *Roe*, undermines the practical outcome *Roe* dictates. If I could claim the right to have been aborted, why couldn't I

claim the right not to have been aborted?

Norma McCorvey, who these many years later now works quietly in the ranks of the antiabortion movement, never had an abortion. What she agreed to sue the attorney general of Dallas County for was the right to one. Adapting that precedent and joining it to the one established by the legal recognition of wrongful birth, the argument for which is cast in the perfect tense of the passive voice, someone born in the United States after January 22, 1973, might reason that he has a right to have been legally protected from the surgeon's forceps—not to be protected from them now but to have been protected from them then, to have had the state stand between them and him.

What are we supposed to say to him, an adult like the rest of us but unwilling to overlook that there was a time when he could enjoy neither abortion rights nor immunity from the power that others had to exercise those rights over him? Call it the argument of last resort or the argument patiently waiting to be made, but there it is, assembled and ready to go: You do enjoy the right not to have been aborted—after all, it's what you ultimately chose—though it is necessarily qualified by the state's prior obligation to protect your right to choose between life and death. (For background music, replay here the mystery clause from *Planned Parenthood v. Casey*.) At any given moment, you are exercising either your right to life or your right to die. They are mutually exclusive, and the state cannot remedy that. The most it can do is guarantee the right that both descend from—the right to choose between them, to choose one and reject the other. Acting in what she deemed to be my interest, my mother made for me my choice for life, just as it would have been through her that my sister, had she been aborted, made her choice for death.

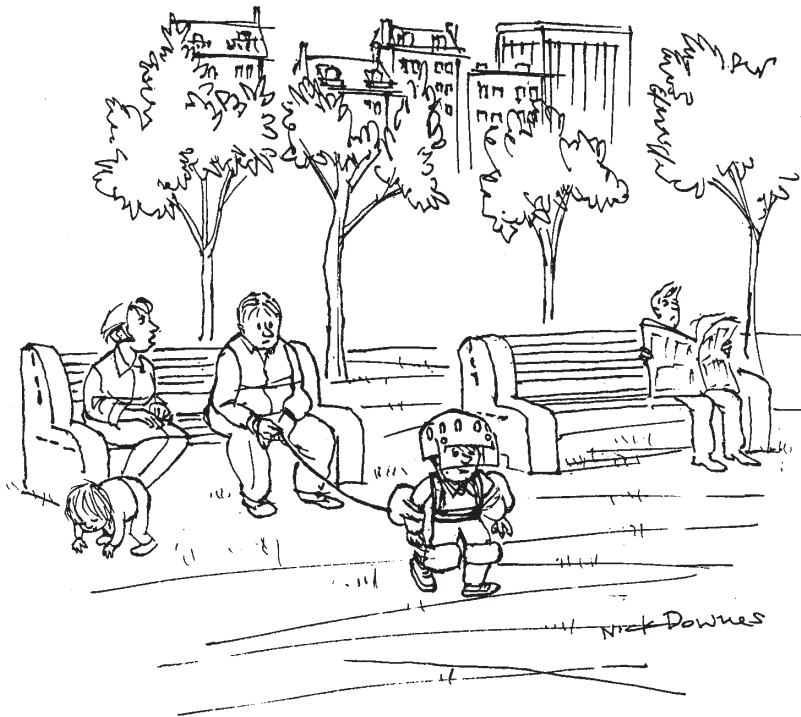
Despite broad public support for the abortion-euthanasia nexus, at least in hard cases such as Terri Schiavo's, our right to die is not an agenda item anyone running for president in this age of Jihad and terror alerts wants us to think he would feel particularly motivated to promote from the bully pulpit. But the right to die happens to be the ground of the right to abort. Abortion rights come with the soil they are planted in, and the politician who brings them into his campaign brings in the whole plot. Everyone understands that, even if the understanding never rises to the surface.

Most of our cognition is unconscious—or, to put it more plainly, unexamined. The convention is that our unconscious mind is a jungle and irrational. It may be a jungle, but it is the opposite of irrational. It's hyperrational. The lion that stalks it is dreaded not because he runs roughshod over the Pythagorean theorem or the formulas for calculating the distance between Earth and a given star. His ferocity consists rather in the remorselessness of his obedience to the law of logical consistency. What provokes him and disturbs our sleep are our flimsy rationalizations, the excuses and makeshift arrangements we have cobbled together to conceal our moral inconsistency.

