

# the HUMAN LIFE REVIEW



FALL 2008

*Featured in this issue:*

William Murchison on . . . . . Pro-Life Obamanistas  
Joe Bissonnette on . . . . . Should We Show Pictures?  
John Burger on . . . . . “Donor Offspring”  
Alice Lemos on . . . . . A Day in the Life  
Christopher Manion on . . . . . James Hitchcock

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## **GREAT DEFENDER OF LIFE DINNER**

BOBBY SCHINDLER • NAT HENTOFF • WESLEY J. SMITH • RITA L. MARKER

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Paul Benjamin Linton on . . . . . Gregory J. Roden  
Donald DeMarco on . . . . . Aborting Logic  
Richard J. Goldkamp on . . . . . An Out-of-Line Coach  
J.W. Van Dijken on . . . . . Abortion & Humanism  
David S. Oderberg on . . . . . Bioethics Today

*Also in this issue:*

David van Gend • Gary Bauer & Daniel Allott  
Robert P. George • Nat Hentoff

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ABOUT THIS ISSUE . . .

. . . since the November presidential election there's been the predictable chatter about whether the victory of the abortocratic Barack Obama—supported by so-called proliferers like former Reagan aide Douglas Kmiec who claimed Obama was the true prolifer in the race—has dealt a mortal blow to the pro-life movement. Some people have short memories; four years ago liberals recoiled (while conservatives cheered) at George Bush's definitive victory over John Kerry. This journal, published continuously since 1975, has chronicled both political victories and defeats. And no doubt will continue to do so for years to come.

Still, as our senior editor William Murchison puts it in "Pro-Life Obamanistas" (page 7), the news from this election "is bad." Voters in Washington State, for example, okayed a referendum allowing physician-assisted suicide—only the second state to do so but, as honorees Rita Marker and Wesley Smith told guests at our Great Defender of Life Dinner this past October (page 36), its passage would be an alarming harbinger of things to come. Marker, who heads up the International Task Force on Euthanasia and Assisted Suicide, will provide individuals or groups with instructive materials on the growing "death with dignity" movement. Those interested can visit the Task Force website at [www.internationaltaskforce.org](http://www.internationaltaskforce.org) or write to them at P.O. Box 760, Steubenville, Ohio 43952.

In this issue, which closes out our 34th volume, we welcome three new contributors. Joe Bissonnette, a teacher, farmer and freelance writer, asks and answers an unsettling yet important question: "Should We Show Pictures of Aborted Babies?" (page 15). And J.W. Van Dijken, a professional counselor currently pursuing a doctorate degree, examines the reasoning the "humanist" movement offers up in support of abortion rights ("Abortion and Humanism," page 91). They are joined by Christopher Manion, a long-time contributor to *The Wanderer*, the country's oldest independent Catholic newspaper, who has undertaken a vigorous defense of that paper in response to critical articles published here by our long-time contributor, James Hitchcock. The contentious intersection of politics and religion is what their lively, sometimes contentious argument is about, an argument we are considering continuing on our website—we'll let you know if and when that happens.

Nobody ever said the mission of reconverting the culture would be easy. And it's difficult not to think that it just got a lot harder with the death of Fr. Richard John Neuhaus (page 6). We will have more to say about our good friend and benefactor in a future issue. Let us just record here our personal sorrow at the passing of a brave and compassionate pro-life champion whose presence in this world gave us great hope and comfort. Now we must all pick up bits of his formidable mantle as there doesn't appear to be anyone on the horizon who could wear it all by him or herself. *RIP*

ANNE CONLON  
MANAGING EDITOR



# the HUMAN LIFE REVIEW

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## INTRODUCTION

I write this in the earliest days of the New Year, in the “transition” time—the election over (thank God), the new regime not yet begun. So we ask: What *did* happen on November 4, 2008, and what does it mean for the pro-life movement? I doubt there is anyone who has answered with more graceful honesty and pizzazz than William Murchison in our lead article. “The pro-life cause took a licking,” he writes; while there are many things about President-elect Obama that are still mysterious (“the man’s a bit of a sphinx”), on abortion he has left no doubt. He promises to be an “unabashed, unblinking pro-choice president.” This did not deter many pro-life citizens, especially Roman Catholics, from voting for him, prominent among them Professor Douglas Kmiec. Murchison’s description of Kmiec’s apostasy, and the reactions to it, make for rich reading indeed, and I won’t spoil it by giving away his best lines. Most important, however, is that Murchison, while conceding that things are bad, emphatically refuses to call them “hopeless.” Some may wish to “walk away,” but “the time for presenting with new force the reasons *not* to walk away, the reasons to care for life you can’t see except in outline but can feel and listen to, the reasons to honor without partiality the handiwork of the Creator God . . . that time is certainly here.”

The times may call for reconsidering strategies, and our second article discusses a subject that many find vexing: “Should We Show Pictures of Aborted Babies?” Because “today, many good and serious pro-lifers hold different opinions on whether it is appropriate to show pictures of aborted babies to the general public,” new contributor Joe Bissonnette decided to approach the subject as the great St. Thomas Aquinas, the “model of fairness,” would have: “Before stating his own arguments for a position, he would give full voice to the strongest objections to it.” Bissonnette is eminently fair and persuasive for the first argument; but then presents his favored position with an invigorating wallop. If you think you’re “already done” with this question, think again: Bissonnette’s essay just might surprise you.

We go next to another unusual article, on an issue not yet deeply explored in our pages. Contributor John Burger has written a fascinating piece on how “family” is redefined when children are conceived through “donors”—donor eggs and/or sperm. He writes:

Alas, information technology has come face to face with an area of modern life in which, for some at least, too little information exists. Adopted children often search for their biological parents when they grow up. But with artificial reproductive technologies with us for several decades now, the search for “my real mother” or “my real father” has taken on a new meaning.

A painfully confusing one for the children involved, as Burger discovered after visiting Internet group sites for (“searching”) donor offspring and interviewing Elizabeth Marquardt, author of the forthcoming book *My Daddy’s Name Is Donor*.

Though most of us are familiar with the painful struggles of infertile couples, and what would drive them to seek a donor, the needs of the *child* have been largely ignored. Marquardt says children of such unions are often “troubled and filled with loss”; she believes parents ought to think twice before choosing donor conception.

On the other end of the fertility spectrum are unborn babies conceived naturally who are at risk of *being* lost, through abortion—and the people who try to save them. In “A Day in the Life,” Alice Lemos takes us to the front-lines of the battle to turn around women from abortion clinics. Lemos, a sidewalk counselor, reports on a day she spent in front of one of New York City’s most notorious clinics, “Choices.”

Ms. Lemos was among the 200-plus guests who attended our 6th annual Great Defender of Life Dinner on October 16th, detailed in our special section. It was the first time our event focused primarily on euthanasia and assisted suicide; award winner Rita Marker is Executive Director of the International Task Force on Euthanasia and Assisted Suicide, and fellow-awardee Wesley Smith is an anti-euthanasia activist and journalist *extraordinaire*. With our honored additional speakers, Nat Hentoff and Bobby Schindler, they had the deep connection of having worked mightily to save the life of Bobby’s sister, Terry Schindler Schiavo. The speakers’ obvious admiration for each other was moving, but something crucial happened for our guests as well. Many of our Foundation members were not aware of the then-pending (now passed) assisted-suicide legislation in Washington (Proposition 1000), how the campaign to promote it was orchestrated, and what it would mean for the citizens of that state. Well, Rita Marker brought her audience quickly up to speed, and exhorted us to take up the gauntlet. “What happens in Washington will affect every state”: we must fight to “prevent assisted suicide from becoming the American way of death because not only our lives but the lives of our children and our grandchildren depend on it.”

One of the more controversial articles we’ve published recently was James Hitchcock’s “Abortion and the Catholic Right” (Spring, 2007); indeed, reactions to it were so heated that Professor Hitchcock wrote “Part Two” (Winter, 2008) to address them. His point, in a nutshell, was that elements of the Catholic right, especially those writing in the Catholic weekly newspaper, *The Wanderer*, had “ceased to treat abortion as the primary issue in public life,” even at times discouraging readers from voting for pro-life candidates. In this issue, regular *Wanderer* columnist Christopher Manion defends *The Wanderer*’s pro-life credentials, and points out that pro-lifers have “disagreed for decades.” The “cracks on the Catholic right” about which Hitchcock wrote, Manion says, were not new. He argues that it was George Bush who damaged the pro-life movement by his “wholesale move to the left. . . . However pro-life President Bush is, he dealt the pro-life movement a terrible blow by repeatedly bypassing the Congress and the Constitution with regard to his foreign policy.”

We have also hosted a lively debate in our pages about pro-life legal strategies. In the Summer 2007 issue, attorney Paul Linton wrote about three ways of thinking that he thought interfered with the pro-life movement (such as rejecting

## INTRODUCTION

incremental measures as immoral). He was answered in the next issue by Professor Gregory Roden, who discussed Mr. Linton's critique of the quest for a personhood amendment. Now Linton has written again, to address Prof. Roden's assertions, especially in light of the recent elections; he makes a plea for a *united* front to fight the passage of the Freedom of Choice Act (FOCA), pending legislation praised by Obama.

As we prepare to greet the new administration, it might be appropriate to focus on how *il*-logical abortion proponents are, and Donald DeMarco is the perfect guide. He begins by demonstrating that a passage from the novelist John Irving "contains well over a dozen logical fallacies compacted within a relatively brief span of words." Readers will enjoy DeMarco's deft obliteration of the "logic" of choice. One might also think it logical for there to be an outcry when a "prominent Catholic coach" at a Jesuit university publicly supports a pro-choice candidate *because* of her support for abortion. But, as Richard Goldkamp tells us in "A Coach Steps over the Line," when the then-Archbishop of St. Louis, Raymond Burke, *did* react to St. Louis University's basketball coach Rick Maejerus' comments, asking that the university discipline him, the local media turned on the Archbishop with spiteful fury. This was not the first time Archbishop Burke, another great defender of life, had spoken out against abortion hypocrisy in St. Louis—in the 2004 presidential campaign he challenged "high-profile Catholic politicians like Sen. John Kerry to stop thumbing their noses at both natural law and church teachings that protect an unborn baby's inherent right to life."

Our last two articles focus on contemporary philosophies as they relate to bioethics. First, newcomer J.W. Van Dijken writes that the connection between the abortion rights movement and humanism, including the formal humanist establishment, is substantial, though not given much attention. "Humanism" has been variously defined, but the American Humanist Association concurs with member Kurt Vonnegut's definition, "trying to behave decently without expectation of rewards or punishment after you are dead." Humanism, Van Dijken writes, has embraced abortion as moral, but to do this, they have had to re-define human nature, especially when it comes to post-abortion issues. While Christianity, for example, holds that the "human being does not have the natural capacity to bear the burden associated with" the act of abortion, humanists insist that if people live up to their full potential, they will be able to abort in their best interest, with no negative consequences. But this is where, though they deny it, their ideology butts heads with reality.

In our final article, British philosopher David Oderberg provides a trenchant analysis of what it means to be a "bioethicist" today: Sadly, it often means second-rate philosophers who "have found themselves unable to grapple with the more technical or abstract areas of philosophy—or at least to make a name for themselves in such areas—but have found that it is relatively easy to forge a name for oneself in the bioethics business." Especially by saying something "radical or shocking." What's so disturbing about this is that bioethicists are asked to be the "experts" and the voices of conscience when ordinary people are made vulnerable by

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life-and-death dilemmas. Oderberg makes a plea for change: “At the moment, especially in the United Kingdom, bioethics is out of control. Its boosters and spin doctors march through the media and the journals virtually unscathed. . . . Perhaps it is too late to turn back the tide. But it is never too late to try.”

\* \* \* \* \*

Our first appendix is an essay on euthanasia by a doctor and eloquent man of letters who *is* eminently qualified to be a bioethicist, and one we can trust. (Problem is, he’s Australia’s gem, not ours.) Dr. David van Gend is crystal clear on what euthanasia is—*intentional* killing. He also reports the more hopeful news that, in the United Kingdom and Australia, attempts to open the door to euthanasia have so far failed. *Appendix B* reports on a ray of hope in *our* country: the passage this fall of the “Prenatally and Postnatally Diagnosed Conditions Awareness Act,” which provides parents whose unborn children are diagnosed with Down Syndrome or other genetic diseases with up-to-date information about the condition, and connection to support services. Our final two appendices bring us back to our present reality: We are about to inaugurate the “most extreme pro-abortion candidate to ever have run on a major party ticket” writes Robert George in “Obama’s Abortion Extremism,” *Appendix C*. George considers the “self-identified pro-life Catholics and Evangelicals” who promoted Obama’s candidacy, and finds their justifications “spectacularly weak.” But more important, he lays out the staggering spectrum of Obama’s extreme views on abortion, infanticide, and killing embryos for research. What have we done? Nat Hentoff, in our final appendix, lets us know: We’ve elected “The abortion president.” Mr. Hentoff’s honesty may have finally become too much for the *Village Voice*. After the paper celebrated his 50 years with them just last January, Hentoff was “let go” on December 30th. Mr. Hentoff, our 2005 Great Defender of Life, responded by saying “Fortunately, I’ve never been more productive.” He’ll continue to write a syndicated weekly column for United Media and contribute pieces to *The Wall Street Journal*—his new book, *At the Jazz Band Ball*, will be published this year.

Most of all, we know Nat Hentoff will continue to insist on the right to life, as we will. We will not be discouraged. The cartoon created by Nick Downes for this year’s award dinner (see p. 54) no doubt inspired William Murchison’s fitting reflection on where we are now:

When, like Sisyphus, for 35 years, you’ve shouldered and nudged a particular boulder uphill, and suddenly you find yourself clawing and scratching for balance—well! You might perhaps get a little cross. You stare wearily up the hill. You spit on your hands, lay them once more at the back of the blasted boulder—and shove. Because there is no other choice, the stakes being so immense.

MARIA MCFADDEN  
EDITOR

FALL 2008/5

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## RICHARD JOHN NEUHAUS, 1936-2009

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*“The journey has been long, and there are miles and miles to go. But from this convention the word is carried to every neighborhood, every house of worship, every congressional office, every state house, every precinct of this our beloved country—from this convention the word is carried that, until every human being created in the image and likeness of God—no matter how small or how weak, no matter how old or how burdensome—until every human being created in the image and likeness of God is protected in law and cared for in life, we shall not weary, we shall not rest. And, in this the great human rights struggle of our time and all times, we shall overcome.”*

*—RJN, closing address, 2008 Annual Convention of the National Right to Life Committee, held in Arlington, Virginia.*



# Pro-Life Obamanistas

*William Murchison*

**D**emocratic elections can bring out the worst as well as the best in us frail, fragile mortals. Whichever force carries whatever day, it remains worth noting that an electoral slap in the puss—the kind that Republicans in general and pro-life people in particular—received on Nov. 4, 2008—tends to concentrate the mind wonderfully.

You know where you are, sort of. You've taken a stand. The sovereign electorate has either affirmed that stand or instructed you to jump in the lake. Thus you have much more than an inkling as to what's coming your way in the months ahead. As the brain whirls in dismay or satisfaction, plans and reactions may begin to evolve.

Which is about enough political science for the moment. What we want to look at, in the aftermath of the 2008 election, is what happened with, and to, the cause of human life, and why, to the extent that “why” is a completely valid query concerning the obsessions of a vexed and deeply worried electorate. Ours, for instance.

I regret to report something that readers of this esteemed journal have fathomed for themselves: The news, from a pro-life perspective, is bad. Not hopeless—bad; and a little enervating too. When, like Sisyphus, for 35 years, you've shouldered and nudged a particular boulder uphill, and suddenly you find yourself scratching and clawing for balance—well! You might perhaps get a little cross. You stare wearily up the hill. You spit on your hands, lay them once more at the back of the blasted boulder—and shove. Because there is no other choice, the stakes being so immense.

An unabashed, unblinking pro-choice president—one who, as an Illinois state senator, voted against restricting partial-birth abortion—will occupy the Oval Office for the next four years. Or let's put it this way, perhaps: a candidate who spoke without embarrassment concerning his support for “the right to choose.” It is vain to imagine his emerging, on successive January 22nds, in Washington, D. C., to console and inspire pro-life demonstrators in the manner of Ronald Reagan—who believed the demonstrators, being right, deserved such support as he could convey. Nor probably will the mass media (unless intent on exposing the religious Right) show much continuing interest in these exhibitions of concern and anguish. For the media, abortion

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**William Murchison** writes from Dallas for Creators Syndicate and is a senior editor for the *Human Life Review*. His new book, *Mortal Follies: Episcopalians and the Crisis of Mainline Christianity*, will be published this year by Encounter Books.

is yesterday's issue. As for those who consider it ripe and alive as ever, what'samatter with such people? Get over it! Go home! Can't you see the world has changed?

They can't. And they won't. These two realities seem never to change—to the media's mystification.

\* \* \* \* \*

So what happened? A sizable shift in certain political and philosophical allegiances may have happened. We can't be sure yet. Nor can we know how long it will be before the shift, if it turns out to have been that, shifts back into an older gear.

We do know that as of Labor Day the pro-life Republican ticket, whose vice-presidential nominee had recently, and joyously, given birth to a Down Syndrome baby, was actually threatening to win. The financial crises of September effectively ended that hope, fueling the theory that the United States needed major "change" and that the Democrats would bring it.

Everything Barack Obama and Joe Biden said afterwards played into this theory. "Hope" for change wasn't the phrase; "demand" was more like it. Some have a hard time listening sympathetically or even attentively to discourses on embryos and wombs when to all appearances the economy is crumbling. No previous presidential candidate was perhaps more luckily positioned than was Obama when the electorate suddenly, with less than two months to go before the election, went into crisis mode over bailouts and plunging stock averages.

There was more to the matter, of course. The general nervousness—a man we hardly knew anything about, apart from his impeccably liberal voting record, was nearing the White House—unsettled people who before had generally agreed on things. It became nifty in some conservative circles to praise Obama, or even endorse his candidacy outright.

I hate, as we all should, the journalistic cliché "poster child," but let's concede that if conservative apostasy in the 2008 election season had such a brat, his name was Douglas Kmiec. Kmiec isn't what anyone would call a major conservative player, yet this Pepperdine University law professor—let us remember Pepperdine's generally conservative-Christian reputation—had worked in the Reagan and George H. W. Bush Justice Departments and thus hobnobbed in at least semi-exalted conservative circles. He was pro-life. And he endorsed Obama. As did another self-described pro-life law professor, Nicholas Cafardi of Duquesne University. As did eventually the son of none other than William F. Buckley Jr., the satirist Christopher Buckley;

and the old *National Review* stalwart Jeffrey Hart. The conservative columnist Kathleen Parker whammed pro-life Sarah Palin with gusto and a certain (so it seemed to me) malice. All except Parker saw Obama as a more presentable president than John McCain. Yes, McCain was pro-life. Still . . .

The “stills” got very contrived. Obama in some electoral gardens popped up as a moderate. Hadn’t he called abortion “a tragic situation”? Hadn’t he said he wanted more vital programs of sex education emphasizing both abstinence and condoms? The essence of the Kmiec-Cafardi approach to appraising the candidates was, well, folks, Obama is about the best we can hope for under the circumstances. “We are not baby-killers,” said an obviously miffed Kmiec, surprised to find himself assailed, and even denied the Sacramento, for his drastic change of front. “We are simply finding an alternative way to build up life, to honor the truth of the human person, to promote human good.” Cafardi ostentatiously threw in the towel. The game was over. “I happen to believe that we have lost the abortion battle—permanently.” In which case, perhaps, a trip to Appomattox Courthouse made sense. Maybe the victors would let the vanquished keep their horses for the spring plowing.

A remorseful look in the rear-view mirror seemed to show that, well, the Republicans certainly hadn’t done that much to reduce abortions, far less stop them altogether. That was according to some of Obama’s new pro-life friends. “It finally dawned on me,” said Cafardi, “that these promises [to stop abortion] were being made, but there was no follow-through. And we Catholics were being asked to ignore all the other important social-justice issues in exchange for voting for what was basically an empty bucket.”

Did not that assertion raise significant questions? On a scale of 1 to 10, where did the issue of abortion belong? Was it supremely important, highly important, or just relatively so—relative in terms of what you had to sacrifice in order to put the issue at the top of the scale? Ultimately, Kmiec & Co. found themselves saying there was a lot else going on in the world besides abortion, to which attention had to be paid.

In a *Newsweek* column just before the election, Kmiec, Cafardi, and Notre Dame law professor M. Cathleen Kaveny argued that “promoting a culture of life is necessarily interconnected with a family wage, universal health care and, yes, better parenting and education of our youth. This greater appreciation for the totality of Catholic teaching is at the very heart of the Obama campaign. It is hardly a McCain footnote.”

Here, we got down to brass tacks. The business at hand—I make bold to interpret the learned professors’ language—was reducing abortion to peripheral status among national concerns and thus raising the status of

concerns bearing on the here and now: good health, plenty to eat, social justice. It made a comfortable kind of gospel for an age not over-concerned with whether unborn babies enjoy the right to life. I didn't manage to overhear pro-life Obamanistas saying anything like, jeepers, look at the polls, people don't want the right to life, let's work with what the people want. Possibly, however, that was the unspoken premise in the debate. To wit, we're not winning! Let's try something we can win at!

Such as Obama for President.

Which, of course, wasn't all that got said during the campaign. Far from it. The turnabout of Kmiec and Hart and Buckley wonderfully concentrated many minds. Scholars such as George Weigel, of the Ethics and Public Policy Center, and Robert George, of Princeton University, laid about with rhetorical cudgels. George, writing online for the Witherspoon Institute, castigated Obama as "the most extreme pro-abortion candidate ever to seek the office of President of the United States." The candidate wanted to repeal the Hyde Amendment, which withholds federal funding from most abortions. He promised to sign the Freedom of Choice Act, creating a federal right to abortion on demand and, coincidentally, overturning the mildest state restrictions on said "right." He opposed banning partial-birth abortion. He wouldn't assent to covering unborn children under the State Children's Health Insurance Program. He favored "industrial production" of human embryos for biomedical research. Some pro-life record!

Nor, this time out, did the nation's Catholic bishops go to ground for the sake of Maintaining Unity and a Spirit of Communal Respect. The bishops, in the argot of the gym, were pumped. The bishop of Joe Biden's hometown, Scranton, Pa., declared in a pastoral letter that answered Kmiec without naming him: "Being 'right' on taxes, education, health care, immigration, and the economy fails to make up for the error of disregarding the value of a human life." "It is a tragic irony," continued Bishop Joseph Martino, "that 'pro-choice' candidates have come to support homicide—the gravest injustice a society can tolerate—in the name of 'social justice.'"

The bishops of Dallas and Fort Worth, Kevin J. Farrell and Kevin W. Vann, in a joint letter, referred to abortion as "an intrinsic evil," declaring that "No matter how right a given candidate is on any of these issues, it does not outweigh a candidate's unacceptable position in favor of an intrinsic evil such as abortion or the protection of 'abortion rights.' . . . To vote for a candidate who supports the intrinsic evil of abortion or 'abortion rights' when there is a morally acceptable alternative would be to cooperate in the evil—and, therefore, morally impermissible." Other prelates spoke to the same effect: not least the influential archbishop of Denver, Charles Chaput, who

allowed (speaking, he emphasized, as a private citizen) that “supporting an outspoken defender of legal abortion” betrays “the work of every person who continues the work of defending the unborn child.”

\* \* \* \* \*

Then came Nov. 4. And the victory of the candidate against whom so much had been urged on the basis of his abortion philosophy.

The pro-life cause took a licking, despite the promptings of mercy and compassion and the exhortations of pro-life clergy, the Catholic bishops in particular. What many voters seemed to say tracked or overlapped the reasonings of Kmiec and others: 1) we’ve been butting our heads against this stone wall for a long time now, and we’re not getting anywhere, 2) maybe Obama offers the kind of truce honorable people can accept, and 3) big as the issue might be (or seem), a lot else is going on in life that we just can’t ignore.

Commitment to the cause of unborn life was wearing out some who sympathized but felt the time had come to move on, or anyway move at a different angle to the line of battle. A prominent subtext on the part of the larger center-right electorate was soul-weariness with the Bush administration in general—on whose watch the economic mess was taking place—and irritation at religious conservatives for a tendency to slough off business and foreign-policy issues. A fair number of conservatives, not all of them by any means situated in East Coast think tanks, proved immune to pro-life Sarah Palin and her yearnings for a moose to fell and field-dress.

Meanwhile, on state ballots, some provocatively pro-life measures went down. Colorado voters, with men, not women, leading the way, rejected by three to one a constitutional amendment defining fertilization as the moment at which human life begins. South Dakota rejected for the second time in two elections a legislative measure that would have banned most abortions and thus brought *Roe v. Wade* before the U. S. Supreme Court for possible reversal or modification. California voters, even as they were passing a constitutional amendment to ban gay marriage, rejected a measure that would have required parental consent for a minor to have an abortion.

The voters’ comparative indifference to human-life priorities in this extraordinary year played out conspicuously among Catholics, 54 percent of whom voted for Obama, never mind prelatical promptings about the importance of unborn life. Just four years earlier, George W. Bush had piled up 52 percent of the Catholic vote.

What happened? Obama happened, to the cheers and delight of at least

nominally Catholic Hispanics likely reacting to the thirst of many Republicans to deport illegal aliens. According to the Pew Hispanic Center, 64 percent of Hispanic men and 69 percent of Hispanic women voted the Democratic ticket. (Hispanic turnout—8 percent of the total—stayed the same as in 2004 but rose sharply in states, such as Colorado, with big Hispanic populations.) White Protestants gave John McCain healthy majorities (73 percent to 26 percent in the case of born-again Evangelicals), but it wasn't enough to offset the Hispanic effect.

The challenge of turning out religiously oriented voters in behalf of historic moral commitments such as respect for unborn life grows heavier and heavier in a world only partly attuned to seeing religion as instrumental in daily affairs. Many will still turn out; growing numbers won't. Rather, Kmiec-like, these last will tend to pump moral content into new sets of issues: hunger, poverty, war, capital punishment. It may be that for many the moral meter will simply run down like a windup clock as questions centering on pure survival take center stage: jobs, bankruptcies, bailout, mortgages, and the like. Curiously, a post-election report by the Pew Research Center for the People & the Press said ideological alignments are barely different now from those of recent years, with 21 percent of Americans calling themselves liberals, 38 percent self-identifying as conservatives, and 36 percent pinning on the moderate label.

A maximum amount of education—at a bare minimum—is what the occasion seems to demand. Consider a few pre- and post-election comments from voters.

A Christian and former Bush voter who voted for Obama. Earns \$150,000 a year: "As I prayed about my vote this time, I saw that abortion is no different from gambling, prostitution, or drug abuse. In God's eyes these things are all wrong. Yet evangelicals chose abortion as a place to divide candidates. In God's eyes, sin is sin."

From a blogger in Delaware: "I believe in the sanctity of life from conception to natural death, but I also believe that any parent—American or Iraqi—also believes that dying in war is murder of their loved ones. The Republican Party is using the abortion plank to garner votes. Why hasn't the law been changed? It is because morality cannot be legislated."

From "Joseph" on a Christian Science Monitor blog: "I am a Catholic and member of JustFaith and the Knights of Columbus. I like to point out that abortion is not on top of my list, but human suffering and oppression is."

From blog visitor Jane Meneghini: "As a life-long Catholic for 70 years, I am deeply troubled by the neo-conservative turn being taken by many in the Church hierarchy. They didn't use to tell us how to vote."

From “Ripley,” blogging on *Slate*: “I think some of us are really tired of arguing about abortion and are ready to move on. . . . For whatever reason, the majority of people in America want to keep abortion legal, so we need to work within that framework.”

I am the last man in America willing to suggest that people who vent or open a vein on weblogs, or still write letters to the editors of newspapers, come anywhere close to representing the richness of American opinion. They demonstrate the clarity one achieves with a computer and the opportunity to influence—in a flash—readers by the hundreds, the thousands, perhaps the millions. Still, they give you an idea of the thoughts flashing through the minds of many who call our electoral shots. They see abortion as less than a big deal. They desire to move on to other things. So desiring, they vote for the presidential candidate they see as moving us fastest and most effectively.

**W**hat *will* Barack Obama do about abortion? He’ll do something. He has to. Organized feminism expects it, as does, almost certainly, his very, very liberal domestic policy adviser, Melody Barnes, who has lobbied for “abortion rights.” I’d look for the early collapse of federal resistance to stem-cell research on fetuses. I’d expect pressure to grow, both in the White House and on Capitol Hill, for repeal of the Hyde amendment, which forecloses federal funding for abortions.

My sense of the matter, nevertheless, is that Obama may do less to entrench abortion rights than the let’s-move-on vanguard think they have a right to expect. The man’s a bit of a sphinx. We need to acknowledge that. As I write, in late November, the public is digesting his decision to name Hillary Clinton secretary of state. Hillary? We used to think she and Obama were salad oil and Oriental carpeting—keep ’em well apart! But now . . .

Here he was, additionally, installing on his economic team people of whom conservatives speak well for their imputed hard-headedness and commitment to markets. So, too, the president-elect was signaling his desire that Republican Defense Secretary William Gates continue in office for a while. Obama had taken little time as it was in backing off of immediate tax increases for the rich. This was the face that launched a jillion bouquets into political airspace and burned the topless towers of Bush-ism?