And so voters who don't see it are still able to sense it, however dimly, this inconsistency between Giuliani's tough talk about confronting the enemy and his

flustered talk about protecting your right to choose. The inconsistency between the toughness and the fluster is only the surface expression of the fundamental inconsistency between his assertion that he would carry out America's iron will to defend itself and his implication that he supports your personal right to curl up in the fetal position and die if that's what you want. The advance of the pro-choice hawk is impeded to the degree that his two wings work against each other. Part of what made Reagan compelling was that his foreign and his domestic policy taken together were morally coherent.

Thatcher went far with less coherence, and Goldwater went further than expected, although in Britain in the 1980s and in the United States in the 1960s the psyche of the voting population was less sensitive to abortion than is the voting population Giuliani must appeal to now. The percentage of its base that the Republican party would disappoint and perhaps lose outright if Giuliani were its presidential nominee is hard to estimate, but it is natural to wonder whether it would be to the GOP what Reagan Democrats and dovish, seamless-garment pro-lifers have been to the Democratic party for a generation now—a missing component of its natural constituency, a player without whom it has not been able to win a majority of the vote in a national election.



"Your first?"

APPENDIX B

[John D. Woodbridge is research professor of church history and the history of Christian thought at Trinity Evangelical Divinity School. The following remembrance was posted July 10, 2007 on the First Things website (firstthings.com) and is reprinted with permission.]

Harold O.J. Brown (1933–2007)

John D. Woodbridge

Whether in foul weather or fair, a bicyclist would sometimes suddenly emerge from an opening in the neighboring woods. The bicyclist would then ride pell-mell on a dirt path across a meadow toward a divinity school, located in the northern suburbs of Chicago. If the weather were foul, mud could be seen splattering the bicyclist's brownish-green Swiss pantaloons. His old bicycle had no mud guard.

There he was, Harold O.J. Brown, a lover of the outdoors (especially the Alps of Germany and Switzerland), peddling as fast as he could to reach a classroom building where forty or fifty students were awaiting him. The students would be patient, should he be a little late. After all, they would soon have the treat of listening to Professor Brown, one of the leading evangelical theologians of his generation, teach them systematic theology. This is the man who died Sunday after a long bout with cancer.

Brown was an intriguing lecturer. He could awe with displays of vast erudition regarding theology, ethics, journalism, politics, and church history. He could entertain by spouting Latin verse or by bursting into the hearty singing of an old German song. He could charm with flashes of wit and colorful anecdotes. But students especially appreciated Brown's care and concern for them as persons. He wanted them to be educated ("civilized" with a wide-ranging culture), articulate, and activist Christians. He would generously go out of his way to help them. In 1989, students voted Professor Brown, their esteemed teacher, "Faculty Member of the Year" at Trinity Evangelical Divinity School.

Joe (as his friends called him) and Grace, his wife, often had students living in their home. There they could talk together in a more hospitable setting. Or Joe would meet regularly with a group of students at Buffo's, a favorite pizza parlor. Or Joe and Grace would lead tours of students to visit Reformation sites in Europe. Many a young person later gave personal testimony that they had been greatly influenced by the Christian modeling of this couple.

Born on July 6, 1933, Harold O.J. Brown was a Floridian. He received most of his formal education, however, at Harvard: A.B., Harvard College (1953); B.D., Harvard Divinity School (1957); Th.M., Harvard Divinity School (1959); Ph.D., Reformation ecclesiology, Harvard University (1967). He was a teaching fellow at Harvard (1961–1965) and rowed on championship crews. He pursued studies at Marburg and postdoctoral work at the University of Vienna (1965–1966). He was awarded a Fulbright Fellowship among other honors.

In 1958, Brown was ordained into the National Association of Congregational Christian Churches. He served as an assistant pastor of the Second Congregational

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Church, Beverley, Massachusetts, between 1958 and 1961; and as pastor of students at Part Street Church, Boston, from 1961–1965. Between 1983 and 1987, he ministered in the Evangelical-Reformed Church, Klosters, Switzerland.

Although Brown taught in Germany and India for brief stints (1970–1971), his principal educational bases (1971–2007) were Trinity Evangelical Divinity School, Deerfield, Illinois; Reformed Theological Seminary, Charlotte, North Carolina; and the Summer Institute in Human Rights, Strasbourg, France. During these years, he published notable books such as *Death Before Birth*, *The Reconstruction of the Republic*, and *Heresies*. For a time, he also edited *The Religion and Society Report* and served on the editorial staff of *Christianity Today*.