We see—at least that would be one interpretation of the matter—a pragmatic Obama, newly sprung from Zeus’ brow, or Mayor Daley’s inside pocket, it hardly matters. Possibly the new pragmatic Obama knows what fights to pick, and with whom, and when. In a closely divided nation with an economic crisis to fight through and a couple of foreign wars going on, a crusade for the entrenchment of *Roe v. Wade*, à la NARAL, hardly seems the

logical battle of choice—the shooting match on which to expend valuable ammunition.

Nor can it be lost on practical people that the president of the U.S. Conference of Catholic Bishops, shortly after the election, said with heavy precision and deliberation, “Aggressively pro-abortion policies, legislation, and executive orders alienate tens of millions of Americans, and would be seen by many as an attack on the free exercise of their religion.” That Cardinal Francis George comes from Chicago, the president-elect’s hometown, gives the declaration, I suspect, extra resonance. Archbishop Chaput got in a few licks of his own: Sixty-seven million Catholics should know that “we’re not going to give up on the abortion fight until abortion is no longer accepted as part of our culture.” How much more trouble does an incoming president need in already difficult times?

Not that in moral matters it makes sense to rely too much or too long on the restraint or lassitude of one’s opponents. What if it should turn out they were fooling, or just lying low, like Br’er Rabbit? Common prudence calls for active, energetic measures to change minds as the prelude to changing policies.

Thirty-six years after *Roe v. Wade*, the task of restoring legal respect for unborn life—never a small task to begin with—grows ponderous. Small wonder some wish to walk away. The time for presenting with new force the historic reasons *not* to walk away, the reasons to care for life you can’t see except in outline but can feel and listen to, the reasons to honor without partiality the handiwork of the Creator God . . . that time is certainly here.

If the modern moment is a time of new beginnings—a time of “change”—the presumption is false that only one side has permission to speak. Everyone can, everyone should—not least the friends of unborn life. The age is ripe for re-presentation of what we knew until, suddenly, we no longer knew it. The yearning for recovery of our communal memory oozes across barriers and boundaries of all sorts. “I am praying for another Aquinas, I am praying for another C. S. Lewis,” I recently heard a renowned Methodist theologian-evangelist say. Beats waiting for the next election, I shouldn’t wonder.



# Should We Show Pictures of Aborted Babies?

*Joe Bissonnette*

**S**t. Thomas Aquinas remains the model of fairness, because, before stating his own arguments for a position, he would give full voice to the strongest objections to it. This was fitting, because good and serious people often hold differing opinions. Today, many good and serious pro-lifers hold different opinions on whether it is appropriate to show pictures of aborted babies to the general public.

Below are arguments against showing aborted-baby pictures, then arguments in favor of showing aborted-baby pictures and replies to the arguments against.

## **OBJECTIONS:**

### *Postmodern Irony:*

Have we been too politicized, and thus become anti-political? Are we as a culture too desensitized, too jaded, too ironic to be shown pictures of aborted babies? The mainstream seems to be detached from issues and ideas on both the Right and the Left.

I'm a teacher at a suburban college, and my most anachronistically earnest students are vegetarians. They are as if transported from another time. They tend to be quiet and don't mingle freely with fellow students. They are strangers in a strange land.

Each semester a couple of these students choose to do an ethics presentation on animal rights and invariably they show pictures of factory farms, abattoirs, animals maimed and disfigured by tests, tortured animals. All of the class condemn the excesses depicted in the pictures, but over the past few years these pictures have lost some of their shock value, and lately there's been a bit of a blowback against the solemn moralizing of animal-rights types. Moralizers, whether traditional or politically correct, are no longer granted the deference they once were.

Of course this change hasn't taken place just in the classroom. The two most influential shows for teens over the past decade have been devoid of romance, sex, violence, or special effects. They are minimalist cartoon

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depictions of the ironic and iconoclastic. In *The Simpsons*, clear-eyed alertness—not to mention all the best lines—belongs to a pre-pubescent child, the irreverent and mischievous Bart. In *Family Guy*, astute and cutting commentary comes from . . . a baby. Diaper-clad Stewie has world-weary eyes and an aloofly bored middle-aged British aristocratic narrative. He sounds like the effete Jeremy Irons, martini in one hand and cigarette holder limp-wristedly in the other. This use of children as ironizing protagonists implies that irony is the state of nature. It is shockingly, refreshingly iconoclastic, poking fun at sacred cows on both the left and the right.

Bart and Stewie are not bomb-throwing revolutionaries: That's for the "true believer," and for them, both of those words inside the quote marks are too funny to be possible. Bart and Stewie fans have no sense of the holy, as in that which is separate, apart, worthy of respect and reverence. They're not vicious but they are shameless, or almost.

For example, with their biology classes many have seen the traveling exhibit of plastinated human bodies. Skin and fat are stripped away; muscles, tendons, and organs are colorized; bodies are positioned in action-figure poses; and thousands of people a week take in the show and then go on with their daily lives. But these are the bodies of human beings: the mortal remains of persons. These are not plastic images, but actual human bodies plastinated. When I tell this to people, I get no response. They are unmoved. Some of them become a bit uncomfortable when told that many of the bodies come from the People's Republic of China with bullet holes in the backs of their heads.

As a pro-lifer, I find this gives me pause over the use of aborted-baby pictures. Does the initial shock—resonating from the thin outline of natural-law justice which remains on the hearts of the young—give way to callous indifference or even contempt? Will they end up dismissing the pictures or even mocking them?

#### *Civilization and Restraint:*

One of the fundamental preconditions for civilization is restraint. We must restrain our base passions if we are to live together, and we cultivate the habit of restraint by restraining our speech and expressions. Our speech and visual expressions in the arts form our imaginations. Speech and images once put forth, even when condemned, are integrated into the furniture of the mind.

There is something fundamentally unrestrained, shocking, indecent, and uncivilized about showing pictures of bloodied animals or bloodied babies.

Does this breach in civility, which initially elicits shock and horror, itself, over time, undermine the civilized sense of boundaries and restraint which is the basis of society?

The above is often expressed in terms of concern for our children. Almost all pro-lifers are intensely aware of the assault on their children's innocence by the broader culture. From TV to music to sex ed to the overall coarse message and manner of our culture, so much mitigates against the formation of a gentle, perceptive, just, and compassionate soul. The simplest and most resonant objection to aborted-baby pictures is that pro-lifers do not wish their own children to see them.

*Pictures of aborted babies force the issue too quickly, too unequivocally, and may harden people into a pro-abortion position:*

In the Lincoln-Douglas Debates, Douglas proposed that a simple vote was the best way to determine whether slavery should be abolished. Lincoln, however, held that the majority was not always right, and did not, by virtue of its choice, determine right and wrong. The rightness of the cause of emancipating the slaves was deeply rooted within natural law. That sense of natural law, of right and wrong, had to be brought into bold relief and highlighted.

Lincoln the trial lawyer knew well the importance of building the foundation of the case before setting the capstone. The final and definitive argument could not be made until objections were disposed of and sympathies redirected. If the final point were made too soon, it could be a provocation rather than an enticement.

The same holds true with abortion today, when arguing in the court of public opinion. The pictures of aborted babies are, themselves, the final and definitive evidence of the wrongness of abortion. Showing these pictures to a pro-abortion populace whose staunch abortion support has not been softened by convincing arguments that reawaken the natural-law sense of justice is to bring the argument to its final, conclusive point much too fast. Before this point is reached, where definitive opinion is immediately demanded, the coarsened soul must be rehabilitated.

Further, the imprudence of forcing the issue too soon is not only rhetorical and political, but also psychological and spiritual. Like an ablution before entering the temple, like the 40 years in the desert before entering the Promised Land, there must be an emptying, a repentance, a reconstruction before one has eyes for the holy.

It is imprudent and uncharitable to show aborted-baby pictures without

JOE BISSONNETTE

first doing the groundwork, because upon seeing pictures of aborted babies some people do remain resolute in their support of abortion. And if someone can be in favor of abortion after seeing a picture of an aborted baby, they have made a commitment far beyond the abstraction of argument; they have posited a position so dramatically at odds with the facts that their new commitment to abortion is existential in an almost irrevocable way. Their souls have been dangerously and dramatically darkened and so has the prospect of saving the lives of future babies from abortions.

**ARGUMENTS IN FAVOR OF SHOWING ABORTED-BABY PICTURES:**

And yet, faint-hearted reluctance belies the urgency of the issue. If a murder has taken place, show the body.

*The power of pictures:*

The most powerful evidence against abortion is pictures of actual aborted babies which show the aborted baby as a person like the rest of us.

Pictures of born babies, ultrasound images of babies within the womb, in utero scope photography of unborn babies, only show what the aborted baby *is like if he is not aborted*. These pictures are evidence against abortion by analogy. But no trial lawyer would limit himself to evidence by analogy when direct evidence is available. Pictures of particular babies who have been aborted are direct evidence. And seeing is believing.

It is pictures of actual lynchings under Jim Crow, and then actual civil-rights protesters assaulted by fire hoses and attack dogs, that we remember more than abstract arguments about the injustices of slavery and segregation. It is pictures of actual starving and murdered Jews in concentration camps, or actual Vietnamese children scorched with napalm, or car accidents caused by drunk drivers, or lungs blackened by cigarettes, that have turned public opinion.

*The Personal over the Abstract:*

A key theme in sociology is the increased poignancy of the personal as mass culture has become more remote and impersonal. Nothing is more poignant and personal than the human face. It is through seeing their faces that we realize the unborn are like us and empathy is awakened. According to philosopher Emmanuel Levinas we think and feel and live within an interpersonal context, and it is through the face of the other that ethics begins,

that our moral sense is awakened. Speaking of St. Paul, Pope Benedict XVI said: “This transformation of his life was not the result of a psychological process of an intellectual or moral evolution, but the fruit of his meeting with Christ Jesus.” That the pope refers to Christ Jesus rather than simply Christ points beyond the singularly spiritual to the personal nature of the meeting.

Most people consider themselves to be, and are in fact, highly compassionate. Studies of the responses of newborns to pictures of faces show that this compassion is not merely socialized, but innate. But promoters of abortion have succeeded in neutralizing compassion towards the aborted baby by directing the argument elsewhere and thereby shielding the public from the face of the aborted baby. We must bring the argument back to the face of the aborted baby. To see the face of the aborted baby is to see the human personhood of the aborted baby.

Most people are shocked and angered when they are shown the face of the aborted baby because their participation in, support of, or indifference to abortion is an indictment of their compassion. They *should* be shocked and angered; and it is to be expected that they will direct their anger at those who show them pictures of aborted babies. After all, we are the ones who are bringing the crisis of abortion to the fore. We are the ones who are disturbing their peace, albeit a false peace.

But this is a transitional shock and anger. The cognitive dissonance of a newly received truth at odds with the life one has lived seeks resolution.

*Personalism replacing liberalism:*

For 35 years the pro-life movement has relied on the ideas and language of liberalism. The “right” to life is implicitly rooted in a Hobbesian social contract in which each of us is in deadly conflict with everyone else and must agree to respect the rights of the other so that our own rights might in turn be respected. We have not been able to advance the rights of the unborn through this model, because we cannot successfully argue that respecting the rights of the unborn further safeguards our own rights.

But while self-interested liberalism may be the basis of laws, it is not the philosophy that enlightens everyday life. Pope John Paul II was the most engaging personality of the 20th century in significant measure because his anthropology was compellingly rooted in the inherent dignity of the person as created in the image of God. John Paul confronted determinism, Communist and consumerist materialism, and every other mode that reduces persons to objects of control and manipulation. He said that each person is a

subject, and it is debasing to reduce persons to objects; to mere producers or consumers to be manipulated.

The truth of the pope's personalism was foreshadowed and continues to be echoed in some of the most unlikely places. Most advertising is loosely predicated on personalism, though ironically it appeals to our innate sense of the importance of persons for the purpose of reducing us to consumers. Advertisers paint a shallow caricature of the relationships we all long for, and they do so quite obviously for the purpose of selling product. But the hypocrisy of using images of human relationships to reduce us to consumers is the tribute vice pays to virtue.

In *The Minimal Self*, cultural historian Christopher Lasch chronicled the 19th- and 20th-century retreat from religious to political to private man, as technology made the public realm less hospitable for psychic wholeness. Lasch outlines the changes wrought by the industrial revolution. Whereas each Judeo-Christian man had formerly viewed himself and others as made in the image and likeness of God with the world as his rightful dominion, mass production robbed things, and persons who inhabit the world of things, of their particularity. The sheer quantity and uniformity of mass production, where everything was made by a process rather than a person, rendered the world and its inhabitants soulless. This retreat was so thorough, and such a distortion of the grandness which is the person, that it became normative for people to reassert their distinctiveness and individuality by parading their maladjustment. After image-of-God man, after political man, came man as the triumphant victim.

My estranged former sister-in-law has a framed letter from Oprah Winfrey, responding to her offer to appear on the show and talk about her broken life. Oprah, Geraldo, Jerry Springer, and a host of others have traded in the broken, the tawdry, and the perverse, but they have also transcended the contrived artificiality of celebrity personalities: Theirs was a sort of personalism from the ruins. Their "reality show" successors compete for ratings with a host of entertainment shows about the lives of celebrities, but the contrived revulsions, obstacles, and mirth of the non-celebrity reality shows renders them just as fake and soulless as the celebrity programs. The hunger for a sense of man in the image of God is even more acute now for its absence.

David Brooks's essay "Patio Man and the Sprawl People," which appeared in *The Weekly Standard* in 2002, paints a heart-sickening portrait of the shriveled, one-dimensional suburban-consumerist soul. Spouses, children, and friends have the status of components alongside barbecues and patio furniture. Even the self is little more than a caricature, a hollowed-out self, where the peaks and valleys of heroism and tragedy have been made smooth.

Patio man has become arid homeostatic man. But underneath it all, our souls groan in longing for the deplastication of the person.

Abortion will be rejected when we successfully convey the personhood of the unborn child because of our compassion. This will happen because we are moving away from the depersonalization of reductionist mass culture, irresistibly drawn to the Judeo-Christian man in the image and likeness of God.

**REPLIES TO OBJECTIONS:**

*Postmodern irony* is not a durable world view: It is sophomoric, wearying, and implodes upon itself. Bart and Stewie have nothing to say about pain, sickness, suffering, and death; so if boredom does not deflate easy irony, the human condition will. Their country of origin is the country with the most freedom to mock and lampoon, but it is also the most religious country in the world.

Neither will the coarseness of aborted-baby pictures undermine *the restraint and refinement* which is the basis of society. To preserve good we must be mindful of how close evil is. History courses teach about injustice and tyranny that we might be mindful of the fragility of justice and preserve freedom. The cross, the instrument of the greatest evil in history, is the universal symbol of Christianity. The crucifix with an image of the crucified Christ upon the cross calls the world to sorrow, gratitude, and holiness.

Free will would be little more than a curse if we were incapable of turning away from evil when shown the good. *Conclusive evidence* that abortion is wrong does not make people more committed to abortion, unless they are already very committed to evil. These people we cannot change. Most, however, are vaguely pro-life, though irresolute because their unease with abortion has been muted by pro-abortion rhetoric. It is a mistake for us to spend too much time answering pro-abortion rhetoric, fighting them on their own ground. Rather, we should show the clearest, strongest evidence that abortion is murder and thereby clear the air of confusing lies.

## “Donor Offspring” Redefining Family

*John Burger*

**G**o to Yahoo Groups, and type in the words “Donor Conceived.” You’ll get a listing of some 40 Internet-based communities a person can join and search further.

Search for what?

“This group is for families who conceived with NorthWest Andrology and Cryobank Donor #188G,” says the group called “donor-188g.” “Membership is by invitation only and for those who have children by Donor 188G or are pregnant by this donor.”

Donor 188G is an anonymous sperm donor, and presumably the sperm bank promised never to reveal his identity, even to his offspring.

Another Yahoo group has been set up with an eye to the future, when the children of a particular donor *may* be searching for their progenitor: “This is a group for parents who are trying to conceive or have already conceived using Midwest Sperm Bank’s donor # 038. It will give our children (future or current) a chance to know other offspring from this donor,” said “mw038kids.”

Similar groups have been established for donors—not only sperm donors, but also women who have sold their eggs to egg banks. Facebook has similar groups to which seekers can belong.

Alas, information technology has come face to face with an area of modern life in which, for some at least, too little information exists. Adopted children often search for their biological parents when they grow up. But with artificial reproductive technologies with us for several decades now, the search for “my real mother” or “my real father” has taken on a new meaning.

Baby-making options are many, for those who can afford it. Sperm donation is an old technology, going back a hundred years or more. Egg donation is relatively new. In vitro fertilization is now common, 30 years after the birth of Louise Brown, the first test-tube baby. There’s more and more acceptance of single parenting, and some single mothers have decided to have children without the help even of a boyfriend. Same-sex couples who feel incomplete without a child have options such as sperm- and egg-donation and surrogate motherhood readily available.

And, in an age of greater openness, many children who were conceived with the help of donated gametes are growing up and coming to understand

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**John Burger** is news editor of the *National Catholic Register*.



that the mother or father who raised them is not their biological parent.

Ryan Kramer is one such child. He's never met his biological father, but he's still hoping that the exposure he's gotten in the media will help prompt his donor to come forward. Ryan and his mother, Wendy Kramer, have appeared on television shows such as *Good Morning America*. In 2000, Wendy Kramer started the Donor Sibling Register as one of those Yahoo Groups for people seeking their donor parents. It has grown to become an independent website, [donorsiblingregistry.com](http://donorsiblingregistry.com), listing 22,000 people.

Kramer and her husband, who had "fertility issues," used artificial insemination. She's raised Ryan alone since he was one, when she and her husband split up.

Ryan, now 18, noticed early on that other kids in school had two parents, while he had only his mother. "So did my Dad die or what?" he finally asked his mother one day.

Wendy Kramer decided to be frank with him and gradually helped him understand how he came to be. "My son has always known he's donor-conceived and always had a curiosity as to who his biological father was and if perhaps he had biological half-siblings out there," she said. "When he became really curious we quickly realized that the industry—the sperm bank, the doctor, the clinic—nobody was willing to help us or facilitate mutual-consent contact."

Said Ryan: "When I would look in the mirror, discover something new, a new interest I had, a new talent or something like that, I could always relate what I had in common to my maternal side of the family, but on the other side of it, there were all these characteristics that I noticed about myself that obviously didn't come from my mom's side of the family. And always, my curiosity was driven by wanting to see the source of all those parts of myself in somebody else."

#### **'Redefining Family'**

The issue was not merely sentimental for the Kramers. Wendy Kramer said the anonymity that the sperm bank had given the donor meant that she and her son would not know if, say, the donor suddenly discovered that he had a hereditary disease to which Ryan also might be susceptible.

This may be what leads some sperm donors to list themselves on the Donor Sibling Registry, which is populated mostly by donor-conceived offspring. Wendy Kramer believes some donors register out of this sense of responsibility: "They're like, 'You know, I feel like it's the ethical and the right thing to do, and I have medical information to share with these families.'"

People listing themselves provide the donor ID number their parent or

parents received from their sperm bank. Donor-conceived children and donors with the same number are then free to contact each other.

In February 2007, a 13-year-old girl found through the website that she shared a donor number with Ryan Kramer. “She is three years younger than me, and we were able to meet, and we talk all the time now and it’s been excellent getting to know somebody who shares that genetic half of me,” he said. “Being able to see someone who’s got those same characteristics, in large part answered most of my questions.” Said his mother: “We got to experience this expanding family dynamic. It’s about redefining family, but also in a very positive way expanding family.”

### **Relief, Then Disappointment**

It’s not always so idyllic. Katrina Clark wrote of her experience in the *Washington Post* in late 2006, saying her sigh of relief upon finding her donor father eventually turned into disappointment when he seemed to be losing enthusiasm for their “developing relationship.” He finally admitted that he was tired of “this whole sperm-donor thing.”

“The irony stings me more each time I think of him saying that,” wrote Clark, a student at Gallaudet University. “The very thing that brought us together was pushing us in opposite directions.”

Being tired of the “whole sperm-donor thing” may be an emotion experienced by many former donors. Some donors actually have over 100 biological children, Kramer says, although a leading physician in the infertility field, Dr. Robert Brzyski, finds that number a stretch. “If a person has a normal semen analysis, a single sample could produce maybe five vials of sperm,” said Brzyski, chairman of the ethics committee of the American Society for Reproductive Medicine and an associate professor in obstetrics and gynecology at the University of Texas Health Science Center in San Antonio. “I would estimate one in eight vials produces a baby, but if a person collects cumulatively over time, let’s see, how many ejaculates would it take to have over 800 vials?”

Nonetheless, donors who register on Kramer’s website “get overwhelmed” after connecting with two to eight offspring, Kramer said. “They can’t deal with it.”

### **‘Someone Who Was Never There’**

Elizabeth Marquardt, author of the forthcoming book *My Daddy’s Name Is Donor*, said there are estimates that 50,000 to 75,000 children are conceived each year in the United States as a result of sperm donation. “But nobody really knows how many there are because there’s no reporting required of

pregnancies achieved by this method in the U.S., and no tracking.”

Speaking to this reporter in the fall of 2008, Marquardt, vice president for family studies at the Institute for American Values, said she was still analyzing data for her book, but felt confident enough to say that donor-conceived children’s experiences of identity and of trying to figure out who they are and where they come from “are much more troubled and filled with loss” than those of children conceived in a traditional-marriage relationship.

Rather than being helped by searching for donor parents through Internet registries, Marquardt said, they can find the experience disconcerting. “It can be very troubling to young people to find out I have 20 or 30 or 100 or 300 half-siblings,” she said:

We have no idea what that does psychologically to someone. It’s never been an issue before.

What do you do when you’re 15 and you find the guy who is your biological father? We sort of talk about that like it’s the end of the game: ‘Oh, you’re one of the lucky ones who’s found your donor.’ From the donor-conceived offspring I talk to, that’s the *beginning*.

First of all, you don’t know if he’s going to accept or reject you. If he does accept you, how many other donor offspring does he have coming to him as well? How many children has he had in his own life with a spouse or something? . . . If he gets sick do you have an obligation to care for him? Would he come to your college graduation? . . . Is he a father or not? What is he? And how do you begin establishing some kind of a relationship with someone who was never there, to do all the things that a father is supposed to do? Who is this man for you, and who are you for this man? That’s a heavy load to hand to a 12-year-old or a 16-year-old or a 25-year-old.

#### **‘That’s When the Emptiness Came Over Me’**

Katrina Clark, in her *Washington Post* article, wrote of having found the “missing puzzle . . . of who I am” the day she heard from her donor, complete with an e-mailed photo that seemed to mirror her own features. Before that, she went through periods of rebellion because of a sense of fatherlessness.

“Those of us . . . conceived in the late 1980s and early ’90s, when sperm banks became more common and donor insemination began to flourish, are coming of age, and we have something to say,” she wrote. “I’m here to tell you that emotionally, many of us are not keeping up. We didn’t ask to be born into this situation, with its limitations and confusion. We offspring are recognizing the right that was stripped from us at birth—the right to know who both our parents are. And we’re ready to reclaim it.”

Although Clark’s mother had told her early on about her circumstances, the girl longed for a father and felt jealous seeing other girls with theirs. Her mother, single for quite a while, finally married, and Katrina didn’t take to her stepfather. They quarreled, and Katrina lashed out at him. “That was

when the emptiness came over me. I realized that I am, in a sense, a freak. I really, truly would never have a dad. I finally understood what it meant to be donor-conceived, and I hated it.”

Margaret Somerville, director of the Centre for Medicine, Ethics and Law at McGill University in Montreal, knows about the grief that such children can feel. She’s been studying it for years, and as a bioethicist she has strong feelings on what the phenomenon means in terms of the meaning of life.

“They talk about being genetic orphans and talk about ‘Not only do I not know where I came from, but my child won’t know where they came from,’” she said. “I had someone saying to me recently that they thought knowing who your genetic relatives were is so important because it’s the only bond you couldn’t renounce. You can reverse a marriage, agreements, whatever, but this is so fundamental.”

Stacy Smedly, a 28-year-old architect from Seattle, was donor-conceived by her single mother and grew up without a father in her life. She explains how she found out her origins: “My Mom was very honest about it. I was in kindergarten so I was, I think, five. And you go to all those meetings and things and the kids always have their mom and dad with them and I always only had my mom. So I just asked her one night, ‘Mom, why don’t I have a dad?’ and she sat me down and took out that ‘Where Do Babies Come From?’ book and explained how it all works and said, ‘Well, instead of me having a person with me to help me do this, there’s a really kind of stranger out there that gave me half the ingredients I needed to make you.’”

Unlike Katrina Clark, Smedly said she doesn’t feel something is missing, partly because she had her grandfather in her life, helping to fill the father’s role. “I never felt I needed a father there to do things with or to fill that role in my life,” she said.

She is seeking out her “donor”—she doesn’t think of him as her father—through various means, including the Donor Sibling Registry, but simply wants to learn medical history and genealogical information to help her understand her ethnic background. She said the sperm bank her mother used merely provided his family tree—without names—and basic information on how old forebears were when they died.

She did find a half brother through the registry, though, and meeting him, she said, has helped answer a lot of the questions she’s had about her genetic makeup. They talked by phone and finally met. “The families met, and meeting him has actually filled in a lot of those missing puzzle pieces that I have, just because we have the commonalities we can see in each other in terms of physical traits and personality traits and funny quirks and things like that,” she said of the man, three years her junior and a Peace Corps

volunteer in Africa. “They’re pretty strong, so it was pretty comforting to me to find a match.”

### **Debates Brewing**

In many places there are emerging debates over what to put on a birth certificate, whether to ban anonymous donation (some in the infertility-treatment field fear that would have a chilling effect on gamete donors), at what age to allow a child to request the identity of a donor, and, for parents, when it’s best—*if it’s best*—to tell a donor-conceived child about his origins.

In fact, the debate is already leading to changes. In 2005, Great Britain abolished strictly anonymous sperm donation. Children conceived with donated gametes are now able to find out the identity of the donor once they hit 18. The London-based International Donor Offspring Alliance states on its website ([idoalliance.org](http://idoalliance.org)): “People have a moral right to know the truth about their personal history.” The alliance believes that a person’s genetic parentage should be recorded on his birth certificate “or associated documentation available to the donor-conceived person.”

In Switzerland, the constitution recognizes a child’s right to know his biological lineage, including identifying donor information.

In France, 25-year-old Arthur Kermalvezen has been seeking the identity of his sperm-donor father—and leading a campaign against donor anonymity.

And in Canada, Olivia Pratten has brought a class-action lawsuit on behalf of people in British Columbia conceived via anonymous sperm, egg, and embryo donation. Adopted children have legal rights and opportunities to know about their biological parents that children conceived by way of gamete donation do not, she points out. According to press materials on the case, plaintiffs have been denied access to vital health information from various physicians who practiced donor insemination.

In the U.S., Wendy Kramer and others would like to see reforms in the assisted-reproduction “industry,” as she calls it. She believes it is in a chaotic state, even today, failing to track how many children are born from each donor, for example, or update medical records. “I think they’ve lost sight of the families they’re helping to create,” she said.

Brzyski, the chairman of the ethics committee of the American Society for Reproductive Medicine, said the committee believes there should be “at least non-identifying medical and biographical information” shared with the offspring and “the consideration of some sort of periodic update, especially regarding medical issues, whether some condition develops in the offspring that is relevant to the donor, and vice versa, that there be a process for communication of that, and that there may be even more opportunities for

contact between the offspring and the donor.”

Speaking in October 2008, before the release of an ethics-committee statement on the issue, he added: “One of the things that the committee felt was that this is a decision that should be the offspring, the adult child’s decision, once they reach the age of making those decisions as an adult, whether 18 or 21, whatever. . . . The rearing parents really have no ethical relationship to this issue because the genetic link is between the child and the donor.”

The ethics committee issued guidelines for gamete and embryo donation in 2002, requiring clinics to maintain permanent records of donor screening and selection data, donor examinations, and clinical outcomes as a future medical source for offspring.

The American Society for Reproductive Medicine also points out that the American Medical Association calls for maintaining permanent records with identifying and non-identifying health and genetic-screening information on sperm donors. The ethics committee supports full disclosure on the part of rearing parents to their donor-conceived children of the facts of their conception.

#### **Dangers of Anonymity**

Kramer and Smedly found their donor-conceived siblings through the Internet—and knew they were related. But what if they met their respective sister and brother in another forum, say in a bar or on an Internet dating site—and fell in love? If they didn’t know they were biological siblings, they would be left open to a possible incestuous relationship.

Brzyski said that within a given geographical area, the number of children born from a particular donor is limited in order to reduce the risk of consanguinity. Still, it’s only one of many issues that concern Elizabeth Marquardt. The Chicago-based researcher would like to see a national debate about donor conception because she feels there’s not enough awareness of issues like possible consanguinity. Although she’s not arguing for a ban on donor conception, she believes that there needs to be more regulation and that prospective parents should think twice before taking this route.

“Based on the data I’ll be publishing next year and what I’m seeing,” she said, “I think it’s a better idea for parents not to do this.”