With former U.S. Surgeon General C. Everett Koop, Brown founded the Christian Action Council, one of the prominent evangelical pro-life action groups. Dr. Koop, Dr. Francis Schaeffer, and Brown took the lead in helping many evangelicals understand the high Christian stakes in protecting the lives of the unborn. Often working behind the scenes, Professor Brown did yeoman service in encouraging many evangelical Protestants to re-enter the public life of the nation as Christian activists. Professor Brown was also an esteemed participant in Evangelicals and Catholics Together.

Harold O.J. Brown—Joe, as I knew him—leaves behind Grace, his faithful and gifted Christian wife, and two children, Cynthia Anne and Peter. He also leaves behind countless friends and associates who will miss him greatly. To offer just one example, historian Doug Sweeney, one of Joe's colleagues, writes: "Joe Brown was one of the greatest evangelical theologians of his time, and yet he always put people before his scholarship."

Despite great sadness, Joe's Christian friends know they do not mourn as those who have no hope. For Joe died as he had lived, a faithful follower of the resurrected Jesus Christ, whom he loved and served as Lord and Savior.

APPENDIX C

[Edmund C. Hurlbutt is the President of Right to Life of Central California. The following appeared on August 8, 2006 in the opinion page of Fresno Bee. Mr. Hurlbutt's father died six weeks later.]

President Bush was right . . . Scientifically and Morally

By Edmund C. Hurlbutt

My dad is completely confined to his bed or a wheel chair now. The Parkinson's disease has also mostly destroyed his ability to speak, and now even his mind is tragically diminished. Mom is better off, but her Alzheimer's continues to rob her day by day of her memory, of her very self. She still remembers her four children, thank God. But her birth date and age are now a complete mystery to her.

Such losses—"the long good-bye," Nancy Reagan so keenly called it—are painful for every family, and every one of us would do almost anything to defeat these horrible thieves.

President George W. Bush recently endured much scorn from America's self-appointed scientific elite, however, when he drew a line at "almost anything" by vetoing a bill to vastly enlarge federal funding of *embryonic* stem cell research.

I emphasize "embryonic" because there are actually three types of stem cells being researched: embryonic, umbilical cord, and adult. But only one kills a human being to get the stem cells: embryonic. So President Bush drew the line: almost anything, but not killing one helpless, innocent human being to help another.

And ironically, Bush is not just morally right. He is scientifically right, too.

Adult and umbilical cord stem cells are already being used to treat or even cure some 65 different afflictions. Breast, ovarian, skin, and testicular cancer, heart and liver disease, autoimmune diseases like multiple sclerosis and juvenile arthritis, neural diseases like Parkinson's, and more are being successfully treated in such research. (A list of these various studies can be found at the Life Issues Institute website.)

Embryonic stem cell research, meanwhile, has produced exactly nothing. Not one cure, not one treatment regimen, has emerged from it. Embryonic cells, it seems, are fiendishly difficult to manipulate into the various types of cells being sought—brain tissue, heart tissue—because their differentiation depends on *where* they are located on the living embryo. (Scientists have even determined that *where* the sperm enters the egg helps to determine the up-and-down, the top and bottom, of the human body!) Ripped from the context of the living body, however, embryonic cells grow wildly and haphazardly. Thus tumors have resulted from implanting embryonic stems cells in some people. But cures—never.

Even if such cures did someday occur, however, my parents would be horrified to think that America would return to the days of trading in human flesh—for the trade in embryonic stems cells is merely a modern form of the slave markets which once defiled even the streets of our nation's capital.

Members of the greatest generation, Dad served heroically in the South Pacific

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in World War II, winning both a Bronze and Silver Star. Mother was a WASP—a Women’s Air Service Pilot—women who ferried military planes around the country, and even flew dragging targets behind them so that the men, safely on the ground, could take target practice at flying objects.

Both also dedicated much of their lives in Visalia (California) to public service. Dad was on the Visalia Unified School Board and mother served as both a member and chairwoman of the City of Visalia Planning Commission. For twenty-five years she also worked as a volunteer at the “Good News Center” which fed the hungry, housed the homeless, provided medical care to the indigent, and clothed the poor.

Gloriously, my parents lived out both their Catholic faith and their American heritage. “We hold these truths to be self-evident, that all men, are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.”