#### **Metaphysical Questions**

Though she is not Catholic, Marquardt says the wisdom of Catholic teaching on matters of procreation has become more apparent as new technologies begin to play out in people’s lives. “The more we learn, the

more the Church position on this makes a lot of sense because . . . you start introducing these separations between sex and reproduction, between sex and marriage, between reproduction and raising children, all these separations that are being introduced, to the point that parenthood has become fragmented, and we have gestational parenthood, genetic parenthood, social parenthood, and different players can be involved in a child's life or not, all stemming from these separations that were introduced, which the Church has been opposed to all along."

Pope Paul VI's 1968 encyclical *Humanae Vitae*, for example, emphasized the necessity of maintaining the bond between the unitive and procreative ends of the conjugal act. Artificial contraception breaks that bond. So do, as the 1987 document *Donum Vitae* pointed out, artificial means of reproduction. Issued by the Church's Congregation for the Doctrine of the Faith, under Cardinal Joseph Ratzinger, *Donum Vitae* insisted that human procreation take place within the conjugal act.

As Catholic bioethicist William E. May put it in his book *Catholic Bioethics and the Gift of Human Life*, "If the procedure replaces or substitutes for the conjugal act, it is immoral; if, however, it assists or helps the conjugal act to achieve its purpose, it may be morally licit."

Margaret Somerville also looks at the issue metaphysically, though not from a particular religious standpoint. "A child's right to be conceived with a natural biological heritage is the most fundamental human right and should be recognized in law," she wrote in "Brave New Babies," an article on Mercator.net. "Children have a right to be conceived from untampered-with biological origins, a right to be conceived from a natural sperm from one identified, living, adult man and a natural ovum from one identified, living, adult woman. Society should not be complicit in—that is, should not approve or fund—any procedure for the creation of a child, unless the procedure is consistent with the child's right to a natural biological heritage."

Marquardt believes the needs of the child have been largely ignored compared to the needs of infertile couples. "The whole attitude has been so much about the needs and experiences of infertile adults and the need to heal that wound of infertility by any means possible, to the point that the experience of the child is silenced," she said. "We're not even supposed to ask the question because it makes infertile adults feel bad. You have would-be parents who choose not to adopt and choose instead to conceive a child through egg or sperm donation precisely because they want to have a genetic relationship to their child, and yet the child's relationship to that absent sperm donor or absent egg donor is not supposed to matter to the child. So there's a real contradiction there."

Andrea Braverman, a psychologist who works with couples thinking about donor conception and who is on the ethics committee of the American Society for Reproductive Medicine, largely agrees, but says the profession is catching up.

“I think [Marquardt has] a point to make, which is, historically, the children weren’t considered,” Braverman said. “The assumption was that once the child was born they were never going to find out about it, so there was no hurt to have to consider and that they would be surrounded by love and everything would be great. No one thought there were going to be any needs. That’s changed dramatically in maybe the last decade or two, with all of this saying ‘Wait a minute, hold the phone. They’re not babies very long; they grow up and become adults with their own needs and perceptions.’”

### **The Future**

Marquardt hopes America will start to talk about the issue before too much longer. New technologies are being developed, including same-sex procreation—already successfully done in mice. Reproductive cloning apparently is gaining acceptance, with a recent survey showing 10 percent of fertility-clinic directors saying they would support it for their patients. And children have been created with the DNA of three adults—from the sperm of the father, the nucleus of the mother’s egg (because the woman has a genetic condition or old eggs), and the cytoplasm of a younger woman’s egg. A child could therefore have three genetic parents.

“It’s being done initially as medical treatment in exceptional cases,” Marquardt said. “But you have polygamy and polyamory today, so maybe there will be three people who want to reproduce in this way.”

Youngsters and adults now seeking their sperm-donor fathers have at least one advantage: knowing that somewhere in the world, they do have a father. Under the new British Human Fertilization and Embryology bill, passed by the House of Commons last October, in vitro fertilization clinics will no longer have to consider the need for a child to have a father when deciding whether to offer treatment to lesbian couples.

According to a 2007 article in the British newspaper *The Independent*, scientists might be able to produce sperm cells from a woman’s bone-marrow tissue, thus eliminating altogether the need for a man to father a child.

Thus, for some people in the future, the search for a father will be fruitless.



## A Day in the Life

*Alice Lemos*

“**M**y daughter is four months pregnant—she’s going to have to push out a dead baby.” The woman was talking into her cellphone while Colleen, from the organization Silent No More, and I leafleted in front of the Choices “Medical Center” one Saturday morning. Choices was and is one of the most notorious abortion mills in New York City. I’d had trouble finding Choices, since it is “off the beaten track”—in an industrial zone in Long Island City, a neighborhood close to Manhattan that is being gentrified. A new high school, “The School of American Studies,” which shares space with the High School for Newcomers, is around the corner from the abortuary. So is St. Patrick’s Church, the site of Masses and prayer vigils for the closing of Choices, which—it is hoped—will happen in the not-too-distant future, since so many of the buildings in LIC are going “condo.”

“Colleen, get over here,” I shouted at my friend, who was several yards away talking to a young woman in a car. This was my second attempt in one month at sidewalk counseling at an abortion mill, and Colleen had more experience and training than I. “Can we help you?” Colleen asked the cell-phone woman. “Is your daughter inside there? Can you reach her by cell phone?”

“I overheard what you said,” I jumped in. “You can’t let your daughter go through with this. She will be traumatized for life. That is your grandchild. There is so much help nowadays . . .” Colleen began to hand her literature with information on crisis pregnancy centers. I was speaking quickly: “Look at this place. It is in an industrial area . . . It is a hell hole. Would anybody have any reason to come here? The owner hides this place.” I pointed out that one of the “doctors” who used to work here—the infamous Dr. Zorro, as he had been nicknamed by the press—was stripped of his medical license for carving his initials into a woman’s stomach.

The cellphone lady—her name was Lisa—got on her phone and called her oldest daughter, who was with the younger, pregnant girl. They came outside. “What a lovely family,” Colleen said to them. “Please, call these numbers—people can help you.” We hugged and they got back into their car and drove off. Colleen and I said prayers that they would never return to the mill.

Months before, I had participated with Colleen in the 40 Days for Life campaign in Jackson Heights, Queens. Our site was two back-to-back abortion mills by the 90th Street subway on the number 7 line. Two people in the

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Alice Lemos, a political writer and consultant, lives in Woodside, New York.

street had passed out cards for the clinic owners, advertising “Abortos dentro de 24 horas” (abortions within 24 hours) with the usual assurances that Medicaid was an acceptable form of payment. The cards resembled the kind of cards that nail salons generally pass out in the street minus, of course, the subtlety that neighborhood nail salons exhibit. Outside on Roosevelt Avenue, people in Medicaid vans handed out forms and sometimes even balloons to children in an effort to entice their parents to sign on—no questions asked.

“I’m pro-abortion,” a young black girl screamed at me. “Well, your mother had you,” I responded. She defiantly entered the mill. A young man was pacing in front of Choices. “Can I help you?”

“My girlfriend is inside, she’s pregnant.”

“Call her and get her out. Don’t do this to your child and girlfriend.”

“We are recovering addicts. You don’t know what it’s like.”

“Actually, I do—I was married to an addict. He has been clean for many years.”

“My girlfriend used drugs while she was pregnant. We don’t know what it did to the baby.”

“So did Courtney Love, and she had the baby anyway, and she is okay.”

“We don’t have any money.”

“Neither did I.”

“Your situation is different.”

“Is it? Do you know how many times I have been in Family Court?”

“Look, lady, I respect you but you are wrong.”

“Explain to me why I am wrong.”

We went back and forth for several minutes. “This guy is a tough case,” I whispered to Colleen. “Actually, I think he is a wimp,” she responded. “Why doesn’t he protect his girlfriend and child?” “I heard that,” he answered. “How many times do I have to hear it?” “As long as we are here you will hear it.”

His girlfriend finally came out to consult with him. We handed her pro-life literature and information. “Do you need a place to stay?” we asked. “There is a home in the Bronx. It is clean.”

“I don’t like the Bronx.”

“There is a home in College Point, Queens, run by St. Fidelis. There is also Bridge to Life. They are non-judgmental and even have parenting classes.”

The young lady whispered to her boyfriend and then went back inside to Choices to do the “paperwork.” “You can change your mind,” Colleen and I shouted at once. “You’re allowed to change your mind. The only thing you can’t reverse is the abortion.”

Another lovely young lady with red hair came outside carrying papers.

She was shaking. We gave her post-abortive literature. We had tried speaking to her boyfriend hours before, but he had been stubborn and hostile. When we had said “God bless you” to him, he had retorted with “I’m an atheist and I don’t want to hear about God.” The middle-class white couples were tougher to speak to than the minority couples, although black women have a disproportionately high number of abortions.

Nearby, our friends continued to pray the rosary as we tried to speak to the young women and their boyfriends. After 2:00 P.M. I left Long Island City to return home. Perhaps a life had been saved—but others had been destroyed or damaged. I planned on returning as long as Choices remained open. I looked up the Choices website on the Internet—where I learned that Choices gives “numbers” to their clients in order to “protect their privacy.” But in fact, they give their clients numbers because that is all they are to the abortion industry: numbers, payments. To Colleen and me, and the group outside praying, the women who were entering Choices and their families were something else—human beings who needed help and empathy.

I also read that Choices specializes in second-trimester abortions, and claims that women who have late-term abortions do so “because they had been pressured into giving birth.” In reality, most of the pressure weapons are on the pro-choice side. Abortion clinics and their powerful supporters tell women that they are making a “private” decision that will not scar them for the rest of their lives, and that they are being more “responsible” by “taking care of the problems.” I thought about what would happen if the RHAPP bill, the so-called Reproductive Health and Privacy Protection Act, originally sponsored by former Governor Eliot Spitzer but now supported by Governor Patterson, were to become the law of the State of New York, or even worse, if Barack Obama were to sign the Freedom of Choice Act as he has promised NARAL and Planned Parenthood he would: Crisis pregnancy centers would be denied federal funding. There would be legal abortions through all nine months of pregnancy, and Choices would be busier than ever. Catholic hospitals could even be forced to perform abortions. Sidewalk counselors would be kept far, far away from patients or even arrested. (During one of his debates with his opponent, John Faso, Spitzer had called sidewalk counselors “harassers” and, once again, the New York City Council is considering a bill to move counselors further away from the clinics. Of course, this would be unnecessary were Obama to sign FOCA—we would be permanently silenced by federal law. Note: Bill O’Reilly on Fox called the potential signing of FOCA “devastating” and “divisive” and said that “all hell would break loose” if Obama did it. So much for “one United States.”)

But there's hope. Even though abortion mills such as Choices still exist, this year we have had a bonanza of pro-life movies, including *Bella*, *Juno*, and the vulgar yet profoundly pro-life film *Knocked Up*. In *Knocked Up*, when the nerdy guy tells his father that he is going to become a grandfather, his father responds, "That is great news. I am overjoyed. Bad news is when your grandmother has Alzheimer's! . . . Life doesn't care about your plans." He doesn't respond by shouting (as did a hostile Choices client), "I'm pro-abortion!" or "Take care of it!"

Merle Hoffman is the owner of Choices, and is the feminist heroine to columnist Andrea Peyser of the New York *Post*. Ms. Peyser openly supports even partial-birth abortion although she finds it "dreadful." Peyser has also praised Hoffman for her adoption of a Russian child, but has shown very little curiosity about why there are so few American children available for adoption. (Hint: It has to do with Hoffman's choice of career.) Choices "clientele," incidentally, give it a very low rating on the Citysearch and Insider Pages business directory, complaining about the "assembly line care" and "contemptuous attitude of the counselors." (Funniest line: "The owner takes her dog to work . . . I will not recommend this facility ever!!!!") They also complain about the "pro lifers who are outside praying"!

Yes, we will be outside again, praying and counseling. And hoping that the building really does go condo.



THE SIXTH ANNUAL  
GREAT DEFENDER OF LIFE DINNER  
October 16, 2008



Honoring  
RITA L. MARKER AND WESLEY J. SMITH

**FAITH MCFADDEN:**

Welcome! A hearty welcome to you all.  
Thanks for being here, this Fall.  
In past years, I've welcomed you with rhyme:  
I'm not going to do it, this time,  
For I have Serious Things to say . . .  
Oh, and by the way,  
The crowd here tonight *isn't* thinner  
In spite of the Waldorf's Al Smith dinner.

This is the eve of the tenth anniversary of my husband's death. When Jim was in the army, his buddies called him "Magoo" because he was very near-sighted. He was *farsighted* in his vision for the *Human Life Review*, but it's unlikely he ever envisioned an award dinner—let alone the *sixth*!

Many of you know how Jim became involved in this cause. He hadn't felt the *need* to get involved until January 23, 1973, the day after *Roe v. Wade*, when he read in the *New York Times* the entire transcript of the Court's decision; he was "flabbergasted and outraged," he told an interviewer in 1985, "that the Supreme Court of the United States could put the moral suasion and moral power of this country behind killing babies."

So he got involved in a cause that he didn't *seek*, but that found *him*. After Jim had lost his voice to cancer, he and his dear friend, William F. Buckley, communicated by memos. And two months before he died Jim wrote Bill that, "You won't be surprised to know that I still use the old Missal; today was the twelfth Sunday after Pentecost—the Gospel is The Good Samaritan. No other parable has so great an effect on me. Early—I can't remember exactly when—it dawned on me that all he *did* was what *came* to him. We don't know anything about him. Maybe he was a Mafioso (ready money—even 'two pence' was rare then)—all we know is he had 'compassion', and did what he did *well*, more than the minimum, and was ready to do more if necessary. That is what I have tried to do all of my adult life; do whatever came to *me*, and do it as well as I could."

In 1985 we celebrated the tenth anniversary of the *Review*, and in his Introduction to that double issue Jim wrote about the genesis of this journal, "We suffered no illusions: victory was surely impossible. But what cause is better than a *lost* one? And—who knows—history, too, can surprise. When, in 1955 Bill Buckley began publishing his now-famous *National Review*, social conservatives were a tiny, demoralized remnant. Thirty years later it is interesting to recall that Ronald Reagan was a charter subscriber . . . .



2004 Great Defender of Life Hadley Arkes with Faith McFadden

Good writing can win battles; great writing, whole wars.”

Finding good and great writers for the *Human Life Review* turned out *not* to be a problem, but in the early days, Jim’s fears that it *would* be led to a decision he said, “may well have been our best”—get new stuff, but also recycle; get back into circulation stuff which is otherwise thrown out. He wanted the *Review* to be a *permanent record*: newspaper columns are seen for a day, then tossed. In that ’85 interview he said (as an example) “Who keeps the *Village Voice*? Nat Hentoff does these marvelous things on Baby Doe and infanticide, but they’re gone with the fish—literally.” Thus the *Review’s* Appendices became an essential part of the permanent record.

Jim had no use for euphemisms: when people died, that’s what they did. They didn’t “pass on.” But Jim did “pass on” the *Human Life Review* to us. Two months before he (yes) died, in an instructive memo to our daughter Maria about how to write effective fundraising letters, he wrote, “Nobody can guarantee how long this boat will float, but it’s got a lot of momentum going for it right now.” Ten years later, thanks to so many of you, we’re still afloat. [Applause]

My husband often said—quoting himself—“all’s well that ends later.” No one knows the *when* of “later” in this fight, but together we’ll keep that logo ball you see on your program cover rolling upward and onward. And now, here’s Maria, President of the Human Life Foundation, Editor of the *Human Life Review*, mother of three, and writer of good fund-raising letters.

**MARIA MCFADDEN MAFFUCCI:**

She’s always a tough act to follow! Thank you Mom, and I welcome you all here tonight. What a wonderful crowd we have. On behalf of all of us at the Foundation, I thank you for coming, and for making this event such a success, especially this fall, when the world is so topsy-turvy. It is a privilege to be with you here tonight to celebrate life, because that is what we are doing. In honoring those who defend life at its most vulnerable we

GREAT DEFENDER OF LIFE DINNER

are, as our 2005 Great Defender of Life, Nat Hentoff, here tonight, has said, “Insisting on life, the intrinsic value of all human life.”

Also insisting on life is our 2004 Great Defender of Life awardee, Hadley Arkes who is, among other things, the author of the Born Alive Infants’ Protection Act, about which we have heard so much in this election season. [Applause]

And this evening we will add two Great Defenders of Life to their company: Rita Marker and Wesley Smith. Wesley caught our attention in 1993 when he wrote a *Newsweek* “My Turn” column about the planned, for years, death of—suicide of—his friend Frances. After Frances’ death, Wesley was given her papers, and discovered that she was awash in propaganda from the Hemlock Society, the pro-death organization with the “how to” suicide manual *Final Exit*.

Wesley wrote that Frances’ chosen death went against everything he believed in, and that he worried that a so-called right to suicide would inevitably lead to euthanasia, based on the quality of life. We reprinted that column in our *Review*. As Mom said, we had started an appendices section, so we asked *Newsweek* for permission, but we sent Wesley a check. And Wesley, when he received the *Review* and the check was very excited, and called us and asked us what he could do. And we said: write more! And he did. He has been a wonderful writer for the *Review*.

That was about the same time his advocacy in writing about the value of life exploded, especially after he met and started working with Rita Marker, his mentor.

You will be hearing shortly from Bobby Schindler and Nat Hentoff about their good friend Wesley Smith, but I would like to say a few words now about Rita.

I have always been, frankly, in awe of Rita Marker. I don’t think I know of anyone who is able to do as much as she does, in so many directions, at the same time. As you know, she founded the International Task Force on Euthanasia and Assisted Suicide in 1987, and has been its Executive Director



*Maria McFadden Maffucci*



since. Professionally she has been in the forefront of the fight against legalizing euthanasia and assisted suicide here and abroad. In her advocacy she keeps a staggering speaking, writing and traveling schedule. And she lives her mission. She is open to the people she meets along the way, reaching out to those who agree *and* disagree in whatever way she can. What else would explain the unlikely, but close, friendship she had with Ann Humphrey, wife of Hemlock founder Derek Humphrey? The story of Ann's tragic life and death was written by Rita in her book, *Deadly Compassion*.

But that's only a part of her life. When I talk to Rita I am struck by how on-target she always is in her work, and always ready to do more. At the same time, it is clear that she is always also thinking of, and doing for, her family; her *very* large family now, and her husband for almost fifty years, Mike. She manages to be with them, in a sense, all the time, in their joys and struggles. So a call to Rita might find her, as I did, over the summer, working on testimony, and an article, about the pro-death law to be voted on in Washington State this November, and then relaxing at night by knitting for her grandchildren. The last time we saw her was last October. She got up at some ungodly hour to fly here for a breakfast meeting, and then got back on a plane to visit her son in the hospital in Seattle; a son, who, like his mother, was doing for others; donating his kidney. Through it all Rita is unfailingly upbeat, kind, patient and ready to go where she is needed.

And here is something you may *not* know: She graduated with a BA in Renaissance Music. She has written Masses in Gregorian Chant, and at the time she was completing her BA, she had five children under five. She attended law school in her fifties . . . you get the idea: she puts the *multi* in multitasking, and she has made the impossibly demanding seem like it's all in *her* day's work.

Rita Marker is a personal hero of mine because I know that I could not do half of what she does, and for me she is a beautiful example of what it means to truly live for others . . . her family, and all the people she'll never know whose lives she works so hard to protect. My father was a great admirer of both Rita and Wesley, and as my mother said, tomorrow will be the tenth anniversary of his death. We have lost other dear friends since we last gathered: Henry Hyde last November, and William F. Buckley Jr. last February. We remember them in our prayers.

And now I will ask our friend and Board member, Father Kazimierz Kowalski, to say our Invocation.



“Fr. Kaz”

**FATHER KAZIMIERZ  
KOWALSKI:**

[After hearty applause] I wish my parishioners would do that after my homilies. Actually my name is Kazimierz Apolinary Piotr Kowalski. It’s an old Irish name. This is a dinner that I always look forward to, remembering Jim McFadden,

as we remember and honor Defenders of Life, and sharing very fine company together. Of course the food and beverages are a plus. You know, sometimes I’m asked where I was originally from and I guess since my pronunciation may not hint of any particular region, often I respond by saying that I came with my mother, father and sister Angela from Neumunster, Schleswig-Holstein in December of 1951. Oh, they would say, you were born in Germany! And then I would explain well, no, I was conceived in Germany but I made my debut at Bellevue two months after we arrived. I’m just the one who didn’t need a green card. And my green-card carrying sister is sitting next to me this evening.

And by the way, you know when I told that story to Cardinal O’Connor—you know, he had kind of a wry sense of humor—I told him that story—and he took note of Bellevue, and he said well, Kaz, that does explain a lot of things. Let us stand to pray.

In the name of the Father and of the Son and of the Holy Spirit. The Lord be with you. [Response] God, our Father, we give you thanks for allowing us to serve you, and the sanctity of human life. We are grateful for those we honor this evening, our good fellowship, and we ask your blessing upon us, and the gifts of our harvest, which is from your bounty. Through Christ our Lord. In the name of the Father, and of the Son, and of the Holy Spirit. Amen.

**MARIA MCFADDEN MAFFUCCI:**

I’d like to acknowledge the *Review* authors we have here tonight. Ellen Wilson Fielding, our Senior Editor, is here at this event for the first time. She has written many, many articles for the *Review*. We have the marvelous Professor George McKenna whose article “Lying, Occasional and Organized”

leads the issue that you got in your gift bag tonight. Mary Meehan is here, who has written so many wonderful articles for us. In this issue she writes about “Feminists for Life on Campus.” We are also pleased to have with us tonight Feminists for Life honorary Co-Chair, Margaret Colin, an actress who has appeared in movies like *Independence Day*, and television shows like *Law and Order*; she’s currently in *Gossip Girl*. Margaret Colin and Serrin Foster, who is the President of Feminists for Life, speak on campuses and in Washington DC about the Feminists for Life/Women Deserve Better campaign.

We also have Edward Short, who has contributed a terrific article on Walker Percy in the current issue; Stephen Vincent, John Burger, and Pat Mullaney. And, we have two young students, recently in our pages: Catherine Rinko-Gay from NYU who, I believe, just came in, and our youngest author *ever*: Alexander Sicree, who, at 16 has just published his *second* article with us. Speaking of youth, thanks to so many of our donors we have many, many students here tonight.

None of us here will forget—*can* forget—Terri Schiavo. Rita, Wesley and Nat were among many who worked tirelessly to save her life. Her brother, Bobby Schindler, is here tonight. He is now Executive Director of the Terri Schindler Schiavo Foundation, which he and his family founded in memory of Terri, and with the mission to develop a national network of resources and support for the medically dependent, persons with disabilities, and the incapacitated who are in, or potentially facing, life-threatening situations. Promoting a culture of life, Terri’s foundation embraces the true meaning of compassion by opposing the practice of euthanasia. And now I would like you to welcome Bobby Schindler.

***BOBBY SCHINDLER:***

Thank you Maria. And I’d like to thank the Human Life Foundation for inviting me to be here tonight. I’m honored. I first met Wesley in 2001 at a conference in Charlotte, North Carolina. I met Rita at the Florida Supreme Court hearing regarding Terri’s Law in September, 2004, the law that Governor Jeb Bush signed in an attempt to save my sister Terri’s life. To our family, Wesley and Rita have been defenders, guardians and advocates for those that cannot speak or fight for themselves. Better yet, they are enthusiasts of bravery, not backing down in the fight against injustice, and taking their thoughts to print, and their words to action. Rita and Wesley have a genuine and authentic desire to be a voice. They have taken their voices and concerns and put them into action, and both Rita’s and Wesley’s action is

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being honored tonight with an award.

But the action they have shown to the world, and especially to my family, goes beyond measure. My family's relationship with Wesley began at the forefront of Terri's fight and is equivalent to the relationship he has with the world against similar types of evil. He wholeheartedly cared about our family's ordeal, and the struggles we were put through due to the indifference of our society regarding the quality and equality of life for all human beings. We all immediately felt a warming sense of friendship, of support, and a sense of brotherly love. Wesley has been a literary beacon of hope so that Terri's fate cannot become white noise; so that Terri's fate cannot befall another without a voice screaming in the darkness against this warranted and accepted evil.

I believe with all my heart that Wesley and Rita's true reward will be brought to fruition in the next life. I'm reminded of St. Vincent de Paul. He was a man who spent his life helping and loving the unwanted of the world. He took care of those that the world rejected, and cared for them in a way that allowed their dignity



*Bobby Schindler*

as a child of God to be renewed. St. Vincent de Paul was once quoted as saying that he did not believe that it would be God making the final call in our last judgment. He envisioned the poor of the world, all around God, pleading with him as we approached saying, Lord, please let him in. He fed me. Let her in. She clothed me.

I, too, believe that it will be the poor of the world that will plead for our turn of glory in Heaven. And it is easy for me to imagine my sister Terri, pleading for Wesley and Rita, as they one day approach God. In that moment I know Terri and all the "Terris" of the world will come to your aid and speak of your tireless effort and your courage in being a voice for those who cannot speak for themselves.

May God continue to bless you both. Thank you. [Applause]

I'd like now to introduce someone else I admire—a hero of mine, who has written some of the strongest and most provocative articles about my sister Terri, Mr. Nat Hentoff.

**NAT HENTOFF:**

Before I introduce the Paul Revere and the Tom Paine of our time in the battle against the ever-growing culture of death—I mean Wesley Smith—let me express my admiration and appreciation for Bobby Schindler, whose official website of the Terri Schiavo Foundation I click on every day for further vital news in that battle. Bobby Schindler is creating a truly living legacy of Terri Schiavo. When she was killed—and that is what it was—I wrote that it was the longest public execution in American history.

Now also after Wesley there will be the indispensable Rita Marker, whose recent open letter to Britain's leading medical ethicist—be glad you're not living in England, let alone this leading ethicist but also their universal health rationing system—anyway she was addressing ethicist Baroness Warnock. And that essay should be on the desk of every state legislator in the United States, especially now in the states of Washington, and California, and—I found out this morning on Bobby Schindler's website—Montana.

When I received the Great Defender of Life designation, my first reaction, after total astonishment, was to think this should go to Wesley Smith. As I may have said here before, I owe him an increasing tuition debt for instruction against the forces that embody what a 17th-century physician, Dr. Christopher Hufeland, warned against. He said, quote, if the physician (these days you have to include the bioethicists and the hospital ethics committee) but if the physician presumes to take into consideration in his work whether a life has value or not, the consequences are boundless, and the physician (add bioethicist) becomes the most dangerous man in the state. Unquote. About Wesley—every once in a while I call Wesley because I've seen something in the news or heard something and say, you know, this is

really horrible. Well, he'll say, you ought to look at my blog today. I've already written about it. In his books, including *The Culture of Death* and most recently *Consumer's Guide to a Brave New World*, along with his website, "Second Hand Smoke: Your 24/7 Bioethics Seminar," and his articles in the *Weekly Standard*, the *National Review*, and

quote



2005 Great Defender of Life Nat Hentoff

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*First Things* he brings the breaking news, and the deadly consequences of the anti-life brigade. Moreover—and this is why I call him the Tom Paine as well as the Paul Revere—Wesley is a forcefully effective debater at events here and abroad directly confronting those apostles of the doctrine—the doctrine that certain lives are not worth living, a doctrine, of course, that has as its corollary reducing the cost of health care. It is an honor to introduce my teacher, Wesley Smith.

**WESLEY SMITH:**

I don't think Nat is Irish, but that sure was a lot of blarney. Thomas Paine! [Laughs] Thank you very much Nat, very, very much. I really appreciate it. And Bobby—all I did was write. All I did was talk. You and your family stood strong and sacrificed everything you had for your sister. You're the real Defenders of Life. [Applause]

And I want to thank Maria and Faith and *the Human Life Review*, Anne Conlon and everyone here tonight—my friends, many of you who I know and many I don't know—but thank you all for coming and for supporting this incredibly important organization.

You know I don't think it's a surprise to anybody here, but I think a lot of people out in the greater City of New York, and throughout the country, are unaware that western civilization is under tremendous assault. I'm not just referencing the obvious assault that's coming from the Jihad. I'm talking about the rot that is coming from within that is caused by denying the intrinsic and important value of human life based simply on being human, which we can call, perhaps, human exceptionalism.

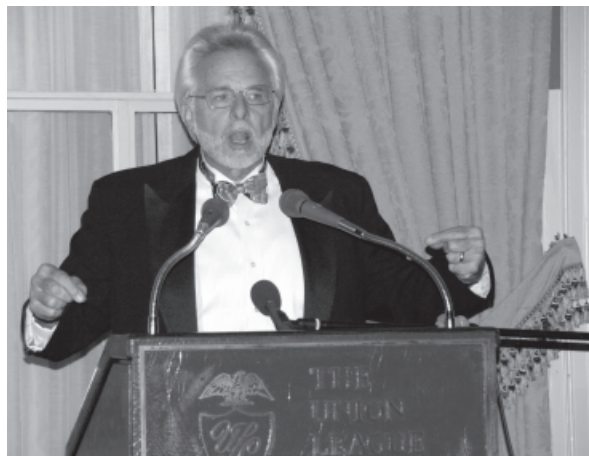
Indeed, I've come to believe that the most important question of the twenty-first century is: Does human life have intrinsic value, ultimate value, simply and merely because it is human? In other words, do our rights, and does our value come simply with the package of being human, or do we have to earn them? As Peter Singer might say, as first exposed in the *Human Life Review* many years before he was even a dark cloud on the horizon, do we have to earn it by possessing certain attributes?

Lest you think I exaggerate, I want to just mention three events from this year alone that demonstrate how fast we are moving away from human exceptionalism. Spain is on the verge of legalizing the Great Ape Project, launched by Peter Singer in 1993, granting human rights—the “right to life,” the “right to liberty,” and the right to “freedom from torture”—to great apes. The GAP is aimed at obtaining a United Nations Declaration putting apes and humans into the quote “community of equals.” And it is

about to become embodied in one nation's law, just 15 years after it began, requiring Spanish diplomats to push the GAP agenda throughout the international community. And here's an obvious point; it is not going to end with the apes because, as Peter Singer wrote in his book, *The Great Ape Project*, this agenda is intended to "break the species barrier" toward enabling a broader concept of animal rights to be brought into reality.

In Switzerland they have literally just declared the intrinsic value of each and every individual plant; literally—and I'm not kidding. You know I've often been in debates about human exceptionalism and had materialists say to me that there's really no species distinction between humans and the animals because we share so many genes. And I've always responded with a jibe; well if you really want to get reductionist, humans are made of carbon molecules and so are carrots, so there's no difference between humans and carrots. Apparently Switzerland took me seriously because that is precisely the main basis for Switzerland declaring the individual value of plants—that we share so much with them on the cellular and molecular level.

You cannot even engage in parody anymore because they catch up with you! And now Ecuador has just declared nature to have rights coequal with that of human beings in its new Constitution. The consequences of that are beyond comprehension.



*Wesley Smith*

So how does this occur? How does such literal insanity become respectable belief and fervently advocated policy? Because we are rejecting ourselves and our own unique moral value as human beings. Or to put it another way, humanism is morphing into anti-humanism.

This infection spreads incrementally, issue by issue, step by step, inch by

inch. And one of the issues that is leading towards these ends—because it denies the importance of human life, because it denies that people who are terminally ill, or people with disabilities, or people who are old and who might have Alzheimer’s have equal value with everybody else—is assisted suicide and euthanasia. In fact, it was the threat posed to the weak and vulnerable by assisted suicide and euthanasia that first brought me into these profoundly important moral and humanitarian issues.

And I will never forget, Maria mentioned it briefly, that it all started with the death of a friend. Her name was Frances. And during our friendship Frances used to talk about her “gentle landing” and her “hoard of pills” and that kind of talk. And we would go around and around and around about her future suicide. And when she finally did kill herself with an overdose of drugs, accompanied by a plastic bag over her head, I was so stunned, that when I received her suicide letter marked with the return address, *Frances*, and writing about her gentle landing and her final exit and things of this sort, euphemisms that I didn’t fully understand, I thought: *something is very seriously wrong*. So I contacted, as Maria mentioned, her executrix, and I said, Frances is the most organized person I’ve ever met. Send me her suicide file.

She had one. It contained the scurrilous articles, literature proselytizing for death, in a publication called the *Hemlock Quarterly*. The *Quarterly* was published by the Hemlock Society which I had barely heard of at the time. Frances had underscored the instructions that were in this *Hemlock Quarterly* on how to kill herself; the type of drugs to take, comparing the toxicity levels, etc. She’d also underscored stories, witnessing about “good” suicides. In fact, one of them sticks in my mind. I was so stunned by this: it said, my loved one laughed and giggled and seemed to relish the experience. We’re talking about suicide! Frances had underscored this in yellow ink.

And then there was the *coup de grâce*, instructions on how to use a plastic bag to make sure you die, which was exactly how Frances had done it. And I was so concerned and so upset. Being a writer, I had an outlet, and I wrote a piece for *Newsweek* magazine called “The Whispers of Strangers” in which I depicted these people who were influencing Frances, whispering in her ear, if you will. Almost like the people who see somebody wanting to leap off a high building; “jump, jump, jump.”

It came out on June 28, 1993. At the time I had no idea that my life was about to change. I would like to share a little bit of what I wrote with you because it has come to pass in the last fifteen years:

“Frances once told me that through her death she would be advancing a cause. It is a cause I now deeply despise. Not only did it take Frances but it rejects all that I hold sacred and true; that the preservation of human life is



our highest moral ideal; that a principle purpose of government is as a protector of life; that those who fight to stay alive in the face of terminal illness are powerful uplifters of the human experience. Of greater concern to me is the moral trickle-down effect that could result should society ever come to agree with Frances. Life is action and reaction, a proverbial pebble thrown into the pond.

But we don't get the brave new world in one giant leap; rather the descent to depravity is reached by small steps. First suicide is promoted as a virtue. Vulnerable people like Frances become early casualties. Then follows mercy killing of the terminally ill. From there it is a hop, skip and a jump to killing people who don't have a good 'quality of life,' perhaps with the prospect of organ harvesting thrown in as a plum to society."

I thought that was going to be my one contribution to the issue of euthanasia . . . and then the hate mail came rolling in from all directions. This is before e-mail. I can only imagine what would have happened had there been e-mail at the time. I received over a hundred and fifty letters; about a hundred and twenty-five of which were wishing me to die a painful death of cancer, accusing me of being Torquemada, telling me that euthanasia was noble, that I was a terrible friend for not supporting her, and that Frances was right.

And then something else happened. At the time I received this bundle of hate mail, I thought, what happened to my culture, and where was I when it happened? And then—remember those old thermal faxes?—a fax started rolling off my thermal fax and it was from Kathi Hamlin, who is the Director of Communications for the International Task Force. And I had it out of my fax machine before it was even done printing. The Task Force was asking for permission to reprint "The Whispers of Strangers." And I called immediately, and I said, do you know what's going on out there? And Kathi said, yes, Wesley, we know. But are you aware . . .!?—Yes, Wesley, we know.

And the Task Force sent me a book that literally changed my life: *Deadly Compassion* by Rita Marker. And I read that book and I have never, ever been as affected by a piece of literature in my life. Rita Marker, in such a tremendously brilliant way, not only told the biography of Ann Wickett and how she was abandoned when she got diagnosed with breast cancer, not only by her husband Derek Humphry who founded the Hemlock Society with her, but by the entire right-to-die movement. And who did she turn to in her despair but the hated enemy, Rita Marker.

But also in the midst of telling this sordid tale of abandonment which is what assisted suicide is—You should spell it—abandonment [he spells it out], in the middle of this she also weaved in what the agenda was in a very—and as I now know—in a gentle way. I was stunned. I called Rita, and

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I said I think I have some tools you might make use of. And I told her that I'd co-authored books with Ralph Nader. I told her I was a talking head on television; that I was a writer, and so forth.

And she started to feed me, in the mail every couple of days—this is, again, before some of the recent advances in communication—I would get articles about what was happening on euthanasia. And she would send me articles from both sides of the issue. In essence she was creating, or empowering me, to become a spokesperson for one of the most important causes in the history of the world: the sanctity of human life.

And eventually she said, I want you to do a radio show as a representative of the Task Force. And pretty soon the issue was taking up ten percent of my time, then twenty percent, then fifty percent. And at that point Ralph Nader said to me, Wesley, why are you doing this euthanasia work instead of our work? And I explained it to him. And he said, yes you go—you go fight euthanasia. And I've been doing that ever since, along with other matters. Rita, you changed my life. You dragged me kicking and screaming into the most important work that could be done. And thank you very much.

And it is now my great pleasure and honor to introduce to you a real Great Defender of Human Life, Rita Marker. Rita is the Director of the International Task Force for Euthanasia and Assisted Suicide, as you know. She's a former Adjunct Professor of Political Science and Ethics at University of Steubenville, now known as Franciscan University. She's been married to Mike for forty-eight years. I know Mike too. They have seven children, twenty-one grandchildren and four great-grandchildren at last count. And one beagle. Trivia: she was referred to as *that woman* by Jack Kevorkian during one of the Jack Kevorkian trials. And to tell you who Rita Marker is, when I asked her for some biographical data to use in this introduction she said, "would prefer as little information as possible so we have more time to discuss assisted suicide." That's Rita Marker.

Thank you for the great honor you've accorded me. I deeply appreciate it. And now a true great defender of human life, Rita Marker.

**RITA MARKER:**

Thank you so much. Thank you. There are so many people I would like to thank tonight, but I'll just keep it brief and thank Maria and Faith and Anne and Rose—everybody with the *Human Life Review*, and also Bobby and Wesley and Nat. I wish I had an hour to talk about what wonderful things Wesley has done with the Task Force because they have been fantastic.

I'd like to just point out two special people here tonight: Fred Clark, one



*Rita Marker with husband Mike*

of the Board Members of the Task Force who has been exceptionally helpful over the years. We really appreciate it. And the other one is my husband Mike of forty-eight years. You know people talk about who does things and who keeps things going, and I have to tell you that Mike is the one who keeps the trains running at the Task Force. Without Mike, the Task Force office would not run, the printing machine would not run, nothing would run without Mike. And I know they say no one is indispensable. But he's been indispensable for the Task Force, and for my life for the last forty-eight years and, I hope, for many more years to come.

Now with that said, I have to tell you that I have a timer here, and I'm going to try to keep it very brief because I imagine that some of you are like we are, and you're waiting to go and find out what's happening between the Red Sox and the Rays. I have to tell you there's a bit of dissension in our family, though, because Mike and I are on opposite sides on that one.

But since I have a captive audience, I'd like to tell you a little bit about what is happening in Washington that will affect each and every one of us. And I'm not talking about Washington as in Washington DC, but Washington as in Washington State. Starting day after tomorrow the voters in Washington will be deciding whether or not they are going to favor and vote in a law that is identical to Oregon's law. Oregon is the only place in the United States that has transformed the crime of assisted suicide into a medical treatment. That happened a little over ten years ago. And Washington, now, will be deciding whether to adopt an identical law. So I want to tell you a little bit about that Oregon law.

Wesley mentioned the Hemlock Society. It's not called Hemlock any more. It's called Compassion & Choices. Some of you may know a Monsignor William Smith who has, what he calls, Smith's Law: All social engineering is preceded by verbal engineering. Well, that's why Hemlock is no longer called Hemlock. It's now called Compassion & Choices.

The chief petitioner in the initiative that became Oregon's assisted-suicide law (the Death with Dignity Act) is now the President of Compassion & Choices, and ever since that law went into effect, it has been Compassion &

Choices that has actually been in control of the way in which it is carried out, and reported.

Here's how it works: Doctors in Oregon prescribe a deadly overdose of drugs. So you could be in a pharmacy in Oregon, standing behind someone, waiting to pick up some antibiotics, and hear the pharmacist saying to that person, "Take all of this with a light snack and alcohol to cause death." A doctor prescribed that deadly overdose—that intentional overdose—to be used for suicide. The Oregon law says the doctor is supposed to report prescribing drugs for assisted suicide to the State. Now, you may be interested in knowing that seventy-five percent of the doctors who are doing that prescribing are associated with—believe it or not—Compassion & Choices. This is according to Compassion & Choices' own records. So you have the Compassion & Choices' doctors who prescribe the deadly drugs reporting to the State that everything just worked so well, that it was just totally peachy keen; no problems, no abuses, no complications. Then the State, as required by law, issues an annual report with statistics based on the data provided by the Compassion & Choices doctors.

By the way, the State said in its first official summary that it had no way of knowing if the information was accurate or complete, but they just assumed the "doctors were being their usual, careful, accurate selves." And so, the information that comes out in those annual reports is based on data provided by the Compassion & Choices doctors. Then, Compassion & Choices takes those annual reports, holds them up, and says, "ah—it's working well. Your State—whatever state it happens to be—should approve this."

But they haven't been doing very well, because ever since Oregon's law passed they have tried in state after state after state and in other countries as well to pass laws virtually identical to Oregon's, and every single one had failed. So they went back to the drawing board. And a couple of years ago they came up with a plan. I happened to get a copy of the plan. They didn't send it to me directly. I kind of got it a different way. But I received a copy of their plan, and it's called Oregon Plus One. And, by the way,



*Rita Marker*

you've got a CD in your gift packet called Oregon Plus One that tells you much more about this.

Their whole theory, and it's a good one, is that since they haven't been getting anywhere, they need to be more targeted. If they could get just one more state to pass a law like Oregon's, it would break the log jam. They decided to pour all of their resources into one state. And that one state is Washington. Now note it was not Washington voters that said that they wanted it on the ballot; it was Compassion & Choices and the Death with Dignity National Center, operating out of Portland, that selected Washington. They began their foundational work a few years back. They carefully selected their spokesperson—Booth Gardner, a very, very popular former Governor who, in addition to being a former Governor who is very popular has what I call the Michael J. Fox effect, because he has Parkinson's Disease, and so is a very sympathetic figure. And on top of that he is the heir to the Weyerhaeuser fortune and has poured hundreds of thousands of dollars into the campaign. Right now the campaign to pass the law has raised over three and a half million dollars, two million from assisted suicide advocacy groups alone. Opponents of the measure have raised just a little over a million. Assisted-suicide advocates really are banking on Washington being the state that will be the "plus one" of their Oregon Plus One plan.

If the law identical to Oregon's passes in Washington, then assisted-suicide zealots will have the wind at their backs. They'll be able to raise more money and they will go even faster. But, if they lose, they will not give up because they are truly committed to achieving their agenda, which is death on demand for anyone, for any reason. That is their end goal. They're not going to give up.

So it's helpful to realize that what happens in Washington will affect every state. It's coming to your state, whatever state you happen to be from. And we all know that it is easier to stop something from becoming law than to repeal it once it is law.

Now, there are a couple of things to realize about what happens when assisted suicide is transformed from a crime into a *medical treatment*. A few years back—when this first came up—Wesley and I and all the folks



*Joan McLaughlin and Sarah Gallick*

working with the International Task Force said that, if assisted suicide becomes a medical treatment, it could be used as cost containment.

Now I'm going to digress for a minute because I have to make a confession.

There is a man besides my husband with whom I am deeply in love. I can't remember his name. But I was testifying before the Senate in Nebraska a few years back, and after I had testified, I was meeting with this wonderful Senator with whom I'm deeply in love whose name I can't remember, and I told him, "I am not saying the law will be interpreted this way, only that it *can* be interpreted this way." Then he said the words that made me fall in love with him: he said, "Young lady"—I would have followed him anywhere after he said that—"Young lady, be very much aware that if a law *can* be interpreted in a certain way, it *will* be, by someone."

The predictions we made about assisted suicide being used as cost containment have now been realized. We got the proof of that just a few months back, when Barbara Wagner's story became public. She is a sixty-two year old retired school bus driver in Oregon whose cancer had been in remission. But when she went to her doctor last spring, she got some bad news; the cancer was back. But then she got some good news because there was a treatment that would slow that cancer, and would make her much more comfortable. She wasn't worrying about getting the medication because she had health care coverage. She was covered under the Oregon Health Plan.

But then, a few days after her doctor prescribed the cancer-slowing treatment, she got a letter from the Oregon Health Plan explaining that it would not pay for that treatment but that it would pay for assisted suicide. When Barbara Wagner's story hit the newspapers and the television stations, some said that this was just an isolated case. But then a man by the name of Randy Stroup with prostate cancer said he received a letter like that too. And other people started saying they had received similar letters. Finally the Administrator of the Oregon Health Plan acknowledged that such letters were routinely sent.

If anyone thinks that this will not affect each and every person no matter what kind of health care-coverage they have, think again. If something is a legitimate medical treatment, and is inexpensive, the health-care plan is certainly going to be more likely to authorize that inexpensive, equally-legal treatment than something that is more expensive. It's the sheer force of economic gravity.

Certainly, we're all concerned about the money aspect of it, but there's something else to be even more concerned about. In our society, if something is legal people begin to think it is moral and ethical. There is a professor at the University of Virginia, his name is James Davidson Hunter. And

I'm paraphrasing him, but he said something to the effect that nowadays people have lost the basis of their beliefs and their values. No longer are individual hearts and minds shaping the culture. The culture is shaping the hearts and minds of individuals.

This is not something new. You all may have heard of Leo Alexander, the great psychiatrist who, after being an observer at the Nuremberg trials, wrote a lengthy series of articles in the *Journal of Criminal Law and Criminology* in which he described how it was that people—respectable people, cultured people—went along with crimes against humanity. He came to the conclusion that it's not just children and teenagers who are influenced by peer pressure but that, in fact, adults are even more influenced by peer pressure, particularly those in the professions.

We are seeing this taking place in Oregon now. Physicians who initially opposed assisted suicide are writing prescriptions for it. Health-care facilities—those which are associated, some think, with a protective organization and protective values, in what is called a Catholic hospital, where the hospital has written policies against assisted suicide or any type of cooperation in it—are looking the other way when physicians write prescriptions for assisted suicide on the premises. Administrators who are aware of this dismiss it, saying that it isn't a problem since the suicide drugs are only being prescribed, not taken, on the premises. It's reached a stage where the Compassion & Choices' representative cavalierly said the hospital has a "don't ask, don't tell" policy.

Now, before I give you the conclusion as to what's happening, I want to mention one more thing about Compassion & Choices. You heard Wesley mention Kathi Hamlin who is our public policy analyst. Kathi is utterly brilliant. The other day, she remarked that Compassion & Choices is, to assisted suicide, what Planned Parenthood is to abortion. They have become ingrained and are looked upon as having credibility—they're viewed as a credible, respectable organization. So when you have the Director of Compassion & Choices of Oregon chortling about the way that the Catholic hospital is allowing assisted-suicide prescriptions to be written, that should concern all of us.

Also in Oregon, medical students are learning which barbiturates to prescribe to cause death most effectively. But even more chilling than that, I believe, is the fact that children are being raised in an atmosphere where this is no big deal; where you could ostensibly hear a teenage boy telling his friends that he's going to be late for the game on Saturday night because his older brother has chosen to die on that day.

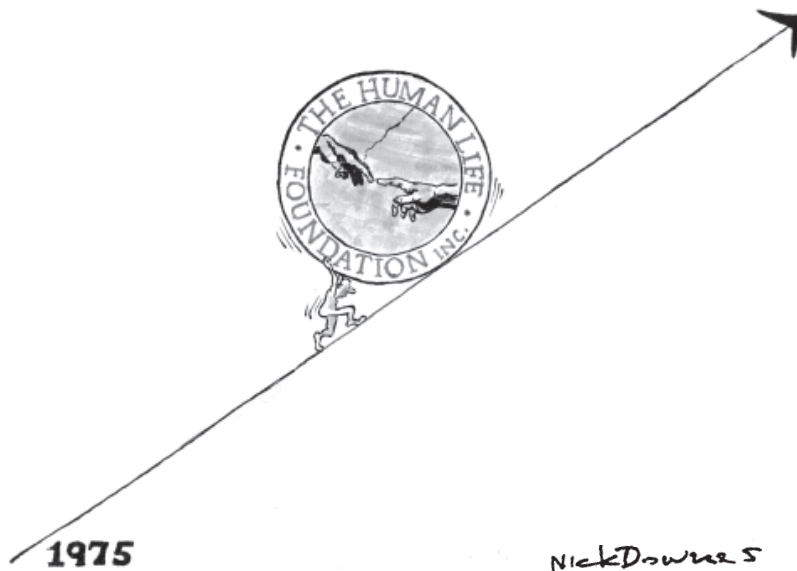
In Oregon, assisted suicide is considered a normal sort of thing, a common

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sort of thing. Somewhat like what Hannah Arendt called the banality of evil; once it becomes common and normal, it is so banal, but it is so evil. And that's what we're leaving for our children and grandchildren if we don't stop this. We are going from a situation where, initially, we were horrified by assisted suicide, but then tolerated it and, finally, to accepting it. We are moving to a time, in the not too far distant future where people may feel guilty for *not* choosing assisted suicide.

So in case you're wondering, and even in case you're not wondering, about what you can do I would ask you to become aware of this. That's the first step. So many people say, "Gee, I didn't know anything about that." A lot of people in Washington haven't got a clue either right now. We need to let people know about this. People need to be aware of it because that's the only way that we can prevent it. Listen to the CD in your car or if you're from New York when you're riding the train, or whatever you do without cars in New York. But listen to that information. Call the International Task Force. We'll send you more information. We'll get you caught in the quicksand that Wesley got caught in some years ago.

We must work to prevent assisted suicide from becoming the American way of death because not only our lives but the lives of our children and our grandchildren depend on it. I do hope you'll remember that. Thank you so much.



*Original Nick Downes cartoon as featured on cover of dinner program*



THE HUMAN LIFE REVIEW



*Anne Conlon, Ellen Wilson Fielding, and Father Francis Canavan*



*The 2008 dinner was one of the best-attended*



*Rose Flynn chats with Asam Ali and guest*



*Bobby Schindler and Leah Darrow*

GREAT DEFENDER OF LIFE DINNER



*Cocktails in the beautiful library*

*photographs by Michael Fusco*



*Reverend W. Ross Blackburn and  
Dr. William Blackburn with Patrick Mullaney*



*Faith McFadden and National Review Editor Rich Lowry*

## Abortion and the “Catholic Right”:

### A Response to James Hitchcock

*Christopher Manion*

When *HLR* published James Hitchcock’s first attack on *The Wanderer* in 2007, I immediately called Jim and interviewed him for the paper. I have long admired him and consider him a friend in spirit. I was surprised at the tenor of his 2007 attack, and also somewhat saddened that a major American Catholic historian had gone after *The Wanderer* while we were celebrating our 140th anniversary—a historic fact that historian Hitchcock completely ignored.

We gave Jim 3,000 words on the front page to explain his views.<sup>1</sup> Imagine my surprise when, a year later—in the spring of 2008—he attacked *The Wanderer*, and me, again in *HLR*. He did not mention our 2007 interview at all; nor did he mention the fact that *The Wanderer* probably prints more of the Pope’s homilies and Vatican documents than any other American medium of similar size, and is filled with large amounts of other orthodox Catholic religious commentaries. His 14,000 words focus instead on some alleged sins, on our part, involving politics; and are replete with errors to boot. (With regard to the errors, the reader may rejoice: Space does not permit me to address them all.<sup>2</sup>)

In 1981, when Senator Jesse Helms named me staff director of the Senate Foreign Relations Latin America subcommittee, Jim McFadden called me, congratulated me, and kindly offered me a full set of bound volumes of *HLR* up to that time, which all of Senator Helms’s staff used for years (the volumes are now in the Saint John the Evangelist Library of Christendom College here in Virginia). I regard this publication highly. Its contributors and readership comprise eminent stalwarts of the pro-life movement worldwide. They deserve to hear *The Wanderer*’s side of the story. Permit me first briefly to introduce the paper.

*The Wanderer* [is] one of the most conservative Catholic journals in the United States and a publication that is implacably anti-abortion.—Hitchcock, *HLR* 2007

*The Wanderer* is indeed not only implacably anti-abortion, but staunchly pro-life. We have defended the Magisterium of Holy Mother Church since

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our inception, and recently celebrated the 40th anniversary of *Humanae Vitae* with countless commentaries. *The Wanderer* was founded in 1868 to serve the German-speaking Catholic community in this country, and began publishing an English edition in 1930. It has always been fully loyal to Rome, so much so that it was banned by Hitler in the 1930s (it had 1,400 faithful readers in Austria and Germany at the time). I urge the interested reader who has read Hitchcock's version of *The Wanderer* to read the real thing.<sup>3</sup>

Next: While *HLR* is not a Catholic publication, Hitchcock and I are both Catholics, and I write here as one. I speak for myself. I don't speak for the paper or for Hitchcock's other targets in debate. (I should also point out that a more detailed analysis is available on *The Catholic Guys* blog.<sup>4</sup>) This essay attempts, first, to identify and to address two of Hitchcock's major errors—that fissures appeared in the pro-life movement only in 2006, and that by criticizing President Bush across a broad range of issues, *The Wanderer* abandoned its pro-life priorities. Second, it offers an alternative, reality-based analysis of the problems faced by the pro-life movement today. The reader can then decide for himself whether it is George W. Bush or *The Wanderer* who is more responsible for what Hitchcock admits are the “derailed” fortunes of the pro-life movement. Perhaps he will even confront the question, were pro-life, pro-family advocates wrong to support President Bush so uncritically for so long?

## II

In 2006 cracks began to appear on the Catholic side of “the Right,” something that cannot be explained in conventional journalistic categories but requires following a tangled and sometimes obscure thread. —Hitchcock, *HLR* 2007

Hitchcock embraces without inspection the term “Religious Right” and its corollary, the “Catholic Right.” And he traces to 2006 the appearance of “cracks” on the “Catholic side” of that entity. In this, he is off by more than 30 years.

In adopting this “left-right” spectrum, Hitchcock unnecessarily clouds the critical question, what prudential differences can Catholics have? Hitchcock disagrees with some opinions in *The Wanderer* on prudential grounds, and wants to paint us as budding leftists. He wants to portray all of his own prudential preferences as metaphysical, and repeatedly bends (or ignores) the facts to do so. Hitchcock claims to be following an “obscure thread.” Yet he himself is the cause, and the beneficiary, of this obscurity. As far as *The Wanderer* is concerned, his “thread” is so obscure because it does not exist.

In fact, pro-lifers have disagreed for decades. Those differences have sometimes weakened our efforts, to be sure. But they are not fatal, nor are

they metaphysically or morally prohibited—unless they deny fundamental truths. Hitchcock’s attacks place *The Wanderer* on the forbidden “Left,” alleging that we have abandoned this “Catholic Right” of his one-dimensional portrayal.<sup>5</sup>

The “Left,” true, does tend in only one direction—toward the concentration of power. The “Right” is different: It is not unidimensional. Outside the limited bounds of the state, freedom nourishes in each individual all sorts of activities in every direction. As far as the “conservative movement” is concerned, as long as it has been around, efforts have abounded—from within and without—to identify it, describe it, or define it, all without unanimity. Variety abounds, and always will.

So the pro-life movement—and its Catholic dimension—is not of the materialist Left, nor is it all in one little dot on the “Far Right” of Hitchcock’s spectrum. In fact, a lot of it is not even political at all. With Aristotle, I believe that “man is a political animal,”<sup>6</sup> and that this is true even of monks and cloistered nuns (a concept that makes perfect sense in the light of the reality of the Mystical Body of Christ<sup>7</sup>). Millions of the movement’s activists do their work in dimensions much deeper than that of what is commonly understood as politics. Observe the heroic efforts of the Women’s Care Center in the Midwest, founded by Janet Smith, or Chris Slattery’s Expectant Mother Care in New York. Here you see prayer bound up in action. And who knows how many millions of Holy Hours, Rosaries, Novenas, and private mortifications have bolstered the visible political efforts of pro-life organizations that operate in the political sphere? An 89-year-old Trappist monk in Kentucky is offering up his suffering for our efforts. He is certainly not on the Left. Is he on the “Catholic Right”?

Another example: When one of President Reagan’s judicial appointments was under withering fire from pro-abortion coalitions in 1986 (led by Ralph Neas, my classmate in Notre Dame’s Class of 1968), three women from Kentucky came to see me at my Virginia home. They were in Washington for a Concerned Women for America meeting. They wanted to tell me personally that they had been fasting for months, taking only bread and water every Monday, for the successful confirmation of the first of President Reagan’s appointees to have attracted concerted opposition from the pro-abortion Left. The nominee was eventually confirmed by the narrowest of margins: a single vote.<sup>8</sup> I believe that those invisible prayers were as important to his confirmation as were the very strenuous political efforts of literally hundreds of organizations with millions of members.

In this context—that of a pro-life movement that extends beyond politics—Hitchcock’s choice of the journalistic Left’s designation of the “Religious

Right” simply muddies the analytical waters. Like Hitchcock, we of *The Wanderer* undoubtedly consider ourselves “Catholic first”—so it is hardly accurate to describe us as a renegade of the “Catholic Right.”

Moreover, Hitchcock chooses 2006 as the date when “cracks” began to appear in this “Catholic Right.” Now, from the point of view of Saint Louis University, the fissures might well not have been visible until then. But from the point of view of this Catholic, who has been active in the conservative movement<sup>10</sup> for 50 years, some “cracks” have been around for a long time in the variety of individuals and organizations that make up the pro-life movement.

These “cracks” are not the same ones that Hitchcock claims to see. Rather, they are disagreements, varieties of approach, and differences that activists in the pro-life trenches have lived with for years. Senator Helms recognized that clearly. It sometimes appeared that the major leadership of the pro-life movement was in harmonious agreement on only one day a year—when they all cordially gathered in his Senate office in the Dirksen Building after Nellie Gray’s March for Life on January 22.