While they, too, would do almost anything to avoid their present fates, then, in their last days they offer their children and grandchildren one final heroic witness to the irreplaceable dignity of every human life: no matter how weak, vulnerable, or without voice or memory. Humbly enduring the withering away of their abilities, without bitterness and only rare complaint, they witness to the inestimable dignity of all human lives. Otherwise, all of us are mere walking pieces of meat, and the strong can devour the weak, the wealthy eat the poor. But that’s not what America, nor George W. Bush, nor my parents, are all about.

God bless America. God bless George W. Bush. God bless my parents.

APPENDIX D

[Colleen Carroll Campbell, a fellow at the Ethics and Public Policy Center, is a former White House speechwriter, columnist for the St. Louis Post-Dispatch, host of EWTN's "Faith & Culture," and author of The New Faithful: Why Young Adults Are Embracing Christian Orthodoxy (Loyola Press, 2002). Her website is www.colleen-campbell.com. The following Post-Dispatch column appeared July 19 and is reprinted with permission.]

Challenging Feminist Orthodoxy

Colleen Carroll Campbell

When Gov. Matt Blunt signed into law new regulations for Missouri abortion clinics this month, the critical response from abortion-rights groups highlighted a hotly contested question in today's abortion debate: Which side cares more about women?

For decades, the feminist establishment has declared the question a no-brainer. The right to abortion is the premier women's right, feminist leaders argue, so support for unfettered abortion access is the litmus test for concern for women. And restrictions on abortion or abortion providers—such as the new provision in Missouri law that holds abortion clinics to the same health and safety standards as other outpatient surgical centers—are, by definition, anti-woman.

This simplistic logic permeates much press coverage of abortion. The terms "women's rights" and "abortion rights" are used interchangeably. Pro-choice politicians are presumed to have a lock on the women's vote. And pro-lifers are depicted as fanatical about babies but indifferent to their mothers.

Like most conventional wisdom, these assumptions have grown stale. The claim that pro-choice advocates have a corner on compassion is belied by the reality of pro-life crisis pregnancy centers that offer women food, shelter, clothing and emotional support. These centers, for which state support was solidified under the new law, serve women abandoned by a society that considers pregnancy a woman's choice—and a woman's problem.

As for women's views on abortion, they are mixed. The much-hyped "gender gap" in presidential politics has shrunk sharply in recent years, with pro-choice Sen. John Kerry winning the women's vote over pro-life President Bush by only three percentage points in 2004. Polls show that women feel more strongly than men about abortion but also are more divided.

And their views are not static. A new study from Overbrook Research found that the share of Missouri women identifying themselves as "strongly pro-life" rose from 28 percent in 1992 to 37 percent in 2006, with the ranks of the "strongly pro-choice" shrinking from about a third to a quarter of Missouri women. This pro-life shift was even more pronounced among young women.

Women are beginning to question the feminist establishment's reduction of the abortion debate to a zero sum game that pits a mother's welfare against that of her unborn child. Although most feminists portray abortion as a liberating choice, groups such as Feminists for Life challenge this idea by noting that most women choose

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abortion because they lack resources and social support. Through lobbying and college outreach, Feminists for Life advocates for pregnant women's needs and urges women to refuse to choose between having a future and having a baby.

This pro-life, pro-woman message has attracted a strong following among young women who consider opposition to abortion a crucial component of defending women's dignity. Their views have precedent: Early American feminists such as Susan B. Anthony and Elizabeth Cady Stanton considered abortion a form of degradation too often pushed on women by men seeking to dodge responsibility.

That old story is painfully resonant for many women today, whose regrets over past abortions have led them to buck feminist orthodoxy on the issue. Although abortion-rights activists generally portray abortion as a routine medical procedure without moral import or lasting consequences, women in the Silent No More Awareness Campaign dispute that storyline with their own stories of post-abortion emotional trauma.

The feminist establishment has tended to dismiss these women as faux feminists or victims of patriarchal brain-washing. That explanation may comfort pro-choice feminists who see their ranks dwindling. But for a movement that styles itself as the mouthpiece of American women, establishment feminism's refusal to heed the growing chorus of women questioning abortion may prove a fatal mistake.



"First of all, Mr. Meadows, I believe it's war, not marriage, that's been described as long hours of boredom interrupted by moments of sheer terror."

APPENDIX E

[Susan Yoshihara, Ph.D., is executive vice president of the Catholic Family and Human Rights Institute (C-FAM) in New York. The following essay appeared August 1, 2007 on the First Things website (firstthings.com) and is reprinted with permission.]