Let’s start at the beginning. In 1974, four Catholic Cardinals—Krol, Manning, Cody, and Medeiros—gave Senate testimony insisting on full constitutional protection of the unborn child (who is a person) from the moment of conception: “The prohibition against the direct and intentional taking of innocent human life should be universal and without exceptions,” they testified. They therefore rejected the Buckley Amendment, offered by Senator Jim Buckley of New York, a Catholic, because it would have allowed abortion to save the life of the mother.<sup>11</sup>

Then came Jimmy Carter. Hitchcock is right on—Carter “started out by pretending to be pro-life and then he pulled the rug out once he had the nomination,” he told *The Wanderer*.<sup>12</sup> But in 1981, pro-life prospects started looking up: President Reagan said twice that he would sign Senator Helms’s Human Life Bill, which recognized the unborn child as a person having the right to life from the moment of conception. But then a strange thing happened: The U.S. Catholic Conference and the National Right to Life Committee came out in opposition to the Helms bill, endorsing instead the states’-rights approach, later embodied in the proposed Hatch Amendment to the Constitution.<sup>13</sup>

There are Mr. Hitchcock’s “cracks” on the “Catholic Right.”<sup>14</sup> They were real. Believe me, Senator Helms was bewildered not only by this division, but by the strong invective with which some pro-life advocates disagreed with his approach. Clearly, the Hatch Amendment effectively killed the Helms Bill. After that, the establishment pro-life movement turned its attention to

marginal restrictions on surgical abortions.<sup>15</sup> Those divisions and differences in the movement have survived to this very day.<sup>16</sup>

To explain how this works, we will briefly look at the nature of coalitions.<sup>17</sup> The task of the leader of a coalition is to bring together under one umbrella a variety of individuals and groups. It does not matter if their agendas and goals are identical, similar, or even contrary to his own. In the coalition, they single-mindedly aim to obtain the *specific goal of the coalition that everyone agrees on* (often for widely varying reasons)—say, a specific piece of legislation or a particular nomination. The task: get the level of support to 51 percent, and then win the vote. It is decidedly *not* the task of the coalition's leader or its members to proselytize one another on *any* issues peripheral to their common goal, be they religious, political, or personal. Members are not to waste their time or their credibility trying to convince others in the coalition of the virtues of the rest of their own agenda. That does not mean they are abandoning their priorities, it merely means that they are keeping the coalition focused and efficient in pursuit of its specific goals. Once the immediate task of the coalition is met, a successful one usually remains "coalesced," perhaps loosely, perhaps tightly, because there are always further "action items" under that umbrella. (Paul Weyrich, who headed Coalitions for America, was famous for keeping us focused: "What's the *action item*?" he constantly asked. If a speaker wanders off into ruminations of woe, Paul would say, "You're finished. Sit down!") Such coalitions are the essence of prudential vision constantly in action.

So differences have existed among pro-lifers for years. Even among senators, Helms and Hatch are not alone in having had this experience— witness Rick Santorum's scathing criticism of Senator John McCain's pro-life *bona fides* during the primaries, even though both senators were regarded as pro-life.<sup>18</sup>

Long before 2006, *The Wanderer* saw the Bush Administration's drift to the left in domestic and foreign policy as catastrophic to the pro-life movement. But Hitchcock views this catastrophe as originating in 2006—and blames *The Wanderer* for it.

### III

Hitchcock's translation of *The Wanderer* for *HLR* underscores the need for the reader to read the paper itself. I've come to think of his renditions as "CliffsNotes," the wretched summaries college undergrads can buy to get through exams without ever reading the real books. All too often, Hitchcock's version simply cannot be trusted. Two key Hitchcock passages most directly address my writing. First:

For true Christians, according to Manion, there are no such things as historical

judgments, only timeless truths that cannot change.—Hitchcock, *HLR* 2008

This is an error of fact, and Hitchcock admits it. In our 2007 interview, Hitchcock agreed with me that Catholics must be allowed to disagree on a myriad of prudential judgments. Perhaps his 2008 accusation stems from his anger at my criticism of President Bush's desire to be "vindicated by history," far in the future. In that, I was criticizing not historical judgment, but President Bush. And criticism of President Bush is clearly a sore subject with Hitchcock.

It is clear at this writing, just after the 2008 election, that President Bush has destroyed the GOP and shattered the Reagan coalition. He has set the pro-life movement back a generation. But because I dared to criticize Bush when this was not yet apparent to the masses, Hitchcock relegates me to "an entirely different universe" where abortion is "almost insignificant." Again, he is complaining about people who disagree with him on prudential grounds and, on those grounds, branding them as traitors to the pro-life cause. He could well have attempted a straightforward case for President Bush. He demurred.

Hitchcock presses this erroneous view, I believe, because he wishes to draw attention *away* from the possibility that President Bush—however well-intentioned he may be—might be responsible for the dire straits in which the pro-life agenda finds itself today. And here is where we disagree. Hitchcock has tried to condemn *The Wanderer* on the basis of his "obscure thread," all because he disagrees with us on what he acknowledges elsewhere are prudential grounds.

In a second passage involving my own writing, Hitchcock has me saying that, as far as Ron Paul is concerned, "unborn life gets lost in the desert dust." That is a blatant misstatement. Hitchcock lifted that quote from an observation I made regarding the neocons in a debate on Iraq. I'd bet that historian Hitchcock would not let one of his freshmen get away with that ploy.

Please note: I do not delight in criticizing my friend. Had he not attacked me—twice—in *HLR*, I might have kept my silence. But why has he indulged in these serial polemics? The ostensible reason is to convince *HLR*'s readers that *The Wanderer* is an apostate from the pro-life cause—which is rubbish.

#### IV

[A]s it turned out, the pro-life movement was at least temporarily derailed in 2006 by the strong public backlash against the war in Iraq. By no means all pro-lifers support the war, but support for pro-life Republicans has in many cases amounted to a vote for the war, or is seen as such.—Hitchcock, *HLR* 2007

In his *HLR* articles, Hitchcock complains about *The Wanderer*'s criticisms



of the Iraq War. But the sad fact is, whether pro-lifers support or oppose the war, they all have to admit that the war has “derailed” the pro-life movement, “at least temporarily.” The assertion is not mine, but Hitchcock’s.<sup>19</sup> But instead of helpfully analyzing what the Iraq War has done to derail the pro-life movement, he attacks *The Wanderer*.

Hitchcock might ask himself, how many of those pro-life losses in 2006 can be traced to *The Wanderer*? And how many to President Bush and the war? That is the forbidden question.

The widely held, apparently self-evident, assumption that the pro-life movement is the creature of the “religious Right” has blinded even most informed observers to the unexpected and intriguing fact that, for some on the Catholic part of “the Right,” the life issues are no longer paramount, if they ever were.—Hitchcock, *HLR* 2007

Since some *Wanderer* writers, like many other Catholics (including two Popes), have criticized the Iraq War, Hitchcock’s “obscure thread” leads him through the darkness to conclude that *The Wanderer* is no longer pro-life—“if they ever were.” Here again, Hitchcock’s logic accuses: Disagree with him, and you’ve lost your pro-life moorings. Hitchcock wants to deny *The Wanderer* the possibility of discussing the war, even if, as he admits, the war has had profoundly negative consequences for the pro-life movement—or we pay the price with a blanket condemnation of our treachery.

V

Never give to your friend any power which your enemy might one day inherit.

— Paul Weyrich

Hitchcock will not confront the question, did President Bush help or hurt the pro-life movement. I will. The president’s wholesale move to the left, vastly increasing the power of the “unitary executive” in both domestic and foreign policy, has had a disastrous effect on the pro-life movement. Hitchcock should find the question inviting. Instead, he apparently finds it irritating. Nonetheless, it is now clear that Bush paved the way to the Obama presidency.

I have consistently, clearly, and repeatedly criticized “big-government conservatism” in *The Wanderer*. Curiously, Hitchcock’s articles repeatedly assert that views with which he disagrees in *The Wanderer* are offered “with no evidence.”<sup>20</sup> It is thus surprising to find that, as far as the war’s impact on the pro-life movement is concerned, he completely *ignores* the evidence. In 2007, I asked Hitchcock:

***The Wanderer*:** Can Catholics differ on the war?

**Hitchcock:** Same thing. That’s prudential judgment, as you used that phrase earlier. A lot of people have pointed out how interesting it is that the Left and Right in the

Church come together on this. Popes have made some pretty critical statements about the Iraq War—some cardinals even more so. But it is, again, in the very nature of Catholic social teaching that the Catholic Just War theory relies on prudential judgment.<sup>21</sup>

Well, Catholic truth is indivisible. Catholic Just War theory and Catholic teaching on life are all part of the same truth, and even the most ardent prudential defender (or opponent) of a particular cause has no right to banish one or the other from rational conversation, or the Church itself, no matter how contentious the topic. By no means do I put support of or opposition to the Iraq War on the same moral plane as support for or opposition to abortion. Catholics are allowed to disagree on the first; not the second.

Yet pro-lifers have every right to ask questions about the impact the war has had on the movement. And while Hitchcock insists that pro-lifers should be “single-issue,” I would say instead that for us life must be the “first priority”—and it must be fought for taking into account all the relevant factors, without blinders arbitrarily imposed by party loyalty or attachment to a foreign war. That is to say, I defend the virtue of prudence against the attack of Hitchcock’s “obscure thread” doctrine. Clearly the profound unpopularity of the war led not only to the Democratic gains of 2006, but to Obama’s election in 2008, which unfortunately attracted the support of many Catholics.

I also have to quibble with Hitchcock’s word “temporarily.” It implies that the harm to the pro-life movement might be less than grave—when in fact, real long-term damage has been done. Countless good judicial nominations have been killed.<sup>22</sup> With Senator Patrick Leahy at the helm, with an even stronger Democratic majority, chances that the Senate Judiciary Committee will vote out to the floor any judges that Hitchcock and I might endorse are slim to none. George W. Bush<sup>23</sup> certainly deserves more of the blame for this than *The Wanderer* does.

I don’t see why being interested in the war precludes one way or the other being interested in pro-life.—Hitchcock, *Wanderer* Interview, 2007

In *HLR*, Hitchcock contends that those who oppose the war have lost their focus, and, in *The Wanderer*’s case, betrayed their principles by inverting their priorities. His 2007 article complains that “amidst all the conservative Catholic criticism of Bush in 2006, the issue of the federal courts remained the elephant in the living room, something whose presence could not be candidly acknowledged.” This reveals Hitchcock’s tunnel-vision, obscure-thread method once more: Even Arlen Specter, who had agreed to move Bush’s judicial nominees quickly through the Judiciary Committee, complained that “if Rumsfeld had been out [before the 2006 election], you

bet it would have made a difference. I'd still be chairman of the Judiciary Committee."<sup>24</sup> Hitchcock blames *The Wanderer*.

Hitchcock's blinders prevent the discussion of the key question, one that *HLR* readers might like to see addressed—and one that *The Wanderer* has already tackled. The question is this: Had George W. Bush followed the Constitution, wouldn't the pro-life movement be in much less danger than it is today? The fact that the appointment and confirmation of pro-life judges and the passage of pro-life legislation are much more likely to fail than they were five years ago is chiefly a result of the Bush Administration's mistakes—most notoriously, but not exclusively, in its conduct of the Iraq War.

Hitchcock will not even consider the possibility that the war could have been undertaken in a manner that would not have “derailed” the pro-life movement—even “temporarily.” The alternative was simple: In 2003, President Bush could have followed the Constitution, asked for a Declaration of War against Saddam Hussein, allowed a national discussion, a congressional debate, and a decision in Congress. Had he thus honored the Constitution, he would not only have been able to rally the American people behind him more unanimously, but he would also have bolstered pro-lifers by emphasizing the Constitution. Our only avenue of victory in the fight for life is the rule of law.

Instead, Mr. Bush went to war citing the authority of the United Nations, probably the most pro-abortion governmental organization in the world.<sup>25</sup> The irony is this: My old friend John Bolton, who served as Mr. Bush's ambassador to the U.N., has made it clear that the Bush Administration has nothing but contempt for the U.N.—and, may I add, that contempt is well-deserved. Yet, in the run-up to the war, the president made a historic endorsement of the U.N.'s authority, giving Congress—a Republican-led Congress, no less—the back of his hand. The Constitution, of course, identifies Congress as the proper forum for the discussion of war.

The mandate that Mr. Bush obtained from the U.N. for our Iraq expedition expires at the end of 2008.<sup>26</sup> So now Mr. Bush, once more defying the Constitution, is negotiating a “Status of Forces Agreement” with our new ally, the government of Iraq. It is in fact a treaty, but the president has made it clear that he intends to bypass the Constitution in this case as well. He has not asked the Senate to give its advice and consent to the agreement because he refuses to call it a “treaty.” How very novel! An adroit change of terminology, very much like the one the Supreme Court engaged in in *Roe v. Wade*, when it removed the protection of the law from unborn life by refusing—*presto!*—to call unborn children “persons.”

Alas, instead of taking the prudential, constitutional way, Mr. Bush took

the path of executive primacy, flouting the Constitution. It was exactly the same path that the Supreme Court took on January 22, 1973.

It did not have to be that way. Like a majority of Americans, my father, a Democrat, opposed U.S. entry into World War I and World War II. But President Wilson got a Declaration of War against Germany from the Congress on April 6, 1917, whereupon my father left his graduate studies at Catholic University and joined the U.S. Army. When Franklin Roosevelt got a Declaration of War on December 8, 1941, my father and other opponents of U.S. involvement gaveled America First out of existence and supported the war.

America's entry into one or the other of those World Wars may have been ill-advised, but in both cases it was undeniably constitutional. My father, and millions of other Americans who had opposed our entry into both wars, wound up supporting both of them because both presidents honored the Constitution.

My conclusion: However pro-life President Bush is, he dealt the pro-life movement a terrible blow by repeatedly bypassing the Congress and the Constitution with regard to his foreign policy. Admittedly the Congress was cowardly. But would it have voted down a Declaration of War on Iraq—at least, on Saddam Hussein? President Bush has flouted the Constitution every bit as much as Earl Warren ever did. As with wars, so with life. Right now, President Bush is a walking contradiction in that regard. Had the president followed the law, Hitchcock could have had his war and the Constitution too.

Whenever the new day dawns on which we have another pro-life president, it will be a boon to the pro-life movement and to the nation if he (or she) follows the Constitution, which is the nation's last legal and political bastion of defense for our freedoms, and for the lives of the unborn.

## VI

Hitchcock criticizes *The Wanderer's* support of Ron Paul, but his caricature of the good doctor is downright petulant. Why doesn't Hitchcock mention the obvious fact, regarding Ron Paul and abortion? Dr. Paul, an obstetrician and gynecologist, has delivered over 4,000 babies, and he points out repeatedly that he has never seen a medical circumstance that called for abortion—*because there isn't one*. Surely that is relevant for pro-lifers considering a vote for Paul?

And speaking of presidential candidates, what are we to make of Senator John McCain's embrace of stridently pro-abortion, anti-life Senator Joe Lieberman in 2008? (The Bush Administration had similarly embraced Lieberman during his 2006 re-election campaign.) Because of Lieberman, the Democrats had a one-vote margin in the Senate in 2007 and 2008. If

Lieberman voted with the GOP, President Bush's judicial nominees would have received hearings and floor votes. This is evidence, powerful evidence, that Hitchcock has ignored. Why will Hitchcock not condemn those pro-Lieberman GOP charlatans for putting abortion last?<sup>27</sup> At the outset of his presidency, Obama will be able to fill 58 vacancies on the federal bench, 15 of them on the critical appeals-court level. Mr. Hitchcock blames—*The Wanderer*:

These people, of course, should be monitored very, very closely. If it's a situation where they aren't spending the money for the purposes they said, then by all means they should be exposed.—Hitchcock, *Wanderer* Interview, 2007

I have also often reported on how many Republicans have betrayed or simply bilked the pro-life movement. This is a disturbing trend confronting pro-lifers. According to a recent analysis of public records by the *Washington Post*, Linda Chavez, who once worked in the Reagan Administration, raised over \$7 million to support pro-life candidates. Alas, only 3 percent of those funds ever got to the candidates. The rest apparently funds Chavez's operation, staffed by family members, where she writes books and a column, and advocates amnesty for illegal immigrants. She writes very little on abortion these days.<sup>28</sup> (Please note that Chavez has apparently followed the law.<sup>29</sup> After all, in Washington, if you're not in jail, you're ethical.) After the *Post* article appeared, Chavez joined "Catholics for McCain" and has apparently started another PAC. In the words of a *Harper's Magazine* report:

The *Post* article almost surely hurt fund-raising for the Chavez family PACs. So how have they responded? That's right—the Chavez crew set up a brand new PAC, which is headquartered, according to public records, at the family home. The new PAC is called "Republicans for Traditional Conservative Values." Federal Election Commission records show it was created in mid-November. Chavez's husband is listed as the treasurer. Look for fund-raising pitches from Chavez soon.<sup>30</sup>

## VII

The GOP tanked in 2008, and it's not *The Wanderer's* fault. If the GOP wants to self-destruct, there is no reason the pro-life movement should tie itself to the mast of a sinking ship, especially when the crew has treated our movement so cavalierly.

Phyllis Schlafly, one of America's premier pro-life Republican leaders, is right: The pro-life movement needs to be a third force, not a third party. We should not be not a shill for either of the two major parties, which, I have repeatedly argued (with ample evidence) in *The Wanderer*, are becoming increasingly alike, and increasingly corrupt. In 2007, even after the 2006 election disaster, reformers trying to take over the GOP House leadership

were defeated by the “old boys.” Meet the new boss, same as the old boss.

Conservatives coming to Washington know it’s a sewer. The trouble is, most of them wind up treating it like a hot tub.—M. Stanton Evans, 1980

Self-dealers and hacks in the GOP have been making a lot of money parroting pretty phrases and cashing in—and I have written about them, including those who have become instant millionaires because of the war. Karl Rove effectively combined the pro-family conservative masses and the Big Money hucksters into a winning coalition. Bush has delivered for the hucksters. But not for the pro-lifers. No way.

I think it’s a well-established moral principle that you make gains as you can—that if you can reduce an evil of some kind or limit it, that is quite permissible.

—Hitchcock, *Wanderer* Interview, 2007

Hitchcock sees, and celebrates, incremental gains. But he castigates *The Wanderer* when we notice incremental losses. Many good pro-lifers have been had. We’ve been lied to, used and abused, and thrown away like Kleenex by Beltway hot-tub pols. Hitchcock ignores the bipartisan corruption. Does he really believe that, if a politician says he is pro-life, we have to vote for him—or else get hammered in *HLR*?

Hitchcock is clearly not fond of Joe Sobran, who was once a mainstay of this publication. Hitchcock complains that Sobran once suggested that, “if you must vote, you should almost never vote for an incumbent.” In 2006, that would have brought on a Democratic majority. When that majority materialized, Hitchcock blamed it on Sobran. Ironically, if the Sobran principle were applied today, Capitol Hill would be swarming with pro-life freshman Republicans. Is Hitchcock now ready to reconsider, and to embrace the Sobran principle after all?

One of Reagan’s key Cabinet members once told me, to my surprise, that he was glad Reagan became president in 1980 and not 1976. His reason? The disastrous condition of the country in 1980 gave Reagan much more of a mandate to clean it up. Even Jesse Helms used to muse—occasionally, and in private conversation—that he wished Jimmy Carter had won. That sentiment arose whenever Jim Baker and the liberal Republicans had gutted another pro-life or pro-family initiative.<sup>31</sup> Sobran is in pretty good company, if you ask me.

### Conclusion

At least Hitchcock wisely avoids the charge that *The Wanderer* has abandoned the teachings of the Magisterium (including *Humanae Vitae*), because in 140 years we never have. And, while he can’t bring himself to

admit it, his disagreements with, and disapproval of, *The Wanderer* do not constitute proof that *The Wanderer* has abandoned its passionate devotion to life.

I admire Hitchcock's abiding devotion to President Bush and to the war, even though both are no longer very popular. I disagree with his views, profoundly. Jim evidently regards that as betrayal. But his fundamental gripe is that he cannot accept that a good Catholic pro-lifer can regard Bush's presidency as a betrayal of conservative and constitutional principles. Opposing such a pro-life president is apparently a mortal sin.<sup>32</sup>

Perhaps Professor Hitchcock will come back next year with another broadside. If he does, I hope that he will include in his method a polling of all the pro-life leaders he knows (and he knows plenty), asking them who is to blame for the failures of the pro-life movement at the outset of the Obama era. If they blame the majority Democrats, I hope he will ask how they *became* the majority. And I wonder, how many of those leaders will blame President Bush, and how many will blame *The Wanderer*?

#### NOTES

1. That interview is well worth reading. Hitchcock reviewed every word before its publication. It is available in full at <http://www.thecatholicguys.blogspot.com>.
2. A lengthier treatment of Hitchcock's assertions can be found at <http://www.thecatholicguys.blogspot.com>.
3. *The Wanderer*, 201 Ohio St., St. Paul, MN 55107; [generalinfo@thewandererpress.com](mailto:generalinfo@thewandererpress.com); 651-224-5733; online edition at [TheWandererPress.com](http://TheWandererPress.com). Hitchcock never contacted me or anyone else at *The Wanderer* to check his facts.
4. The full-length version of this article is available at <http://thecatholicguys.blogspot.com>.
5. Hitchcock's own trajectory is interesting. According to his own testimony, he fled the Left long ago, but did not join the "Catholic Right." He voted for Kennedy. He couldn't stand Goldwater. He voted for Ford. [*Wanderer* Interview, 2007.]
6. Aristotle, *Politics* I, 2, ff.
7. *Catechism of the Catholic Church*, par. 771.
8. The nominee was the author's brother Dan. He has served for 22 years on the U.S. Seventh Circuit Court of Appeals.
9. Quoted in Maria McFadden, "Afterword" to Hitchcock's 2008 *HLR* article.
10. I would be glad to describe this movement as a reality within history, but cannot define it, since it is not an abstract principle capable of definition.
11. viz. Charles E. Rice, *The Winning Side: Questions on Living the Culture of Life*, South Bend, IN: St. Brendan's Institute (1999); 2nd Ed. St Augustine's Press (2007), pp. 233-234.
12. Hitchcock, 2007 *Wanderer* Interview. Hitchcock covers the 1976 election brilliantly in "Prophecy and Politics: Abortion in the Election of 1976," in Hitchcock, *Years of Crisis, Collected Essays 1970-1983* (San Francisco: Ignatius Press, 1985), pp. 221-229.
13. Charles E. Rice, *op cit*.
14. At the time, Senator Helms's senior staff included several Catholics, including James P. Lucier, Carl Anderson, and Thomas A. Ashcraft.
15. Rice, *op. cit*. The reader should note that I do not accuse advocates of the Hatch Amendment of bad faith—only of bad judgment.
16. In 2003, major pro-life leaders addressed the faltering fortunes of the pro-life movement in Teresa R. Wagner, ed., *Back to the Drawing Board* (South Bend, IN: St. Augustine's Press). There, Dr. Jack Willke addressed "The Split" between Helms and Hatch (pp. 127 ff.), and said, "To this day the leadership of the movement is split."

CHRISTOPHER MANION

17. I rely here on Paul Weyrich, a pro-life hero, a Melkite Catholic deacon, founder of the Heritage Foundation and longtime leader of the Free Congress Foundation, often identified as a prominent leader of the “Religious Right” (in fact, he was central to the formation of several of the most influential groups so identified). Any errors in this account are of course my own.
18. Rick Santorum, “The Elephant in the Room: McCain must change views on social issues,” *Philadelphia Inquirer*, March 13, 2008. Link: [http://www.philly.com/inquirer/opinion/20080313\\_The\\_Elephant\\_in\\_the\\_Room\\_McCain\\_must\\_change\\_views\\_on\\_social\\_issues.html](http://www.philly.com/inquirer/opinion/20080313_The_Elephant_in_the_Room_McCain_must_change_views_on_social_issues.html).
19. Hitchcock reviewed every word of our interview before its publication. The citation is accurate.
20. E.g., “. . . an assertion for which he offers no evidence.”; “Without offering much evidence, . . .”; “In his habitual manner of attributing opinions to people without evidence . . .”; Hitchcock, *HLR* 2008; “contrary to all the evidence. . . .” Hitchcock, *HLR* 2007.
21. Hitchcock, *Wanderer* Interview, 2007.
22. I have worked on hundreds of Senate nominations, and several critical judicial nominations, over the past 28 years. I agree with Paul Weyrich that President Bush’s judges are as good as Reagan’s. That does not change the fact that Hitchcock articulates—that the war has derailed a critical ingredient of a pro-life recovery in America by rendering confirmation of such judges virtually impossible.
23. Even Arlen Specter blames George W. Bush! If Bush were relying on solid prudential decisions, he would have confronted the fact that the Iraq War has damaged his effort to appoint good judges to the bench. I have never heard him admit that, and I salute Hitchcock for doing so.
24. *USA Today*, “Bush faces GOP ire over Rumsfeld timing,” November 12, 2006. Link: [http://www.usatoday.com/news/washington/2006-11-12-bush-rumsfeld\\_x.htm](http://www.usatoday.com/news/washington/2006-11-12-bush-rumsfeld_x.htm)
25. See, for example, Austin Ruse’s fine work exposing U.N anti-life treachery, at the Catholic Family Human Rights Institute’s website: <http://www.c-fam.org/>.
26. <http://www.nytimes.com/2008/06/13/world/middleeast/13nations.html>.
27. Viz. [http://amconmag.com/2008/2008\\_06\\_16/cover.html](http://amconmag.com/2008/2008_06_16/cover.html); also note McCain pictured with Lieberman in “support our team” campaign ad on *National Review*’s website 6-12-08.
28. The archives of her columns for the past twelve years would provide an excellent springboard for a Hitchcock investigation of just how rarely she mentions the life issues at all. Link: <http://www.jewishworldreview.com/cols/chavez.archives.asp> (captured July 29, 2008).
29. *Washington Post*, August 13, 2007. Link: [http://www.washingtonpost.com/wp-dyn/content/article/2007/08/12/AR2007081201371\\_pf.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/08/12/AR2007081201371_pf.html).
30. *Harper’s Magazine*, January 8, 2008 <http://www.harpers.org/archive/2008/01/hbc-90002106>. I tried repeatedly to reach Chavez for her comment. I managed to reach her son and her husband, both at her office number, and left messages, but never heard back from her.
31. And they were doing it all the time. When Baker finally took charge under George H. W. Bush in 1989, his first priority (I was handling Foreign Relations nominations) was to cleanse the executive-branch holdovers of every committed Reaganaut pro-lifer he could find.
32. I have presented here some fundamental responses to Hitchcock’s concerns. Other views here were inspired, but not addressed, by him. In order to expand this conversation to a more frequent and more available forum, I have invited Jim to join our blog, *thecatholicguys.blogspot.com*, where we can discuss fully and frequently all the facets and particulars of these central issues, blow by blow. I hope that he will accept that invitation. There is not room here, but there is plenty of room there, every day, to carry on this cordial conversation.



## This Dog Won't Hunt:

# A Reply to Gregory J. Roden

*Paul Benjamin Linton*

In my article “Sacred Cows, Whole Hogs & Golden Calves” (*Human Life Review*, Summer 2007), I challenged three ways of thinking that continue to interfere with the progress of the pro-life movement. The first, the “Sacred Cow” syndrome, is the uncritical acceptance of the opinions of certain law professors and lawyers whose advice (with respect to the pro-life movement) is unsound in theory and counterproductive in practice. The second, the “Whole Hog” mentality, is the conviction that nothing short of an outright ban of all abortions (with the possible exception of those necessary to save the life of the mother) is ethically permissible. The third, “Golden Calf” worship, is the belief that recognition of the “personhood” of the unborn child, whether through a Supreme Court decision or a federal constitutional amendment, in and of itself, would make all (or virtually all) abortions illegal throughout the United States. The thrust of the article was to defend the strategy of “incrementalism” and its accomplishments against the attacks of the “purists” who take the position that we should not try to save any unborn children if we cannot save all of them.

In his *Human Life Review* article, “Unborn Persons, Incrementalism & the Silence of the Lambs” (Fall 2007), attorney Gregory J. Roden takes issue with my critique of the “purist” position and its advocacy of “personhood.” I welcome Mr. Roden’s article and the opportunity to respond to it. In keeping with the animal imagery that we have both used in the titles of our articles, I have decided to call my reply “This Dog Won’t Hunt.”

Mr. Roden’s article gets off on the wrong foot when he states, in the very first paragraph, that “Linton sees incrementalism as being opposed to the *aims* of the ‘purists,’ who want ‘nothing short of an outright prohibition of all abortions.’” Emphasis added. And he reiterates this in the following paragraph: “Yet it seems that Linton has come to see incrementalism as necessarily opposed to the declaration of personhood.” Neither statement accurately reflects my views. With respect to the first (mis)statement, I expressly said in my article that “Incrementalists certainly do not disagree with purists about the end to be achieved (establishing legal protection for *all* unborn

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human life), but they vigorously disagree with them that *some* legal protection is worse than *none* while we all work toward completely just laws.” Emphasis in original. In other words, the dispute is not over *ends* (where are we going), but over *means* (how do we get there). It is not the *incrementalists* who are opposed to the “aims” of the purists, as Mr. Roden claims; rather, it is the *purists* who are opposed to the *means* by which the incrementalists seek to attain those aims. With respect to the second (mis)statement, I stressed that “[a] ‘personhood’ amendment, *by itself*, would not provide [legal] protection [for unborn children].” Emphasis in original. In other words, a personhood amendment, by its own terms, will not achieve the desired objective (restoring legal protection for all unborn human life). The amendment would have to be supported by appropriate legislation.

To avoid any possible misunderstanding, it must be emphasized that both incrementalists and purists seek, as an “ultimate goal,” legal protection for all unborn human life. They *may* disagree over what would be necessary to achieve that goal: A federal constitutional amendment directly addressing the issue (by prohibiting abortion, subject to a “life-of-the-mother” exception), just as the Thirteenth Amendment directly addressed the issue of slavery (by prohibiting it); or a personhood amendment that, like the Fourteenth Amendment, would neither affect private conduct in the absence of implementing legislation, nor require states to enact such legislation.<sup>1</sup> And they *do* disagree over the key strategic question: Should we make incremental advances on behalf of unborn children, reducing the number of abortions and laying the groundwork for overruling *Roe* and, ultimately, adopting an amendment prohibiting abortion—or should we oppose any legislation (either regulating abortion or recognizing the rights of unborn children in other contexts, e.g., fetal homicide or wrongful death) that does not extend the protection of the law to all unborn children?<sup>2</sup> Those are the matters in dispute. Let me now turn to Mr. Roden’s arguments.

Citing dictionary definitions of the word “person,” and noting that rights of “persons” have been extended to unborn children in various contexts (criminal law, tort law, and property law), Mr. Roden argues that the unborn child should be regarded as a “person” as that word is used in § 1 of the Fourteenth Amendment.<sup>3</sup> The word “person,” however, is not univocal. It may have different meanings in different contexts. And, as Mr. Roden freely admits, the Supreme Court has already held (in *Roe*) that the unborn child is *not* a constitutional “person,” notwithstanding the fact that he or she is regarded as a “rights bearing” entity in other contexts. As is set forth in more detail in my original article, neither then-Justice Rehnquist nor Justice White dissented from that holding. And neither has any other justice since *Roe* was

decided. That includes Justices Scalia and Thomas.<sup>4</sup> Moreover, in his dissent in *Casey*, which Chief Justice Rehnquist, Justice White, and Justice Thomas joined, Justice Scalia wrote, “The States may, if they wish, permit abortion on demand, but the Constitution does not *require* them to do so.”<sup>5</sup> Regardless of the theoretical merits of a personhood argument (an issue on which I express no opinion), no Supreme Court Justice has accepted (or would likely accept) such an argument. The absence of any support for a personhood holding, combined with Justice Scalia’s acknowledgment that the states may allow abortion on demand, means that recognition of the unborn child as a “person” within the meaning of § 1 of the Fourteenth Amendment will come about, if at all, only through a constitutional amendment, not a Supreme Court decision. Thus, it remains true, as I said in my article, that, in the absence of such an amendment, “the prospect of a Supreme Court decision adopting personhood is . . . like the horizon—you can see it, but you can’t get there.”

Mr. Roden also suggests that, at least in certain medical and scientific respects, an unborn child is similar to a person in a persistent vegetative state. Citing the Supreme Court’s decision in *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261 (1990), he argues that because persons in a persistent vegetative state are recognized as constitutional persons, unborn children should be so recognized, too. Whatever the merits of such an argument,<sup>6</sup> the Court decided otherwise in *Roe*. And, contrary to Mr. Roden’s somewhat awkwardly phrased assertion, neither *Cruzan* nor any other Supreme Court decision “stand[s] opposed to the denial of ‘personhood’ to the unborn.” Although the Court has recognized on occasion that unborn children may be protected by state statutes and common-law doctrines (outside the context of abortion),<sup>7</sup> it has never accorded due-process or equal-protection rights to unborn children as “persons” within the meaning of § 1 of the Fourteenth Amendment.

In my article, I argued that neither a Supreme Court decision nor an amendment recognizing unborn children as constitutional “persons” would make abortion illegal (in the absence of implementing legislation). Mr. Roden disagrees, but his reasons for doing so are unconvincing. With respect to the Fourteenth Amendment’s guarantee of due process, he states that “Due process is an important area of constitutional jurisprudence that seeks to ensure that each person is given a fair opportunity to have his side of an issue heard in a court of law before he is deprived of ‘life, liberty or property.’” Due process *is* “an important area of constitutional jurisprudence,” but Mr. Roden’s formulation fails to recognize that the guarantee of due process in § 1 of the Fourteenth Amendment applies only to the states (and persons acting on

behalf of the state), not private actors (just as the Due Process Clause of the Fifth Amendment applies only to the federal government and those acting on behalf of the government).<sup>8</sup> An example may help to illustrate this distinction. If my neighbor intentionally shoots and kills his wife without lawful justification, he has committed murder, a statutory crime; he has not violated her constitutional rights (unless, of course, he was acting on behalf of the state).

Mr. Roden does not cite a single case in which the *substantive*, as opposed to the *procedural*,<sup>9</sup> guarantees of the Due Process Clause have been applied to the conduct of private actors. The case law is clear that it does *not* apply to such conduct. In *DeShaney v. Winnebago County Dep't of Social Services*, 489 U.S. 189 (1989), the Court stated:

[N]othing in the language of the Due Process Clause itself requires the State to protect the life, liberty, and property of its citizens against invasion by private actors. The Clause is phrased as a limitation on the State's power to act, not as a guarantee of certain minimal levels of safety and security. It forbids the State itself to deprive individuals of life, liberty, or property without "due process of law," but its language cannot fairly be extended to impose an affirmative obligation on the State to ensure that those interests do not come to harm through other means.<sup>10</sup>

"[T]he Due Process Clause of the Fourteenth Amendment," the Court explained, "was intended . . . to protect the people from the State, not to ensure that the State protected them from each other."<sup>11</sup> Apropos of the issue at hand, the Court concluded that "a State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause."<sup>12</sup>

**I**n light of the foregoing, it should be apparent that a decision of the Supreme Court (or adoption of a constitutional amendment) recognizing the unborn child as a "person" would have far less significance than is commonly thought. Such a decision (or amendment) *would* prevent a state from enacting statutes *allowing* abortion (a form of state action forbidden by the decision or amendment), but would *not* require any state to enact a statute *prohibiting* abortion. Such a decision (or amendment) *would* prevent state actors (government employed physicians) from performing abortions, but would *not* prevent private actors (physicians in private practice) from performing them.<sup>13</sup> Because virtually all abortions are performed in privately owned and operated facilities (usually freestanding clinics) by private physicians, very few abortions would be prevented.<sup>14</sup>

With respect to the Fourteenth Amendment's guarantee of equal protection, Mr. Roden claims that "the Supreme Court has recognized unborn

persons as having a right to equal protection,” citing the Supreme Court’s decision in *Weber v. Aetna Casualty & Surety Co.*, 406 U.S. 164 (1972). *Weber*, however, does not support this claim. In *Weber*, the Court held that, for purposes of sharing equally with other children in the recovery of worker’s compensation benefits for the death of their father, “a posthumously born illegitimate child should be treated the same as a posthumously born legitimate child.”<sup>15</sup> After a brief discussion of the case, Mr. Roden concedes that “the ‘personhood’ of the unborn child was never an issue in *Weber*.” So much for *Weber*.

In support of his argument that a Supreme Court decision or constitutional amendment recognizing the unborn child as a “person” would outlaw abortion, Mr. Roden points out that almost three-fourths of the states already have enacted fetal homicide laws. “These states,” he notes, “typically have an exception carved out for abortions performed with the woman’s consent by a licensed abortionist.” “If the unborn are recognized as persons,” he argues, “by operation of the Equal Protection Clause, we would have 37 states with laws prohibiting abortion for starters—that’s my kind of incrementalism.” I think “nonstarter” would be a better description. To comply with *Roe v. Wade*, states that have enacted fetal-homicide laws have excepted abortion (or, more generally, medical procedures to which the woman has consented) from their coverage. Mr. Roden does not explain how those statutes, which explicitly *exclude* certain conduct (abortion) from their scope, would implicitly *include* such conduct if unborn children were recognized as constitutional persons. The Fourteenth Amendment is not a criminal code and the Equal Protection Clause is not a criminal statute. The decision to define certain conduct as criminal, as a matter of state law, rests with the states, not the federal government, much less a federal court. Much the same can be said of Mr. Roden’s other suggestion that state murder statutes that do not now cover unborn children would be required to cover them as a matter of equal protection in the event of a personhood decision or amendment.<sup>16</sup>

For the sake of argument, however, let’s concede that fetal homicide laws that make an exception for abortion, and homicide laws that apply only to those who have been born, *would* violate the Equal Protection Clause if the unborn child were recognized as a constitutional person. What is the remedy? Mr. Roden completely ignores this question, which I asked in my original article. When a legislative classification has been determined to deny equal protection, a court may cure the constitutional violation in either of two ways. The court may extend the classification to include those who have been excluded or, alternatively, it may decide to exclude those who had been

included, thereby eliminating the discriminatory treatment created by the classification. Either remedy would correct the constitutional violation. But I am not aware of any case (and Mr. Roden cites none) in which a federal court, to remedy an equal protection violation, has extended the scope of a state criminal statute to include conduct that had not theretofore been criminal. That would be an extraordinary and unprecedented application of the power of judicial review. Alternatively, a federal court could threaten to declare a state's fetal homicide and homicide statutes unconstitutional unless the state legislature amended them to include unborn children. How likely is that?

Mr. Roden brushes aside my concern that pregnant women would not be exempt from prosecution for the killing of their unborn children (in an abortion) if unborn children were recognized as constitutional persons. He responds that "local crime is within the exclusive jurisdiction of the states *unless a question of federal constitutional rights arises, . . .*" Emphasis added. Curiously, this response comes only two paragraphs after he confidently asserts that, on equal protection grounds, state fetal homicide statutes, as well as general homicide statutes, would automatically apply to unborn children if their personhood were recognized by a Supreme Court decision or a federal constitutional amendment. There is no *maternal* exception to the killing of a *born* child. Why would there be one for the killing of an *unborn* child if the child were a constitutional person?

For the reasons set forth in my original article, as well as those expressed in this article, I remain of the opinion that the incremental strategy is superior—both practically and morally—to that of the purists. Any remaining doubt of that should have been laid to rest by the November elections. A proposal to define unborn children as state constitutional persons went down in flames in Colorado by a vote of almost three-to-one. An abortion ban containing exceptions for the life of the mother, rape, and incest (and a narrow physical health exception) was soundly defeated in the conservative state of South Dakota (as was a more restrictive law in 2006). And, did I forget to mention, Sen. Barack Obama was elected president of the United States. There is little the pro-life movement can do to prevent the new president from appointing pro-*Roe* justices on the Supreme Court or from rescinding pro-life executive orders issued by President Bush. But the election of Senator Obama and the gains made by Democrats in both the House and the Senate present the pro-life movement with other challenges which they *can* and *must* do something about—defeating the radical Freedom of Choice Act, which would effectively nullify virtually all state laws regulating abortion that have been enacted over the past 36 years, including

parental notice and consent laws, waiting periods, informed consent requirements, clinic regulations, and public funding bans; preserving the Hyde Amendment, which reduced the numbers of federally funded abortions from more than 300,000 each year to barely one hundred a year; and protecting the rights of conscience of health-care providers and institutions. Incrementalists will do everything in their power to ensure that FOCA is not passed, that the Hyde Amendment is preserved, and that rights of conscience are protected. I hope that the purists will join us, notwithstanding their opposition to many of the regulations that FOCA would overturn and their opposition to funding bans that contain any exceptions. Not to join us in this struggle would be impractical and, in my view, immoral as well.

### NOTES

1. It is imprecise, therefore, to state, as Mr. Roden does, that “incrementalism . . . has as its ultimate goal the recognition of the personhood of the unborn.” The “ultimate goal” of both incrementalists and purists is to establish legal protection for all unborn human life. Whether “recognition of the personhood of the unborn,” by itself, would provide this protection is the issue.
2. Unlike some advocates of personhood, Mr. Roden acknowledges “all the efforts incrementalism has made to save the lives of unborn children.”
3. Section 1 provides, in relevant part, “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.” *U.S. Const. amend. XIV*, § 1.
4. Chief Justice Roberts and Justice Alito have not expressed any views on whether *Roe* should be overruled. And neither joined Justice Thomas’s concurring opinion in *Gonzales v. Carhart*, 550 U.S. \_\_\_, (2007), the decision upholding the federal Partial-Birth Abortion Ban Act, in which Justice Thomas, joined by Justice Scalia, reiterated his position that neither *Roe* nor *Planned Parenthood v. Casey* has any basis in the Constitution.
5. 505 U.S. 833, 979 (Scalia, J., concurring in the judgment in part and dissenting in part) (emphasis in original).
6. Whether Nancy Cruzan was a “person” within the meaning of § 1 of the Fourteenth Amendment was not in dispute in *Cruzan*. It was simply assumed. See *Cruzan*, 497 U.S. at 279. Contrary to the implications of Mr. Roden’s argument, the Court in *Cruzan* neither adopted, as a constitutional standard, a definition of what it means to be “alive,” nor held that food and fluids could not be removed from someone in a persistent vegetative state. It merely recognized that Ms. Cruzan was not “dead” under any applicable statutory definition of death and held that the Missouri Supreme Court could insist upon clear and convincing evidence of her alleged wishes before her tube-feeding was removed. Mr. Roden’s advocacy of what he characterizes as a “vitality” standard, to wit, that someone should be regarded as a person if he or she is “alive,” as that term is commonly used “in all state and federal jurisdictions,” could have unintended (and undesirable) consequences for the protection of the life of the unborn child. After all, “brain death,” meaning the complete and irreversible cessation of all brain function, including brain-stem function, is accepted as a definition of death in all American jurisdictions. Is an unborn child “dead,” i.e., not “alive,” before brain waves are detected (which occurs at approximately eight weeks gestation)? See Joseph W. Dellapenna, *Dispelling the Myths of Abortion History* (Carolina Academic Press 2006) at x & n. 5, *id.* at 749-50 & n. 381 (advocating, as a matter of public policy, an unfettered choice of abortion before “the emergence of fetal brain activity,” but recognizing that “about half of the abortions currently performed” occur before eight weeks and acknowledging that “the percentage would rise if women were concerned to beat the deadline”).

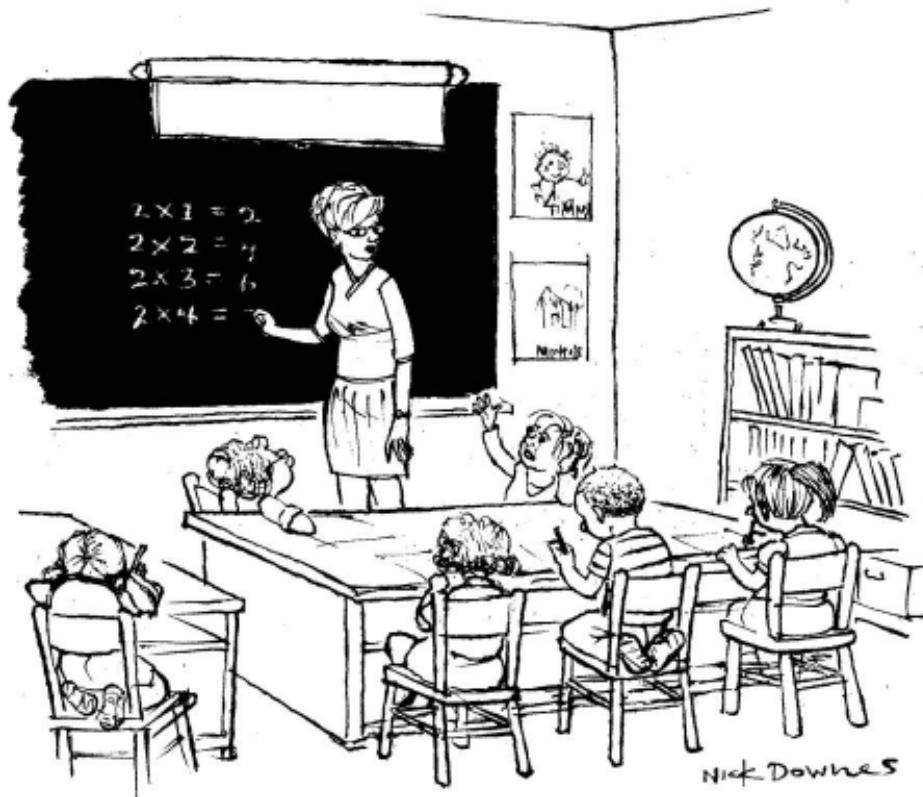
7. See, e.g., *Webster v. Reproductive Health Services*, 492 U.S. 490, 506 (1989) (noting that “[s]tate law has offered protections to unborn children in tort and probate law”) (citing *Roe v. Wade*, 410 U.S. 113, 161-62 (1973)).
8. Section 5 of the Fourteenth Amendment empowers Congress to enforce the amendment by “appropriate legislation.” U.S. CONST. AMEND. XIV, § 5. Legislation enacted pursuant to § 5 may reach private conduct, even though such conduct is not covered by the terms of the amendment itself. See, e.g., *Sale v. Waverly-Shell Rock Board of Education*, 390 F. Supp. 784, 787 (N.D. Iowa 1975) (“Congressional power to proscribe private forms of discrimination is . . . extended by § 5 of the Fourteenth Amendment where Congress finds the prohibition a necessary means to accomplish the enforcement of the Fourteenth Amendment”) (citations omitted); *Commonwealth of Pennsylvania v. Local Union No. 542, Int’l Union of Operating Engineers*, 347 F. Supp. 268, 293 (E.D. Pa. 1972) (“Congress ha[s] the power under § 5 of the Fourteenth Amendment to reach purely private acts of racial discrimination”). So, too, “appropriate legislation,” if otherwise authorized by a “personhood” amendment, would be needed to enforce the amendment against private conduct.
9. *McArthur v. Scott*, 113 U.S. 340 (1884), cited by Mr. Roden, merely held that, under state law, the beneficiaries of an interest in an estate had to be represented, actually or constructively, in an action to annul the probate of a will. Whatever “process” is “due” in a judicial (or quasi-judicial) proceeding between private parties has no bearing on the *constitutionality* (as opposed to the *legality*) of their conduct outside of court. For example, a person who is sued for wrongfully refusing to return personal property to the rightful owner is entitled to notice of the lawsuit and must be given an opportunity to defend himself in court. If, however, the owner employs “self-help” measures to retrieve his property without initiating a lawsuit, e.g., by going onto the land of the possessor and seizing his (the owner’s) property without judicial process, he has not violated the “due process” rights of the person in possession of the property, even if his conduct subjects him to criminal prosecution (for the statutory offense of trespass to land) and/or civil liability (for the common-law tort of trespass to land). In a similar vein, if a physician who is not employed by the state (and who is not otherwise acting on its behalf) performs an abortion upon a pregnant woman without her consent (express or implied), he has certainly committed a battery upon her (and perhaps other offenses, as well), but he has not violated her “due process” rights. Regardless of the legal status of an unborn child, an abortion performed by a physician in private practice upon a pregnant woman with her consent does not implicate the due-process rights of the child for the simple and straightforward reason that no “state action” is involved.
10. 489 U.S. at 195.
11. *Id.* at 196.
12. *Id.* at 197.
13. Toward the end of his article, Mr. Roden argues that the conduct of a physician in performing an abortion may be attributed to the state solely because the physician is licensed by the state. That argument cannot be taken seriously. The mere fact that professionals are licensed by the state does not transform them into state actors for purposes of § 1 of the Fourteenth Amendment. See *Blum v. Yaretsky*, 475 U.S. 991, 1005 (1982) (physicians); *Wainwright v. Torna*, 455 U.S. 586 (1982) (*per curiam*) (attorneys). The connection between the “state action,” i.e., licensing, and the private conduct is simply too attenuated. Equally meritless is the related suggestion that, if unborn children were regarded as constitutional persons, they would be protected from abortion by *existing* federal civil-rights laws. With respect to the conduct of private parties, the civil remedies and criminal penalties the United States Code authorizes for violation of a person’s federal civil rights apply only to acts done under “color of law,” see 42 U.S.C. § 1983 (civil remedies), 18 U.S.C. § 242 (criminal penalties), or acts performed pursuant to a conspiracy, see 42 U.S.C. § 1985(3) (civil remedies), 18 U.S.C. § 241 (criminal penalties). None of these statutes would apply to a physician in private practice who, without purporting to act under “color of law,” and without the assistance of a third party (a nurse), performed an abortion upon a pregnant woman (I hasten to add that, under Wharton’s Rule, the woman herself could not be regarded as a co-conspirator).
14. In a confusing aside, Mr. Roden suggests that I fear that some states would revert to the common-law “quickenings” standard “if *Roe* were overruled by a ‘personhood’ decision.” He completely missed the point I was trying to make. As I said in my article, a “personhood” decision would prevent the states from enacting statutes allowing abortion, but it would not require them to enact statutes prohibiting abortion, nor, in my opinion, would such a decision confer upon



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any court the authority to direct a legislature to enact such a statute. In the absence of any statutes on the subject, abortion would remain legal except, perhaps, in the minority of states that recognize common-law crimes (most states are “code” states, i.e., only conduct defined as criminal by a statute is prohibited). And even in those states, abortion would be legal up the point of quickening, when the mother detects fetal movement, approximately 16 to 18 weeks gestation, which was the stage of pregnancy at which abortion was a crime at common law. The overwhelming majority of abortions are performed before “quickening,” however, and thus would not be illegal even in the few states that recognize common-law crimes.

15. *Weber*, 406 U.S. at 169 n. 7.
16. Contrary to Mr. Roden’s understanding, the failure to apply state murder statutes to unborn children, in the wake of a personhood decision or amendment, would not present a question of “discriminatory law enforcement.” Rather, the laws themselves, as drafted or as authoritatively interpreted by state courts, simply do not apply to the killing of an unborn child. Whether there would be any practical judicial remedy to alleviate this alleged violation of equal protection is discussed later in this article.



*“Could you dumb it down?”*

# Aborting Logic

Donald DeMarco

**J**ohn Irving, novelist and short-story writer, established his reputation in 1978 with *The World According to Garp*, which was made into a film in 1982. He broadened his acclaim when *The Cider House Rules* (1985) was made into a movie (1999) and won Academy Awards for Michael Caine as best supporting actor and for Irving himself for best adapted screenplay. In his most personal book, *My Movie Business: A Memoir* (Knopf, 1999), he presents his view on abortion and his attitude toward right-to-life advocates (pp.40-41):

Meanwhile, a self-described Right-to-Lifer approached me in a bookstore where I was signing copies of my ninth novel, *A Widow for One Year*. She didn't want my autograph. She'd come to the bookstore with her own agenda—namely, to tell me that I misunderstood the Right-to-Life movement. “We just want people to be responsible for their children,” she told me, giving my hand a little pat.

I patted her hand right back. I said to her what Dr. Larch says in *The Cider House Rules*: “If you expect people to be responsible for their children, you have to give them the right to choose whether or not to have children.”

I could see in her eyes that her resolute belief was undiminished. She swept out of the bookstore, not pausing to look at another human face—or at a book.

The young man who stood next in line told me that she'd cut in front of him; doubtless her zeal to impart her message was incompatible with the very idea of waiting in line. In my opinion, it's not that the decision to have a child or have an abortion is ever not complicated; rather, it is as morally complex (and often conflicted) a decision as any. It's never simple. But people who want to legislate that decision—in effect, to make that decision for someone else—are simply wrong.

This passage is quite remarkable in that it contains well over a dozen logical fallacies compacted within a relatively brief span of words. Its “illogical density,” we might say, is exceptionally high. It is a passage that is worthy of inclusion in a logic text to illustrate informal fallacies, though a publisher for such a text, given today's reigning ideology of political correctness, might be hard to find.

In the first sentence, Irving describes himself not only as a novelist, but as a rather prolific one, having authored nine of them. Moreover, he informs us that he is signing copies of his latest work, *A Widow for One Year* (1998). This opening sentence is designed to condition the reader to accept what he is about to say concerning abortion. Here, exquisitely intertwined, are the correlative fallacies of *an appeal to authority* (*argumentum ad verecundiam*)

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and *an appeal to the people or the gallery (argumentum ad populum)*.

Ken Kesey is also a well-known novelist. His book, *One Flew over the Cuckoo's Nest*, was very successful and the movie version won many Oscars. Yet he is pro-life. Being an authority in one field does not make one an authority in every field. The distinguished British mathematician and physicist, Lord Kelvin, once boldly asserted: "Heavier-than-air flying machines are impossible." And Erasmus Wilson, a professor at Oxford University, confidently predicted that "When the Paris Exhibition closes, electric light will close with it and no more be heard of."

Appealing to the emotions of the masses while assuming an authority that one does not have is not an acceptable substitute for logical argumentation.

Irving, though perfectly willing to describe himself at considerable length, does not extend that right to the "Right-to-Lifer." By referring to her identity as "self-described," he brings into question whether she is a true defender of life or merely a hypocrite (the fallacy of *accent*). The fallacy of the *double standard* is also on display here. In addition to doubting her integrity, he remonstrates against the woman for coming to the bookstore "with her own agenda." Here, the fallacy of *argumentum ad hominem* comes into play. John Irving is not exactly without an agenda of his own, as his memoir will testify. This is an instance of the pot calling the kettle black.

Charging pro-life advocates with hypocrisy and intertwining it with a double standard is quite common. For many pro-choice people the only moral standard they hold for themselves is "choice," whereas they hold pro-life supporters responsible for everything. Howard Fast (d. 2003), prolific author of some 42 novels, argued that pro-lifers are insincere because their concern for life does not carry beyond birth: "I have never heard a right-to-life voice raised in protest against 60,000 innocents murdered by the death squads of El Salvador." Responding to this charge, William F. Buckley Jr. had this to say: "The lifers are, by Mr. Fast and others who think as he does, encumbered by the responsibility for everything that happens to the fetus after it materializes into a human being in the eyes of the law. And if you aren't around to see to it that at age 14 the kid is receiving the right education, ingesting the right food, leading a happy, prosperous life, why, you had no business bringing him into this world. You are a hypocrite to the extent that you support life for everyone who suffers in life. It is only left for Mr. Fast to close the logic of his own argument, which would involve him in a syllogistic attempt along the lines of: Everyone suffers. No one not living suffers. Therefore, no one should live."

Irving's first paragraph brings to mind an image Plato creates in his dialogue *Gorgias*, in which a cook is using his authority as a cook before a jury of

children to prosecute a physician for subjecting them to an assortment of painful medical interventions and foul-tasting bromides. The cook, as he reminds the jury, prepares only pleasant and sweet-tasting fare for children. Here, Plato presents the threefold injustice of an illegitimate authority inflating himself while denigrating his blameless adversary before a jury of ignoramuses.

In his second paragraph, Irving delivers what he believes to be a cogent and convincing statement. But his inclusion of the words “right to choose” exemplifies the fallacy of *begging the question*. He simply assumes that abortion *is* a right. Moreover, he contends that the object of this alleged right is to have or not have children. This is the fallacy of *misapplication*. No one has a *right* to have a child, in any case, since no one has a right to another human being. But the issue is not whether or not to have a child, but whether or not to abort one whom one already has.

Irving’s use of the word “responsible” demonstrates the fallacy of *equivocation*. It is hardly a “responsible” act, in the traditional meaning of the term, to kill one’s unborn child. He gives enough latitude to being responsible that he conjoins it with its *contradictory*. Furthermore, if being “responsible” is compatible with killing children in the womb, why would it not extend to killing them outside the womb? The fallacy of *accident* is displayed here since one’s place of residence is accidental to one’s nature as a member of the human family and one’s concomitant right to life. Opposing “having children” to “not having them,” as well as “having a child” to “having an abortion,” illustrates the fallacy of the *false antithesis* (since the relevant opposition is between having and not having an abortion).

Irving is not very kind to his adversary. He claims that she maintains her “resolute belief” in the face of his allegedly invincible position (which is really a house of cards). He regards her “zeal” as a moral vice, one so pernicious, in fact, that it conflicts with common courtesy, a nicety that is apparently not violated by abortion. His “Right-to-Lifer” is a victim of *stereotypic thinking*, formulated and pinned in place the way a butterfly specimen is mounted in a collection.

In his final paragraph, Irving introduces the fallacy of *hasty generalization* when he claims that, for women, the decision to abort is always “complex.” Many women who have undergone abortions have testified that in their cases they never gave their decision to abort a second thought. They testified that since abortion is their “right,” the decision was made simple by that very fact. Irving does agree that some things in life are simple—Right-to-Life people, for example, are “simply wrong.”

Irving accuses Right-to-Lifers of wanting to “legislate” decisions for others.

This is an example of *cliché thinking*. If he moved from cliché to reality, the noted author would realize that all legislators, as a matter of fact, are not restricted to making laws for themselves alone. It does not occur to him that defenders of life are engaging in a democratic process that they hope will inspire duly elected legislators to enact laws that will protect unborn human beings from premature and unnecessary death. The principle “no one should make a decision for another” illustrates the fallacy of *mistaking the qualified for the absolute*. Depending on qualifying circumstance, there are times when we are obliged to make decisions for others (in caring for children or helping people who cannot help themselves). In most cases exercise is good, but not certain forms of exercise while recovering from triple-bypass surgery.

“**I** had a lover’s quarrel with the world” is the epitaph that Robert Frost chose for his gravestone. G. K. Chesterton advised that “one should never let a quarrel get in the way of a good argument.” Quarrelling has its roots in the ego. The ego, which has such a powerful avidity for itself, is nothing more than a fountainhead of pride, which, to cite Chesterton once more, is “the falsification of fact by the introduction of self.” Defending the lives of others while exposing oneself to contempt, vituperation, slander, and illogic seems to be rather selfless. Right-to-life people have never tired of constructing clear-headed logical arguments in defense of life. In this regard, they are apostles of good will. But it does seem that it is their critics who show signs of ill will.

The ego is hardly communal. It is in love with the self and the self alone. From its narrow perspective the right to an unencumbered life trumps the right to life. Bearing and rearing a child is thus seen as an intolerable inconvenience and the supreme encumbrance.