The False Choice Between Development and Daughters

Susan Yoshihara

Right now, in almost any corner of the world, a baby girl is being killed just because she is a girl. Her mother may be rich or poor, educated or uneducated. One thing is certain: She is not alone. She is part of a growing global trend of sex selective abortion and infanticide that favors sons and proves deadly for daughters. The practice, once thought to be unique to China and India, is catching on in Central Asia, Latin America, and the rest of the world. In an era when girls can rightly aspire to unprecedented status alongside their brothers, why are more parents choosing not to let them live?

Even the controversial United Nations Population Fund (UNFPA), which promotes fertility decline and abortion, estimates there are now between 60 million and 100 million “missing girls” worldwide. What is missing from the analysis, however, is acknowledgment that international institutions like UNFPA, created after World War II to foster development, are key drivers of the unfolding tragedy through their promotion of fertility decline as a prerequisite for human development, and fertility control as an international human right.

This fact should give us pause the next time we hear a U.N. official tell us that the advancement of women is a top priority.

Throughout human history, demographers tell us, nature has provided about 105 male births for every 100 females. This “sex ratio at birth”—stable across generations and ethnic boundaries—may range from 103 to as high as 106 boys for every 100 girls. In only one generation, that ratio has come unglued.

A Chinese census reports ratios as high as 120–136 boys born for every 100 girls; in Taiwan, ratios of 119 boys to 100 girls; in Singapore 118 boys per 100 girls; South Korea 112 boys per 100 girls; and in India, where the practice was outlawed in 1994, the ratio continues to exceed 120 boys for every 100 girls in some areas. Countries such as Greece, Luxembourg, El Salvador, the Philippines, Cape Verde, and Egypt, even among some ethnic groups in the United States (Chinese, Japanese, and Filipino), are showing the same deadly discrimination against daughters.

What is the cause of the crisis? Experts point to a recent confluence of four main factors: rising access to sonogram technology, increased access to abortion, a preference for sons, and fertility decline.

Of the four factors, the first two seem fairly straightforward. Simply put, parents who prefer sons are better equipped than ever to get what they want. Abortion is increasingly legal, available, and socially acceptable in every part of the world. The second factor, sex detection, has been recognized by concerned government

officials for years, and even banned in India. Sex determination by sonogram or ultrasound, amniocentesis, and IVF is increasingly available.

Some U.N. officials have argued that the third factor, son preference, is the primary cause of the problem and therefore should be the main target of international condemnation. Son preference is prevalent in East and Southeast Asia, the Middle East, and North Africa, and stems from norms and laws related to inheritance, dowries, men's higher wage earnings, and a desire to carry on the family line.

Thus killing girls before or after birth is part of the wider problem of violence against women, like dowry deaths and widow burnings. It is important to note that these practices, too, persist long after Delhi has banned them. Desperate, the government has introduced state-run orphanages for unwanted girls. As Ashley Fernandes recently noted in *First Things*, the good that this stop-gap measure will do is still uncertain. India's first woman head of state, Pratibha Patil, announced at her inauguration last week that stopping female feticide tops her agenda.

Meanwhile, in South Korea, so far the only country to have reversed the trend in sex ratios at birth, normative changes related to public policies apparently worked after banning the practice made matters even worse. As the Indian and Korean cases show, then, international efforts must not stop at legislation and enforcement.

If we are to focus on the "root cause" of son preference, we must examine the role that social policies play, including those promoted by international actors. This means looking more closely at the relationship of the last two factors: son preference and fertility decline.

Over the last generation, the world has witnessed a drive toward smaller families, and this is directly related to sex selection. With fewer children, the sex of each child matters more. Analysis by Nicholas Eberstadt shows that, in India, each child after the first is increasingly unwanted, such that, with the second child, the desirability of girls to boys is 16% to 40%. By the fourth pregnancy, a girl's desirability is a sad 9%, compared with 75% in favor of a boy. With these odds, and with cheap sonogram technology and easy access to abortion, is it any wonder India reports that 300,000 to 500,000 girls go "missing" every year due to infanticide and abortion?

In China, at least half of all second or higher-order female pregnancies are terminated owing to sex. The most recent Chinese census shows a sex ratio of 150 boys for 100 girls in subsequent pregnancies. Hence, the fertility-reduction imperative drives the culling of girls.

The fertility-reduction imperative, in turn, is at the heart of a generation-long campaign by international development institutions. From the time Robert McNamara took the reins of the World Bank in 1968 to the latest Bank health, nutrition, and population strategy released in April, successive Bank presidents have pursued an aggressive population-control agenda, targeting developing countries.