There is little logical debate going on between pro-life and “pro-choice” sides. When argument is met by quarrelling, there can be no logical resolution of the conflict. The difference between pro-and anti-abortion proponents runs far below the surface of a logical debate. The stakes are high, because egocentrism is the great enemy of civilization. What kind of society do we want? Do we want one that consists of quarrelling individuals who bear ill will toward their adversaries? Or do we want a civilization of civil people who understand and practice their communal obligations to others and value their individuality precisely in terms of that service to others?

Socrates stood courageously against the Sophists. He wanted to engage in a productive dialogue. As a realist philosopher, he understood that there is a common measure or source of meaning (*logos*) across which (*dia-*) we can all speak. But they could not meet on that common ground, the very ground

that makes dialogue possible. The Sophists were content merely to *seem* to be wise. Socrates wanted wisdom and would not retreat from that ideal. There is no wisdom in abortion or in its defense. Because the Sophists and pro-abortionists both reject wisdom, they also reject that which provides substance for logical argumentation.

This is a crucial rejection on a subject as fraught with moral import as abortion. In the absence of wisdom, there can be no fruitful discussion. Choice without wisdom has no touchstone to give it justification. A skilled surgeon in the possession of the most highly refined surgical instruments and an expertly trained staff cannot perform surgery without a patient. Logic needs something to sink its teeth in. It has been said that there can be no real dialogue unless three are present: two who are engaged in dialogue and the silence that encompasses them both to quiet their egos and point to a wisdom beyond themselves. Pure choice is a metaphysical orphan, deprived of underlying wisdom, bereft of logical defense.



*"I couldn't have done it without my wife's incessant nagging."*

## A Coach Steps over the Line

Richard J. Goldkamp

“But as you are just, you govern all things justly . . .  
For you show your might when the perfection of your power is  
disbelieved; and in those who know you, you rebuke temerity.”  
— *Wisdom 12: 15, 17*

**I**t all started with a seemingly innocuous newscast on KMOV-TV in St. Louis on the evening of Jan. 19, 2008, when the CBS outlet aired an interview with a supporter of Democratic presidential contender Hillary Clinton at a local campaign rally. As a result of that interview, yet another high-profile Catholic soon found himself bumping heads over abortion, both with his church and with his archbishop.

Once newscaster Mike O’Connell’s brief conversation with coach Rick Majerus of the St. Louis University basketball team appeared on KMOV, it not only lit a minor brushfire of interest on the SLU campus; it ignited a firestorm of local- and national-media news coverage. The issue riveted the attention of the *St. Louis Post-Dispatch* and later earned a *World Over* news spot on the national Catholic television network, EWTN.

Why all the furor?

Majerus apparently thought it was no big deal for him to endorse his favored candidate for the White House when he agreed to the interview. But once he linked his support for Hillary Clinton’s candidacy to her ardent support for a woman’s “right to choose,” it caught the interest of St. Louis Archbishop Raymond Burke. For the archbishop, when a nationally prominent Catholic coach publicly supports the planned deaths of well over a million unborn children annually, it’s more than just a harmless expression of one man’s opinion. This was indeed a *very* big deal.

Initially, the *Post-Dispatch* offered a basic factual review of the KMOV newscast. But the opinionations of *Post* staffers that soon erupted fell far short of analyzing the full truth about what was really at stake here. Abortion was drawn back into the eye of an ideological storm.

No fewer than four one-sided commentaries spilled onto the *Post*’s pages within a three-day period from three columnists—sports gurus Bernie Miklasz and Bryan Burwell, and news commentator Bill McClellan. They mounted a full-court press in an effort to sideline the archbishop from intruding into

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what they regarded as solely a campus affair. All three came across sounding a lot like unpaid P.R. men for Coach Majerus.

But business as usual on the SLU campus these days has left few people convinced it still embraces the same Jesuit Catholic mission that launched the campus nearly two centuries ago. There's good reason, in fact, to doubt whether it bears the same clear Catholic identity that it wore proudly when I graduated a half-century ago.

Maybe it all hinges on your definition of academic freedom. SLU, after all, must be allowed to operate completely independent of the archdiocese, should it not? And the archbishop should have kept his nose out of its affairs, since he had no real authority over the campus or over its basketball coach voicing his political opinions at a public rally. Or so the three columnists tried feverishly to convince their readers—at great length.

McClellan did his best to mock the archbishop in a particularly cutesy and sophomoric column. Miklasz defended Majerus in this tiff as being “defiant—with respect,” as the headline over his front-page commentary proclaimed. Burwell, meanwhile, got so exercised about Burke's alleged intrusion into the coach's business that he vented his wrath on the archbishop in two consecutive columns.

Was the Burke-Majerus spat merely a “manufactured controversy,” as Burwell's first column phrased it? Not quite.

Let's get clinical for a moment. As a kind of second-tier member of the nation's media elite, the *Post-Dispatch* has reached an advanced stage of institutional addiction to “abortion rights”—arguably the biggest and most left-leaning drug of choice the *Post* has welcomed into the realm of political ideas. And yes, it's a real ideological and spiritual addiction. We all know that the abortion option has been embraced by much of the media elite, and that it's perfectly legal for the moment. But the world of medicine itself has on occasion prescribed countless legal drugs over the years for its patients—only to discover later that some of those drugs turned out to be dangerous for human consumption and had to be pulled off the market.

What got the people at the *Post* really puffed up, however, was Archbishop Burke's call for St. Louis University to discipline Majerus after he proclaimed at the Clinton rally that he was “personally pro-choice” on abortion and embryonic-stem-cell research.

As it happens, none of the three columnists was eager to dwell on the hated A-word in this tug of war, except by sanitizing it into a more positive-sounding context like “abortion rights.” All three latched onto Majerus's free-speech rights as the broom needed to brush the abortion issue under the rug as quickly and cleanly as possible. Despite their best efforts, the A-word's



foul odor lingered unmistakably in the air over their work.

Now keep in mind that Bryan Burwell is an otherwise intelligent sports analyst who has done some perceptive work for the *Post*—such as helping to expose various aspects of major-league baseball’s steroids scandal that related to the St. Louis Cardinals’ own Mark McGwire. Doing so took some moxie for a St. Louis-based sports commentator.

In the Burke-Majerus feud, however, Burwell’s willingness to go with the *Post*’s flow on abortion rights prodded him into turning the truth upside down. Burwell, in effect, ardently defended freedom of speech for Majerus (and for sports columnists, obviously), while he went all out to muzzle the speech of the archbishop by ruling him out of bounds in this debate.

Why does that sound like a double standard verging on outright hypocrisy? Let’s analyze in more detail what touched it off. In the report on the Clinton rally, Majerus had told KMOV’s O’Connell that he supported Clinton’s candidacy largely because of her party’s views on abortion and stem-cell research. When O’Connell asked him, “Is this OK with [SLU president] Father Biondi?” Majerus scoffed, dodging the question with a question of his own: “Are you trying to go *60 Minutes* on me?”

**M**ajerus was a high-profile Catholic coach, working for a nominally Catholic institution, who had asserted a decidedly un-Catholic, or even anti-Catholic, view on right-to-life issues. But after Majerus had “innocently aired” his pro-choice stance on TV, to borrow Burwell’s euphemistic phrase, the columnist accused Burke of being “the only person who seems to have a problem with Majerus’s personal views.” He then added this buzzword-laced put-down of the archbishop: “This is the famously polarizing local Catholic leader who seems to believe that anyone who doesn’t march in lockstep with his ultraconservative views on the world is going to hell in a handbasket.” (Thank God no “ultraliberal views” had invaded the *Post*’s pages on this issue.) In fact, there were probably tens of thousands of faithful Catholics or other pro-life St. Louisans witnessing this ongoing feud who would have thought Burke seriously remiss if he had totally ignored Majerus.

SLU’s Father Lawrence Biondi, by the way, did his best to wash his hands of Majerus’s behavior by stonewalling the entire issue. The groundwork for Biondi’s lukewarm reaction was clearly laid in a Missouri appellate court case more than a year earlier. It involved SLU’s desired access to \$8 million in St. Louis tax funds under the city’s tax increment financing (TIF) program, money sought by SLU leaders to help erect a new 13,000-seat basketball arena on campus. When SLU’s right to those funds was challenged by the

Masonic Temple Association because of the school's Catholic religious roots, SLU lawyers carefully distanced the campus from any control by the Catholic Church, and from anything more than a token recognition of Catholic teachings in the classroom. In doing so, they succeeded in earning the court's support for their \$8 million cause. SLU was on its way to a shining new home for its hoops squad; some SLU alumni following this case were left with the eerie suspicion that the leadership of their Jesuit alma mater was perfectly willing to sell off its Catholic soul for 30 pieces of silver.

As a canon lawyer for his church, Burke surely knew he has not only a free-speech right but a moral responsibility to try clearing the air on contested Catholic teachings in America's marketplace of ideas, when prominent Catholics continue to go scandalously astray on long-settled matters like the evil of abortion and the sanctity of every human life. Burke had no direct say in how the SLU campus ran itself. But make no mistake: His authority as archbishop extended to all Catholics in his archdiocese, including those working on campus.

The *Post* was in for a surprise of its own: A cascade of 16 letters from readers on this subject showed up in two late January editions of the paper, with a majority of the writers strongly supporting the archbishop for his bold stand on these issues. Once those letters appeared, I trust Mr. Burwell could figure out why Burke was far from "the only person" concerned about all this.

Still, in a second column Burwell elevated Majerus into the heroic company of "activist athletes" from the past, like the admirable Arthur Ashe. At one point in Ashe's career, there was diplomatic resistance in Washington to rocking the boat over South Africa. Yet the gutsy black tennis star joined public protests in America against apartheid, one of the most blatant social evils of his era.

Recognition of Ashe's character was one of the few shining moments in Burwell's analysis of the St. Louis campus squabble. If he had paid closer attention, he would have recognized there was no similarity between Ashe's behavior and that of Majerus. The coach was not protesting the single greatest social evil in America today; he was wholeheartedly endorsing it.

Archbishop Burke first put *Post-Dispatch* editors on edge in the presidential campaign of 2004, by challenging high-profile Catholic politicians like Sen. John Kerry to stop thumbing their noses at both natural law and church teachings that protect an unborn baby's inherent right to life. Burke's stand drew support from a series of other Catholic bishops across the country (a trend ignored by the *Post* at the time). Two months before, Burke issued an

eloquent October pastoral letter that year on the right to life, in fact, three other bishops from cities in the Southeast—Atlanta, Charlotte, N.C., and Charleston, S.C.—came out with a joint proclamation of their own on Catholics in political life. In it, they strongly echoed Burke with their own call to deny Communion to overtly pro-abortion Catholic leaders like John Kerry.

The *Post-Dispatch* had done its best to portray him as a religious oddball out of sync with all right-thinking Americans (in other words, True Believers in *Post* stereotypes). The pope obviously wasn't ready to buy into false images of what the St. Louis archbishop represented: In late June 2008, he named Burke to head the Supreme Tribunal of the Apostolic Signatura, the church's highest tribunal in Rome.

Today's media elite have lost touch with America's Founding Fathers and with the Judeo-Christian tradition that helped spark the birth of our country. Once our Founders agreed there should be no established church for the new republic, they also left a welcome mat out for religious leaders to help shape our nation's moral character by trying to guide their fellow countrymen to lead upstanding lives, lives based on natural law as the best way to a just, peaceable, and orderly society.

**T**he defense of that law dates back at least to ancient Greece. It was Hippocrates who laid down for his fellow members of the medical profession the principle that came to be known in Latin as *primum non nocere*: First, do no harm. It is precisely that principle that has been sidelined by so many medical schools and members of the medical profession in America in our time, along with their allies in the world of journalism. The most obvious result: legalized abortion. Its grim consequence: not only dead infants, but emotionally crippled women as well. The irony of it all is that a high-level St. Louis Jesuit—who had a great opportunity to help lead both his own campus and American culture back toward higher moral and spiritual ground in defense of human life—acted instead as if the Majerus-Burke feud was a matter of absolutely no concern to him.

As the *Post-Dispatch* prepared to bid Burke a back-of-the-hand goodbye after his new appointment in June, it once again did its best to treat the departing archbishop as not only a “controversial” but also a “divisive” leader of the church in St. Louis. Controversial, yes, but divisive? Hardly. The paper's editors had blinded themselves to the possibility that the real sources of “divisiveness” in Burke's more controversial actions were in fact errant Catholics in need of the correction the archbishop sought to apply in exercising the legitimate responsibilities of his office.

RICHARD J. GOLDKAMP

If Mr. Majerus and Father Biondi will pardon my saying so, the coach's skirmish with the leader of his adopted archdiocese in early 2008 was one of the more shining moments in Archbishop Burke's all-too-brief tenure in St. Louis. He had done nothing more than rebuke the kind of temerity that cried out for it. His sad loss to the city of St. Louis will be Rome's invaluable gain. Too many people—including even free-speech enthusiasts—have lost their ability to spot real moral courage when it shows up in America.



*"Not yet—don't fly off until the moment they raise their binoculars."*

# Abortion and Humanism

*J.W. Van Dijken*

The dependence of the abortion industry on the philosophy of secularism has often been noted by pro-life commentators. Writers such as the late President Ronald Reagan<sup>1</sup> have been aware of the ties between the practice of abortion and the philosophy of secularism, taking note of how the accidental existence of the human being, as postulated by the secularist, leaves the human being without intrinsic rights, including the right to live. However, considerably less attention has been given by pro-lifers to the matter of how the abortion industry also borrows ideologically from secularism's close and beloved cousin, humanism. While secularism provides a moral framework within which the human being can perform an abortion, humanism provides a psychological framework in which the human being can be expected to survive the aftermath of abortion. In this article, I endeavor to identify the larger connection between humanism and the abortion industry—especially as it relates to post-abortion issues—and the breakdown of humanism in the face of the actual abortion experience.

## **The Abortion/Humanism Connection**

The connection between the formal humanist establishment and the abortion industry is not superficial, nor is it difficult to substantiate. The writers of the Humanist Manifesto II and the Secular Humanist Declaration of 1980 are a testament to this, as they explicitly expressed support for the right to abortion.<sup>2,3</sup> Dr. Henry Morgentaler, one of the signers of the 1980 declaration, is the preeminent abortion doctor of Canada,<sup>4</sup> and also served as the president of the Humanist Association of Canada for 31 years.<sup>5</sup> The late bioethicist Joseph Fletcher, also one of the signers of the 1980 declaration, was a member of the American Eugenics Society and was instrumental in founding Planned Parenthood.<sup>6,7</sup> Faye Wattleton, a past president of Planned Parenthood, and Bill Baird, a prominent abortion activist, are professing humanists and are recognized as such by the American Humanist Association.<sup>8</sup> The British Humanist Association itself states that many humanists were involved in the effort to legalize abortion.<sup>9</sup> The Princeton ethicist Peter Singer, notorious for his radical views on abortion and infanticide, is himself a self-proclaimed humanist (although his humanist credentials might be called into question in light of his recent attempts to move the humanist establishment

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away from “speciesism”).<sup>10</sup> And professing humanist Margaret Sanger, the founder of Planned Parenthood, was presented the “Humanist of the Year” award in 1957 by the American Humanist Association.<sup>11</sup>

#### **The Abortion/Humanist Connection on Post-Abortion Issues**

The abortion industry and the humanism establishment share a connection not only in their affinity for abortion, but also in their broader understanding of the human being. Given that the abortion industry has failed to disprove the truth that abortion is the destruction of a human life, given that the abortion industry is aware of this same failure, and given its desire to persist in maintaining that the person who has undergone an abortion must be able to live easily with the fact of having destroyed her offspring, a subtle reinvention of the human being is necessary. Many other ideologies, such as historical Christianity, argue that the human being does not have the natural capacity to bear the burden associated with this act; the abortion industry disagrees, and must therefore generate a view of the human being that will include this capacity. Since the post-abortive burden is an especially difficult burden to bear, the capacity to bear it will by implication elevate the human being to new heights, to a position outside of the realm of what was previously believed in the historic Christian West.

When a person makes the statement that a particular behavior is moral, among the implications of that statement is the notion that the person believes he or she has the capacity to bear all of the consequences associated with that behavior. Conversely, when a person makes the statement that a particular behavior is immoral, among the things that are suggested is that the person believes he or she does not have the capacity to bear the consequences associated with the behavior. The example of drug abuse is instructive. If a person makes the statement that drug abuse is immoral, he suggests, among other things, that he does not have the capacity to bear the consequences associated with that behavior, and could realistically expect to experience some degree of personal harm if he engaged in it. However, if a person truly believes that drug abuse is morally acceptable, then, among other things, he suggests that he does have the capacity to bear its consequences. All other things being equal, the person who believes that drug abuse is moral will have a greater belief in his own capacities than does the person who does not believe drug abuse is moral.

As the number of behaviors that a person claims are moral increases, his belief in his own personal capacities also increases. The greater the number of behaviors that are considered moral, the greater will be his belief in himself. Consequently, those who adopt a socially liberal stance on morality by

implication believe that the human being has a greater amount of personal resources and power than does the social conservative. As such, the socially liberal standpoint has an elevated view of the human being that is unknown to the socially conservative person.

The implications that this has for the abortion industry and humanism are striking. By arguing that abortion is moral, the abortion industry by implication argues for a highly elevated view of the human being. In a similar manner, in arguing that a whole range of behaviors historically considered immoral by the Christian Church are acceptable, the humanistic establishment by implication elevates the status of the human being considerably. The words of the Humanist Manifesto II are instructive: “We reject features of traditional religious morality that deny humans a full appreciation of their own potentialities and responsibilities. Traditional religions often offer solace to humans, but, as often, they inhibit humans from helping themselves or experiencing their full potentialities.”<sup>12</sup>

#### **The Unraveling of Humanism in the Abortion Experience**

The belief that the human being has the ability to bear the burden associated with abortion is often—and quite strongly—reflected in the attitude of people who are advising a woman on abortion. Many women who have had an abortion have reported that when—subsequent to the abortion—they expressed feelings of regret about their abortion decision to friends or family members, their expressions of regret would most often be met with strong encouragements to “forget” about the experience. Often, they would be reminded that the decision was made with their best interests in mind. In response to any specific expressions of distress or grief, the post-abortive person would be typically encouraged to simply “not think” about her abortion experience.<sup>13</sup>

Making the suggestion that the post-abortive person should simply “not think” about it indicates a belief that the traumatic impact of the abortion can be negated or limited by simply shutting out thoughts associated with it. As the abortion industry would have it, the abortion has the ability to affect the individual only insofar as the individual allows herself to be affected.

The truth, of course, is different. Rather than *defining* the formative realities of life, death, bereavement, maternity or paternity, personal security, and human sexuality that interplay in the abortion experience, the human being, in his inescapably impressionable nature, is *defined* by those realities. Authors such as Theresa Burke and Guy Condon have noted how abortion affects and even redefines the individual on each of these levels. In the matter of sexuality, Burke notes how abortion’s intrusive nature involves the most

private organs of a woman's body and often leaves the woman feeling neutered, as though her own femininity had been aborted.<sup>14</sup> Burke notes the example of Lorena Bobbitt, a woman who emasculated her husband on the one-year anniversary of an abortion that he had forced upon her. Burke explains how Bobbitt had been acting out of a feeling of having been "neutered" herself, and out of a desire to make her husband share in the same fate that she had through her abortion experience.<sup>15</sup>

In her book *Forbidden Grief*, Burke also discusses numerous cases of post-abortive women who have experienced psychological complications in regard to parenting. She writes of women who have experienced strong feelings of anger and envy towards pregnant women, women who feel as though they are unworthy to become pregnant again, and women who constantly struggle with strong tendencies to spoil, protect, or even abuse their children because of the guilt that they feel over their abortions. As well, Burke cites the story of "Olivia," a woman who experienced recurring nightmares following her abortion. In these dreams, she would be in the process of giving birth to a baby, only to experience a stillbirth. In spite of her child's complete lack of life, however, the doctors and nurses are happy, acting as though it were both normal and desirable to deliver a dead baby. Olivia would wake up crying and gasping; it would take hours for her to calm down.<sup>16</sup>

(It should be noted that men, too, experience post-abortion traumas. The sense of guilt and culpability in abortion plays upon a man's other anxieties. In their book *Fatherhood Aborted*, the late Guy Condon and David Hazard outline no fewer than nine different aspects of male post-abortion trauma, all of which relate directly to male insecurity. Condon notes the example of "Ryan," a basketball coach whose girlfriend had an abortion. Ryan stated: "I can't get Tammy and the baby out of my mind. I see babies everywhere, and they all seem to look at me like they know what I did wrong. I see little boys with their parents, and it hurts so much. I just want to crawl in a hole and die."<sup>17</sup>)

In the aftermath of an abortion, a woman's experience of insecurity and uncertainty can manifest itself in many ways. It can even translate to an attempt to become pregnant again despite being in the very same circumstances that helped to bring about the first abortion decision. According to the Elliot Institute, studies have indicated that up to one third of women who experienced an abortion feel an intense urge to become pregnant again, with 18 percent succeeding in the attempt. The post-abortion anxiety can also translate to patterns of deliberately creating conflicts in a relationship that represent the conflicts present in the abortion experience.<sup>18</sup>



Abortion is a matter of life and death, and affects the human being in a fundamental way. Theologian and professor Warren Gage took note, in a sermon, of how the human being is naturally drawn to a phenomenon such as an apple blossom, yet is repulsed by a sight such as a decomposing cadaver. An apple blossom, he points out, naturally represents life, as it is a symbol of a fruit that is to come. A cadaver, on the other hand, naturally represents death, as it is a symbol of decomposition, dismemberment, and a return to the earth. Gage infers from this that the human being is so constituted that from his innermost parts he is drawn to that which represents life, yet is repulsed at that which represents death.<sup>19</sup>

Burke's insights correspond to this. In the same way that Gage speaks of how each person is drawn to an apple blossom, Burke writes of how the pregnant woman is drawn to her developing child, as she experiences the miracle of life unfolding within her. As one pregnant woman stated: "I loved being pregnant! I felt so beautiful and very feminine. I felt like I was carrying diamonds and gold in my womb."<sup>20</sup>

Abortion extinguishes this life developing in the womb, in an especially abrupt way. I have compared it to the fall of a sprinting runner who has a sudden encounter with a low-lying obstacle. His feet stay where they are; yet the rest of him continues to travel through the air. He is aware of the hurtling speed at which he travels, knowing that his trip has not stopped him, but only redirected his energy in a way that ensures his inevitable hurt. The same can be said of abortion: While the "pregnancy" can be terminated, the experience of it cannot.

Efforts to deal with the abortion's impact on a cognitive level, through simply stifling all thoughts associated with the event, are intrinsically flawed, as they assign the human being a grandiose ability to simply negate her experience out of existence. The thoughts that a person thinks, however important and influential, can only *suggest* a reality to her mind on a moment to moment basis. The post-abortive person's abortion experience, on the other hand, is a reality *impressed* on her being *forever*. The internal conflict she has been experiencing will continue unabated, whether on a conscious or subconscious level. It is only as she begins to become honest with herself and come to grips with the realities she has experienced that any hope for healing can begin.

Given that the human being does not have the capacity to bear the burden of abortion, and given that the course of abortion will be pursued in spite of this limitation, the post-abortive person is put into the position where she must *personally compensate* for her inability to bear this burden. At this point, however, a pattern will emerge: In order to find the necessary remedial

strength to compensate for this inability, the post-abortive person, at the behest of humanism, will most often seek to compensate for her own weakness by looking further into her human self. As the human self continues to fail her, creating additional needs for remedial strength, the post-abortive person will most likely continue to seek the necessary remedial strength in the same place. A cycle of personal compensation, victimization, and trust in the human self will emerge and be perpetuated, which will last as long as the post-abortive person clings to humanism.

The destructive influence of this cycle bears testimony to the real shallowness of humanism's grandiose view of the human being. The analogy of a Taiwanese man and his relationship to his god is helpful in illustrating the full extent of humanism's misunderstanding of the human being. In Taiwan, the story is told of a man who attempted to rescue his god from destruction in the midst of a river flood. Attempting to swim to the riverbank from an island with his god clutched in his hands, he quickly came to the point of being near death owing to his efforts to save the idol. Ultimately, he was not "rescued" until he dropped his god into the depths and swam for shore.<sup>21</sup>

To avoid drowning, he needed to let go of his idol; he needed to break the cycle of dependence, much as a substance abuser must. The fragility of the human being and the post-abortive person's inability to survive this cycle is indeed further illustrated in the strong correlation between abortion and literal substance abuse. Theresa Burke points to twelve studies that have demonstrated this strong correlation.<sup>22</sup> Faced with all that is involved in the aftermath of abortion, the only escape some can find is by suppressing and blunting key aspects of their being associated with memory, awareness, pain, and cognition.

Humanism's grandiose elevation of the human being unravels in the face of abortion. The ideology assigns the individual a number of god-like qualities that, in the after-abortion experience, turn out not to exist.

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# Bioethics Today

*David S. Oderberg*

**T**here can be no doubt that the public face of contemporary philosophy is the professional who goes by the name of “bioethicist.” Since the bioethics industry—which is what it is—sprang up in the 1970s, large numbers of professional philosophers have found it a congenial and remunerative way in which to make a reputation for themselves.

A few general observations can be made about bioethicists. Some of them are well-meaning. For example, they are dedicated to the laudable notion that philosophy should be heard in the public square and have an influence on the making of policy. Or they believe, rightly, that the bioethical problems of our day are of such grave moment that philosophers should try to grapple with them, at least, and provide solutions if possible. It is not only that the welfare of society depends on such solutions, but that if philosophers, who are supposed to be trained in rigorous thinking, do not do the hard conceptual work that needs to be done, the void will be filled by the looser and fuzzier moral thinking of others—especially lawyers, politicians, and economists. Some are simply committed to the idea, again admirable, that bioethics is a serious intellectual discipline that demands equally serious analytical application. Some find bioethics just interesting and worthy of philosophical pursuit in its own right. Again, this is true.

On the other hand, it is all too evident that very many, perhaps the majority, of bioethicists are, to put it frankly, less than competent. I believe that this is a view a good number of philosophers share. The bioethics industry is, unfortunately, populated by many individuals whom one might even call second-rate philosophers. They have found themselves unable to grapple with the more technical or abstract areas of philosophy—or at least to make a name for themselves in such areas—but have found that it is relatively easy to forge a name for oneself in the bioethics business. For one, there is an insatiable demand by the media for comment upon the latest developments in biotechnology, medicine, genetics, and so on, or for comment upon someone else’s comment upon such developments. There are committees to sit on—in universities, hospitals, think tanks, and in government. There are position papers to write, opinions to be sought. And there is always something

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new around the corner, so there is always something to write about or comment on: the latest drug, the newest ethical dilemma, the most recent discovery—or “discovery.” There is, due to the advance of science, a guaranteed, inexhaustible supply of topics. So as a bioethicist on the make, you will find it easy, or at least easier than in the more abstruse areas of philosophy, to latch onto the latest hot issue and find that, lo and behold, no one else has yet had time to reflect and express an opinion. You can then jump in with both feet and start a whole literature on the subject, or a whole new media storm, or find yourself on the lecture circuit or in the radio studio, ready to convey your own “discoveries” to a naturally eager and sensation-hungry public. Or you can find yourself a niche in public policy, proposing legislative reform, working on committees, or whatnot. This is all very appealing to an academic looking to make a reputation for himself.

In fact it is worse than this. For the best way of getting yourself heard as a bioethicist is not merely by saying something new about an old topic, or taking the lead in breaking open a new one, but by saying something radical or shocking. The more you excite the public imagination, the more debate there will be and the more people will want to hear you, simply so they can express their disagreement or at least for the shock value. And the more shocking you are, the better it seems to be for your career. Bioethicists appear to crawl over one another to outrage public sensibility with the creepiest ideas they can come up with. You might recall the furore over Peter Singer’s advocacy of bestiality a few years ago in a review of a book by one Midas Dekkers on the subject.<sup>1</sup> He has also opined that necrophilia is “not wrong inherently.”<sup>2</sup> Recently, Silvia Camporesi and Lisa Bortolotti have argued that reproductive cloning is permissible after all, despite the many doubts raised by other bioethicists.<sup>3</sup> (They are the most recent pro-cloning advocates to cause a stir, but not the only ones.) Then there is Anne Lyerly, a bioethicist with the American College of Obstetrics and Gynecology, who has attacked doctors who refuse to do abortions, supply emergency “contraceptives” (more precisely, abortifacients), or refer women to doctors who will.<sup>4</sup> John Harris, long known for his bioethical excesses, has recently endorsed the creation of animal-human hybrids.<sup>5</sup> Earlier this year, surgeons in Denver, anxious to harvest more and better-quality organs for transplantation, decided to shorten the time recommended by the Institute of Medicine for the heart to have stopped beating before removal of organs from five minutes to 75 seconds.<sup>6</sup> Bioethicists Robert Truog and Franklin Miller suggested that since surgeons have for many years not really been adhering to any viable criterion of death before extracting a person’s organs, this suggests that neither they nor anyone else involved considers the “dead donor” rule to be anything but an ethical

fig leaf—vague, indefinable, but used as an excuse to assuage one’s conscience before transplantation is performed. Far better, they believe, to leave the issue to the “informed consent” of patients or their surrogates.<sup>7</sup> Whether the “donor” is dead or alive is of no ethical importance.