UNFPA's latest update to its report on member-state contributions shows that eight wealthy European countries, along with Canada and Japan, pay 86% of the

\$389 million bill to fund that agency, which aggressively promotes population control. The top per capita contributors were Luxembourg, Norway, Sweden, Denmark, and the Netherlands. The Bush administration withdrew American support in July 2002 because of evidence that UNFPA collaborated with the Chinese government's one-child policy. Nonetheless, USAID remains the world's top provider of contraceptives, budgeting \$150 million per year for the effort.

The U.N. Population Division tracks each nation's contraceptive use, finding a 61% global prevalence, and noting positively that artificial contraception increased in the developing world by 1 percent per year from 1995 to 2005 and remained steadily high in developed countries. UNFPA executive director Thoraya Obaid still thinks global contraceptive use is too low and told the press in March that the world needs a "wake up call to the urgency of giving couples the means to exercise their human right to freely determine the sizes of their families." Obaid's remark gives us a window into the tight collaboration between U.N. development, health, and human rights officials in promoting reproductive rights. In recent years, this has included UNICEF as well.

The U.N.'s Committee on the Elimination of Discrimination Against Women (CEDAW), tasked with monitoring compliance by 185 states party to the Convention on the Elimination of All Forms of Discrimination Against Women (also called CEDAW), uses UNFPA data regularly to argue that abortion is an international human right. Even though the 1979 treaty never mentions abortion, and many states party to the convention have strong pro-life laws, CEDAW's committee has pressured more than forty nations in the last five years to liberalize their laws.

The fertility decline agenda is now reaching into the U.N. Population Division, a statistics arm whose data was until recently considered objective and above the fray. In April, the head of the Population Division, Hania Zlotnik, repeatedly told a roomful of delegates to the Commission on Population and Development, "Smaller families live better." Not even pro-family African and Muslim delegates bothered to challenge her. The sentiment has also taken on the air of dogma at every one of the four U.N. social commissions that meet each year in New York.

Left unchecked, the next victims of the trend will be Africa's baby girls. With all the other evils facing them, so far they have largely avoided the deadly violence of sex selection due to that region's relatively high fertility rates. International organizations like UNFPA are engaging in a full-court press to increase contraceptive prevalence in Africa (now the world's lowest at 27%) and to liberalize abortion laws by several means, including a controversial continent-wide framework called the Maputo Plan of Action. Despite the fanfare given it by supporters like UNFPA, it has so far failed to gain official support from AU governments.

Here is the bottom line. Through their various mandates and mindsets, international institutions have put families and poor countries on the horns of a deadly dilemma: They can have social and political progress or they can have more than one or two children. Rights and development are pitted against faith and human life—increasingly, female life. It is a dark choice for any family, and it is a false choice.

With international financial and political institutions, global health and welfare organizations, and even human rights institutions stacking the deck against baby girls, is there any hope that we can help put a stop to the spreading global trend of sex-selective abortion? There have been hopeful signs.

For the first time, in March 2007, the U.N. body charged with looking out for women, CSW, made mention, even if only a passing mention, of the “root causes of son preference” and “female infanticide and pre-natal sex selection.” While other U.N. bodies had condemned sex-selective abortion and infanticide for decades, the women’s body remained silent due to the heavy influence of pro-abortion feminists on Western delegations, primarily from the E.U. Indeed, the 2007 CSW statement conspicuously leaves out any use of the word *abortion*.

At the same CSW meeting, however, several women’s groups with diverse political perspectives spoke out to demand U.N. action. The fact that each group came to New York virtually unaware of the others may give us hope of springtime in the international women’s agenda. This would only be fitting. The availability—and expectation—of abortion has made killing baby girls, once left to the hands of family and midwives, increasingly the responsibility of mothers.

In her letter to the 1995 Fourth World Conference on Women in Beijing, Mother Teresa wrote: “That special power of loving that belongs to a woman is seen most clearly when she becomes a mother. Motherhood is a gift of God to women.” The present crisis alerts us to a global double devaluation of motherhood—our motherhood and our daughters’.

In the same letter to the Beijing delegates, Mother Teresa said: “God told us, ‘Love your neighbor as yourself.’ So first I must love myself rightly, and then love my neighbor like that.” Unwillingness to bring a girl into the world is a tragic indicator of the way a growing number of women see their own plight. It reflects the declining status of women—certainly not their empowerment. After so many years of international development and human rights, and in a world where so many can have so much, surely we should not have to choose between development and daughters.

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