What about defending infanticide? We know that philosophers such as Peter Singer and Michael Tooley have long done so in theory, as it were, but now bioethicists are eager to defend the real-life practice of child murder: Witness Hilde Lindemann and Marian Verkerk, two Dutch bioethicists who, to no one’s surprise, uphold the diabolical Groningen Protocol allowing Dutch doctors to kill handicapped newborn babies.<sup>8</sup> It is, after all, acceptable “in the context of Dutch culture and medicine.” They say the protocol in fact licenses the killing of babies who could survive many years into adulthood without technological support, and while the issues are difficult, it would be “a pity” not to allow doctors to make judgments about which children should live and which should die. Nor, according to some Australian bioethicists, is there a problem “in principle” with allowing organ donation for personal monetary or other gain, such as the review of a condemned prisoner’s death sentence (a life for a kidney, so to speak). Nor are there “obvious” moral objections to extracting organs from executed prisoners, as is done regularly in China: If the practice can be regulated and its excesses curbed, why not use a dead prisoner’s organs?<sup>9</sup> And if self-mutilation is your bag—tongue splitting, branding, flesh stapling—then you should consult bioethicist Thomas Schramme at the University of Swansea, for whom the arguments against are found “wanting.”<sup>10</sup> It makes the bioethicists who, after many years, have succeeded in persuading a parliament—Spain’s, to the surprise of some—to approve rights for chimpanzees positively warm and cuddly by comparison.

In Oxford, we have the Uehiro Centre for Practical Ethics, run by Prof. Julian Savulescu. Now, a quick perusal of the philosophers who have been invited by Savulescu to speak at the centre, or who have published under its auspices, shows that they are not exactly friendly to the defense of innocent human life in all its forms. They might be consequentialists, or autonomy freaks, or just plain skeptical about whether morality is even objective, but you can be sure they are not defenders of the natural law, of humanity, of traditional morals, of human exceptionalism (to use Wesley Smith’s apt phrase); of the family, children, the weak, or the defenceless. One might assume that this is part of the Uehiro brief. Not so fast: the founder of the Uehiro Foundation for Ethics and Education, with the largesse of which the Centre was established and continues to be supported, was Tetsuhiko Uehiro, a survivor of the atomic bomb dropped on Hiroshima. The Foundation was developed by his son Eiji, and then by his grandson, the current chairman

Tetsuji, into an organization commanding large sums of money and expanding its influence through many universities and other organizations throughout the world. As far as I can tell from the limited information available in English, the Uehiro group, as one might term it, is closely associated with the Jissen Rinri Koseikai, or Practical Morality and Purity of Heart Association, itself combining elements of Buddhism and Shintoism into one of the many postwar Japanese religious movements. The movement emphasizes harmony with nature, passivity, familial obligation (including ancestor worship), responding to the needs of others, preventing feelings of exclusion, accepting life as it is, and gentleness rather than anger or insensitivity.<sup>11</sup>

True, such ideas are rather vague and woolly and one would need to explore the Uehiro group or movement in more depth to find out what exactly they stood for. But I do wonder whether its ethos sits comfortably with that of the practical ethics centre that bears its name. Indeed, in Eiji Uehiro's own book, entitled *Practical Ethics for our Time*,<sup>12</sup> where he sets out the fundamentals of the Jissen Rinri (practical ethics) movement, the author rails repeatedly against technological quick fixes for our man-made, consumerist problems. He lauds traditional family values, deprecates individualism, materialism, acquisitiveness, and praises simplicity and living in accordance with nature. In the English translation the term "natural law" appears several times, and it is fair to say that any Christian or other natural-law theorist reading the book would, as I did, find very little to disagree with. No one putting side by side the published thoughts of Eiji Uehiro with the publications of the centre with his family name, in particular the writings of its director, could fail to note the massive dissonance between them.

Irrespective of such disharmony, however, consider what the Uehiro Centre's director stands for. One does not need to read too many of Savulescu's 217 articles—of which precious few outside of his book-review articles and teaching materials get beyond five or six pages—to learn that he advocates the following, among other things: abortion at all stages; abortion following sex selection; embryonic-stem-cell research and other experimentation on embryos; the creation of human-animal hybrids; designer babies and so-called savior siblings; therapeutic and reproductive cloning;<sup>13</sup> the use of drugs in sport; the sale of organs; eugenics; and pretty much any form of genetic engineering that meets either an autonomy criterion or a utilitarian criterion. Wait a minute, I forgot that he also thinks it may be permissible or even *desirable* for a person to have her perfectly normal limb amputated if it would improve her "global well-being."<sup>14</sup> That is to say, not only might it be a "good thing" for the person suffering from "apotemnophilia"—as the medicalized term quaintly calls the desire for

amputation—to have her arm or leg cut off, but it might be a duty on the part of a compassionate surgeon to accede to the request.<sup>15</sup>

Needless to say, Savulescu is not the only bioethicist jumping on the new amputation bandwagon, as he cites an article by two others arguing for a seemingly less extreme version of the same idea, that cutting off a healthy limb might be morally allowed.<sup>16</sup> On this latter article, Wesley Smith commented: “That this kind of article is published in a respectable philosophical journal tells us how very radical and pathologically nonjudgmental the bioethics movement is becoming. And lest you believe that such advocacy could never reach the clinical setting: Think again. Such surgeries have already been performed in the United Kingdom with no adverse professional consequence to the amputating physicians.”<sup>17</sup> Speaking more generally about the views of Savulescu, Michael Cook recently said: “After several years of reviewing the theories of Savulescu and his colleagues, I’m fed up. It’s time to abolish bioethics and bioethicists. What we need is plain vanilla ethics.”<sup>18</sup>

**I**f you are not yet convinced that both Smith and Cook are right on the mark, what about the cutting-edge idea that a deaf couple should be allowed deliberately to produce a deaf child? An American lesbian couple did so a few years ago, seeing deafness not as a disability but as defining their “cultural identity.”<sup>19</sup> Commenting on the case, here is what Savulescu has to say:<sup>20</sup> “In the case of Duchesneau and McCullough [the couple concerned], *there is no ethical issue* [my emphasis]—the couple have the right to procreate with [sic] whomever they want.” He goes on: “The deaf child is harmed by being selected to exist only if his or her life is so bad it is not worth living. Deafness is not that bad. Because reproductive choices to have a disabled child do not harm the child, couples who select disabled rather than non-disabled offspring should be allowed to make those choices, even though they may be having a child with worse life prospects.” Employing the usual dinner-party logic-chopping—the secular equivalent of arguing (according to historical myth) over how many angels can dance on the head of a pin—Savulescu tells us that the deaf baby would not be worse off than it otherwise would have been, since had the couple chosen a normal baby it would have been a different child altogether. That’s his answer to the vague and fuzzy question “Have they harmed the child?”—a question that covers a multitude of philosophical sins. That the couple have brought into existence, through their own free choice, a damaged person has no place in Savulescu’s perverse reckoning.<sup>21</sup>

Are these sorts of bioethical views, spouted from the generously funded Uehiro Centre, in conformity with what one can gather from the tenets of the Uehiro movement itself? What happened to living in accordance with nature,



passivity, non-violence, gentleness, love of family, kindness, respect, an orientation toward others? Does anyone really think that Duchesneau and McCullough had their child's interests as their first priority?

There is much more that could be said about this discord between the Uehiro Centre and the Uehiro ethic, but I must leave it to one side. Nor do I want to explore the ethical arguments of the bioethicists. I have done so at length elsewhere.<sup>22</sup> The kinds of reasoning that lie behind the sorts of view I have been outlining are at once shallow, threadbare, fuzzy, fatally ambiguous, and just plain perverse. The thinking is truly unworthy of professional philosophers. If one can abstract from the subject matter, then an inspection of the pure reasoning itself reveals a lack of care and attention, of the sort that should make a good undergraduate blush. Reconnecting the reasoning with the subject matter uncovers, on top of this pretence of logical rigor, an unqualified lack of those precious philosophical commodities of wisdom, prudence, insight, and compassion. Commenting on the deaf-lesbian case, Savulescu pontificates as follows: "I believe that, like deafness, intellectual disability is bad. But my value judgment should not be imposed on couples who must bear and rear the child. . . . Reproduction should be about having children who have the best prospects. But to discover what are the best prospects, we must give individual couples the freedom to act on their own value judgment of what constitutes a life of prospect."<sup>23</sup>

I would ask any serious philosopher, pro-life or not, or indeed anyone serious about rigor in thought combined with wisdom and insight: Is this sort of reasoning good enough? I mean, good enough outside the pub or the restaurant? (I am being unfair to pubs at least, where you will find a greater dose of common sense than in many a bioethics seminar.) Is it really good enough for a professional philosopher, let alone one funded to the tune of hundreds of thousands of dollars? Just to give you one example of the kind of first-year fallacy with which Savulescu's writings are replete, in his deaf-lesbians article he invokes the spectre of Nazism to nudge us in the direction of his train of thought. "The Nazi eugenic programme," he reminds us, "imposed a blueprint of perfection on couples seeking to have children by forcing sterilisation of the 'unfit,' thereby removing their reproductive freedom." Ergo, neither the state nor any other body or person should impose its reproductive views onto anyone else. Here's the fallacy (a straight non sequitur): The Nazis did not act immorally because they failed to *produce* disability; they acted immorally because they failed to *accept* it. So the Nazi debating tactic is a total red herring.

What is Savulescu's latest trip? It is, well, something that looks suspiciously like the Nazi "blueprint of perfection" he laments in his deaf-lesbians article.

He wants to genetically engineer people to be *moral*. Now before you blink twice, first try to take in the reasoning. There is empirical evidence that genetic engineering, as well as drug-based interventions, can improve cognitive capacity—memory, reaction time, concentration span, and so on. It is good to improve cognitive capacity. But with the prospect that science will be able to do so to an unprecedented extent as new discoveries are made comes the enormous risk that a minority of evil people will use their enhanced cognitive skills to acquire weapons of mass destruction and threaten to wipe out mankind. The answer? Engineer morally better people, so that their morality keeps pace with their prodigiously improving intellectual ability.<sup>24</sup>

I cannot plumb the depths of stupidity of such thinking here. Suffice it to say that Savulescu bases his idea on some scraps of highly dubious empirical evidence about the use of drugs to reduce certain kinds of bad behavior as well as on the general thought that eugenics is fine if it improves global utility. To be fair, neither he nor his co-author, Ingmar Persson, thinks that “moral enhancement” is a practical possibility in any but the distant future, and they conclude—somewhat modestly, given the context—that cognitive enhancement is not desirable unless moral enhancement is practically possible, adding that research into the former must be accompanied by research into the latter. Nevertheless, the breathtaking superficiality of such ideas, lacking any deep analysis of human nature, the essence of morality, moral psychology, the practice of virtue, or of the question of freedom and determinism, can only leave one speechless. It is a typical example of the runaway thinking that plagues contemporary bioethics, making people of good will wonder whether this lucrative but ragged sub-genre of professional philosophy even has a right to exist—at least in its present form.

In my view, one of the reasons bioethics has established itself as a semi-autonomous discipline with its own brand of experts and credentials is that there is a huge disconnect between how the public sees bioethics and what bioethics really is. The public—within which I include politicians, lawyers, economists, and policymakers—understandably looks to bioethics for a unified social voice, a kind of voice of conscience, that will speak to them about the problems of the day, of which one is barely broached before a new one raises its head. People are worried about biotechnology, hence all the talk of the “yuck factor,” “Frankenfoods,” “designer babies,” “playing God,” and the like. They look to the experts and “professionals” for answers, and in itself there is nothing wrong with this: Societies have practiced an ethical division of labour from the beginning. So I would not locate the main source of the problem in a wrongful outsourcing of ethical expertise.

Rather, the problem of an out-of-control bioethical profession pretending

to speak with a unified voice is that it is just that—a pretense. The supposed unified voice and expertise of bioethicists is a sham, pure and simple. This is not primarily because many of them disagree with the extremism of someone such as Savulescu. Such disagreement—and it does exist—hardly militates against the idea that bioethicists could still speak with unity. Licensed mavericks and radicals, tolerated dissent, respectful disagreement, and the like, are not anathema to a unified voice but can lend that voice greater plausibility. Rather, the situation seems to me to be something like the following. First, the current of major and fundamental dissent in bioethics is to be found among pro-life thinkers. These thinkers defend the inviolability of innocent human life; they support traditional families and human rights; and they call for curbs on rampant biotechnology. They attack untrammelled scientific developments, the commodification of humanity in all its forms, and anything that lessens the dignity and exceptionality of the human being. For they see the human being as a creature with a soul, a conscience, and a free will obedient to the dictates of an objective moral system that transcends personal preference and unrestrained autonomy.

Such thinkers have to be marginalized and demonized, and so they have been. This significant minority has been corralled into a corner, tarred with the brush of religious fundamentalism, and brought out into the light of day only for the occasional beating by the majority. They can have their little conferences and workshops, make their feeble protests, but then they are ritualistically stripped bare, flayed for the amusement of the multitude, and sent back into their corner. They are a kind of semi-licensed dissent.

Second, once this nuisance is got out of the way, the majority of bioethicists can safely make their pronouncements, tending invariably in the direction of more liberty for science and greater freedom for groups and individuals, whether it be in the name of “autonomy,” or “utility,” or “personal preference,” or what not, to do whatever biotech tells them is possible. The only unifying factor I can detect is scientism—secular humanism’s bastard religion that deifies science, proclaiming unconditional faith in the ability of science to lead us to a better future for all (who remain alive, that is). But wait a minute: What is the ethical basis of this faith? Is it autonomy? preference? costs and benefits? pluralism? Why *should* biotechnology be permitted to run rampant? Why, if the technology is there, *must* we be allowed to utilize it? True, the majority of bioethicists tend in the same direction, reach the same conclusions; but as anyone with a couple of years of philosophy under his belt knows, just because a conclusion can be reached by a number of different arguments, it does not follow that the conclusion is true. Bioethicists have the knack of reaching similar conclusions about designer babies, stem-cell research,

partial-birth abortion, or whatever is the topic of the month, but they do so from radically different premises. Even within one person's writings—such as Savulescu's—one will find on this page an emphasis on personal values, on another page a stress on global utility, on yet another a defence of autonomy. Uncannily, the conclusion is nearly always the same—yes to this or that experiment on a human being, yes to the organ trade, yes to eugenics, yes to killing those who are a “burden on society,” and so on ad nauseam. But the unifying factor is no more than scientism—science in the service of utopia.

Third, once bioethicists are agreed on their main conclusions and recommendations, who cares how they got there? If anyone bothers to wade through the risible thought processes set out in their position papers, one finds all sorts of philosophical motivations at work. Yet isn't this a sign of healthy disagreement? Surely this makes the position of bioethics even stronger, for its practitioners can say: “Look, we have our differences of ideology and assumption, we adhere to different theories, but basically we come to the same liberal conclusions, so that makes our voice all the stronger in its unity.” And to the average member of the public, who knows nothing of the distinction between scientific reasoning and philosophical reasoning, this seems just right: Every different argument leading to the same conclusion is like a different scientific experiment producing the same result. So much the stronger is the result.

**Y**et nothing could be farther from the truth. For every bioethical argument for a given conclusion might be—and often is—no more than a piece of sophistry, some pseudo-intellectual babble thrown up as dust to confuse the public into thinking there is substance to the hot air. And to give an even greater appearance of scientific solidity to their proposals, bioethics must—and this is my fourth point—have its daring thinkers, its radicals, the ones who “push the envelope.” They say the unsayable, propose the unthinkable, throw up trial balloons they know others will prick in a fit of denunciation. But that is all to the good, isn't it? Bioethics then, like science, will have its daring adventurers lurching into the unknown, expanding our bioethical knowledge no matter how nutty they may seem at first glance. So they are not merely tolerated; they are positively necessary to giving the bioethics profession part of the framework it needs to be able to stand on its own feet as a body of experts able to convey their knowledge and insight to a rightly bewildered and fearful public. Such “ethical pioneers” give the profession a kind of respectability that enables it to speak to legislators who would not know how to begin to frame laws regulating biotechnology if they were not able to gather the fruit of information and counsel provided to them on a

plate by those who know about these things.

So bioethics has, in short, given itself the trappings of an expert discipline whose deliverances are heeded by the public and the policymakers. The “laymen” are either too fearful or too ignorant—through no fault of their own—to fight back, relying instead on the usual tabloid expressions of gut revulsion in the hope that rampant biotechnology and its propagandists will pay a whit of attention. Which, of course, they do not.

What, then, is to be done? Intellectual debate is all well and good. The journal controversies should continue. So should the petitions and letters to editors. But in my view, the time for workshopping and conferencing alone is over. And I am not thinking instead of marches to parliament or protest days—as useful as they may be—but of more direct action. So first, a specific suggestion. The Uehiro Centre for Practical Ethics is in need of one of two things: radical reform or closure. Radical reform would require a complete reorientation of its approach to bioethics. It should cease being a mouthpiece for biotechnology and should abandon scientism as its fundamental ideology or dogma. It should bring *all* sides within its borders, including the significant minority of bioethicists who are opposed to the general trend of bioethics and many of its specific ideas. This group includes not only pro-life thinkers of a religious persuasion, but secular pro-life bioethicists; feminist bioethicists; thinkers whose main concern is animal research, or the environment, or sustainability; and all thinkers both academic and popular who for one reason or another are concerned about developments in biotechnology.

Even more specifically, the chairman of the Uehiro Foundation must be made aware of the fact that, to all appearances, the tenets of the Uehiro ethic are completely at odds with the work of the Uehiro Centre. I may be wrong about this. Perhaps Mr. Uehiro knows exactly what the Centre does and stands for, and perhaps he approves. If this were the case—and I hope it is not—then there would be a serious problem of hypocrisy at the heart of the Foundation. Its core ethic would have to be exposed as a fraud. I prefer to think that the Foundation simply does not realize what is being promoted in its name. When it is made to realize this, the immediate question would arise of whether, in all good conscience, it could continue either to sponsor the Centre or to fund it: The millions of dollars already handed over would have been taken under false pretenses and there would be a case for their return. Future funding would have to come to a halt.

On a more general level, all people of good will must unite to expose the bioethics industry for the pretense that it is. People must never cease to demonstrate, both in academic publications and in the media, the shallow and fallacious thinking that permeates so much of what bioethicists write

and say. They must insist over and over again that bioethics does *not* speak with a unified voice; that there are fundamental disagreements both at the level of conclusions reached and at the level of reasoning for those conclusions. The public should be made to understand that they have every *right* to be fearful, and never dismissed as unthinking seductees of the “yuck factor,” unable to articulate an intelligent response to the threats they justifiably see in biotechnology.

Technology is in itself morally neutral. Biotech is no exception. It can be used for good or for evil. If it is to be used for good, it must come under far heavier regulation than it does at present. At the moment, especially in the United Kingdom, biotechnology is out of control. Its boosters and spin doctors march through the media and the journals virtually unscathed. To do something concrete about this requires creative action, imaginative thinking, and direct engagement. Perhaps it is too late to turn back the tide. But it is never too late to try.<sup>25</sup>

#### NOTES

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13. In his Sydney Ideas lecture broadcast in Australia on 19 August 2007, Savulescu said that he has no ethical objections to reproductive cloning, but that when interviewed about it he says that he is opposed in order to “calm the public” and so that “the science can get done.” (Presumably his stated opposition stems from current practical concerns, but he is happy to leave the listener thinking it is an opposition based on principle.) For an audio of the lecture, including Q&A, go to “Stronger, Smarter, Nicer Humans” at <http://www.practicaethics.ox.ac.uk/audio.htm>.

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"My Summer Vacation,' or, 'The Family Curse Continues.'"

## APPENDIX A

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### **Euthanasia's "Unproductive Burdens"**

*David van Gend*

There was a moment of great significance during the euthanasia debate a decade ago that should be brought to the attention of today's legislators. A moment that crystallised the concerns of many that the so-called 'right to die' would come to be felt by the most vulnerable in our community as a 'duty to die.'

The year was 1995, in the midst of the debate over the impending Northern Territory legislation to permit doctors to give lethal injections to terminally ill patients. Our Head of State at the time, Governor-General Bill Hayden, was addressing the Royal Australian College of Physicians about why he supported euthanasia.

It was a scene rich in symbolism. The two key concerns about legalising euthanasia are what it would mean for the relationship between the State and its most vulnerable citizens, and what it would mean for the relationship between doctors and their most vulnerable patients. Here we had a person speaking in his capacity as Head of State advocating euthanasia as a positive duty of citizens once they had passed their usefulness to society; here we had the heirs of Hippocrates, whose Oath forbids them to give lethal poison to a patient, being asked to become society's killers as well as its healers.

The main significance of this address by the Governor-General was his suggestion that voluntary euthanasia is not merely a matter of choice but, more nobly, a positive obligation to society.

Mr. Hayden reminded us of past cultures where the elderly would take poison or wander off into the forests when their usefulness to society was done. He made the connection to our own elderly who, after "a full and satisfying lifetime" can become "unproductive burdens." He then made the portentous declaration that: "there is a point when the succeeding generations deserve to be disencumbered—to coin a clumsy word—of some unproductive burdens."<sup>1</sup>

Within a day this newly articulated duty of the burdensome to do the right thing by society was given extra gravitas by another ex-Governor, the late Sir Mark Oliphant. Speaking on ABC Radio he praised Mr. Hayden's views, and referred to an aged colleague in Canberra who "should be dead," who is a burden to his family but "likes being looked after." When the interviewer laughed and said "that's his right too," the blank response was that it was not, and that he was cluttering up the world when he shouldn't be.<sup>2</sup>



These were the sentiments, not of neo-Nazis snarling about “useless eaters,” but of thoughtful citizens, respected Governors, shapers of social attitudes. They were seriously proposing that we develop a culture, like those described by Mr. Hayden, where “unproductive burdens” will act for the greater good of society.

Certainly, for a proud stoic like Hayden, the convenience of medically assisted suicide would enlarge his sense of choice and self-determination. But given the psychological vulnerability of the average sick old person, their low self-esteem, the sense they already have of being “unproductive burdens,” and the power of insensitive family or medical staff to reinforce this sense, such a decision will be made from a position of humiliation and weakness.

We must have no illusions about the sort of pressures that can be brought to bear on frail people. One patient of mine, a woman with depression and minimal self-confidence, received a vicious letter from a close relative effectively telling her she was a no-hoper who should be dead, and demanding certain arrangements in her Will. She now has cancer. What are the family dynamics that would feed into this patient’s “right to die,” given her position of humiliation and weakness?

A similar example of corrupted family relationships is reported from Holland by an Oxford palliative care specialist:

An old man was dying from disseminated lung cancer. His symptoms were well controlled and he asked if he could go and die at home. When his four children were told about his wish, they would not agree to take care of him. Instead, they pointed to their father’s suffering and the need to finish things quickly “in the name of humanity.” When the doctor refused, they threatened to sue him. As the patient insisted on going home, a social worker went to investigate. She discovered that the patient’s house was empty and that every piece of furniture had been taken by the family.<sup>3</sup>

The question of euthanasia is again before our legislators: they must face up to this dark side of human relationships and the capacity for abuse if society decides to set up the machinery of mercy-killing. They must again decide whether to leave the door open, just a crack at first, to a new culture where our “unproductive burdens” know what is expected of them, or resolutely to bolt it closed.

#### **“A lethal injection”**

But before our legislators can consider the social consequences of euthanasia, they need clarity on what euthanasia means. Far too many people still think that turning off futile life support in a dying patient, or giving adequate doses of morphine to relieve pain in terminal cancer amounts to ‘bumping off Granny.’ It does not. If such an action did amount to euthanasia, then we should all support euthanasia. But it does not.

Euthanasia is best understood by the image of a lethal injection. Euthanasia is where a doctor makes a patient die, in order to end their suffering. If there is an intention to ‘mercy-kill,’ that is euthanasia. If there is no intention to kill, that is not euthanasia.

Now there is *no intention to kill* when a doctor gives adequate morphine to relieve pain, and therefore that is not euthanasia. Sometimes morphine appears to

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hasten death, and sometimes morphine appears to postpone death by relieving the patient's physical stress. As doctors we have no interest in either hastening death or postponing death; we intend only to ease a dying patient's distressing symptoms.

There is *no intention to kill* in those extreme cases when a doctor can only relieve suffering by inducing a form of deep anaesthesia called 'terminal sedation'—a necessary but very rare intervention that ignorant people slur as 'slow euthanasia.' The intention is only to relieve suffering "whatever it takes," not to make the patient die.

There is *no intention to kill* when a dying person is taken off life support; there is merely an acceptance of inevitable dying and the provision of all supportive care while the person dies of their underlying disease.

The essential test for whether this is an act of euthanasia is to ask: *what would you do if the person keeps living after this action?*

- If the person lives on after life-support is ceased, then you would sit with the person and give all care, for however long she has yet to live. You are not trying to make her die, so that is not euthanasia.

- If a person rouses from 'terminal sedation' with reduced distress, as one of my patients did, you would let her remain awake unless she feels her symptoms are unbearable again. You are not trying to 'slowly' kill her.

- Likewise, if after an adequate dose of morphine the person—as expected—lives on, free from pain, then you would continue caring for the person until pain returns and a further dose is needed. There is never an intention to kill, only to relieve pain.

With euthanasia, by contrast, if you give a lethal injection to a patient and she keeps living, you give another and another until she is dead. Euthanasia is intentional killing.

### **“Pressure—whether real or imagined—to seek early death”**

The door to euthanasia has been bolted closed in virtually every jurisdiction that has considered the question in depth.

Consider the UK House of Lords Select Committee in 1994, which remains the most comprehensive enquiry into euthanasia.<sup>4</sup> Its conclusions are all the more significant given that the majority of the Committee's members were previously on the record as favouring legalised euthanasia, including the Chairman, Lord Walton, a neurologist who had been Medical Advisor to the Voluntary Euthanasia Society.

The Select Committee heard from many patients suffering advanced disease, and their report shows empathy for the plight of the dying person:

Our thinking must be coloured by the wish of every individual for a peaceful and easy death, without prolonged suffering, and by a reluctance to contemplate the possibility of severe dementia or dependence.

Yet the Committee had to consider these moving appeals within their terms of reference of the “likely effects” of euthanasia “on society as a whole”:

Ultimately we concluded that none of the arguments we heard were sufficient to weaken society's prohibition of intentional killing, which is the cornerstone of law

and social relationships. Individual cases cannot establish the foundation of a policy which would have such serious and widespread repercussions.

The Select Committee's central concern was about an injustice inherent in the social establishment of euthanasia—a new and subtle form of oppression:

It would be next to impossible to ensure that all acts of euthanasia were truly voluntary. We are concerned that vulnerable people—the elderly, lonely, sick or distressed—would feel pressure, whether real or imagined, to request early death. We believe that the message which society sends to vulnerable and disadvantaged people should not, however obliquely, encourage them to seek death, but should assure them of our care and support in life.

That statement goes to the heart of the matter—the insidious pressure on the vulnerable to comply with social expectations of euthanasia.

When Kevin Andrews introduced his *Euthanasia Laws Bill 1996* into the Australian Parliament, he summarised this central concern:

We should take note that every major committee of inquiry in the world, every parliament bar one, the Aboriginal people, the various religious groups, the world medical profession and those representing people with disabilities have all rejected euthanasia. They have rejected it on one unifying principle: the people who are most at risk are the most vulnerable, and a law which fails to protect vulnerable people will always be a bad law.<sup>5</sup>

Likewise the Australian Senate Committee report into the *Euthanasia Laws Bill 1996* emphasized the dangers to the weakest members of society:

We share the views expressed by members of the House of Lords Select Committee, the Canadian Special Select Committee and the New York State Task Force that laws relating to euthanasia are unwise and dangerous public policy. Such laws pose profound risks to many individuals who are ill and vulnerable.<sup>6</sup>

The social-justice argument continues to be central to the rejection of euthanasia and assisted suicide. As recently as 2006 the UK Parliament rejected the *Assisted Dying for the Terminally Ill Bill*, upholding the views of the 1994 House of Lords Select Committee.

Euthanasia's unintended oppression of “the elderly, lonely, sick or distressed,” the insidious message to society's “unproductive burdens” that they are no longer welcome, remains the primary reason to oppose such laws.

#### **“Uninformed or unscrupulous physicians”**

At the time of the Northern Territory euthanasia debate the Australian Medical Association (AMA) voted 88 to 1 to uphold the World Medical Association statement against euthanasia (defined as “the act of deliberately ending the life of a patient”).<sup>7</sup> And in its submission to the recent Senate Inquiry into the *Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008*:

The AMA strongly reiterates that medical practitioners should not be involved in

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interventions that have as their primary intention the ending of a person's life. We cannot confuse the role of the medical practitioner as someone who supports life with someone who takes life.<sup>8</sup>

Doctors have no illusions about the capacity for corrupt behaviour amongst their members if they are given the power to take life.

An article on physician-assisted suicide in the *American Journal of Psychiatry* warns of foreseeable abuses:

Societal sanction for physician-assisted suicide for the terminally ill is likely to encourage family members so inclined to pressure the infirm and the elderly and to collude with uninformed or unscrupulous physicians to provide such deaths.<sup>9</sup>

That physicians can be both uninformed and unscrupulous in the treatment of dying patients is evident from the Dutch experiment.

Uninformed, as the medical director of the American Foundation for Suicide Prevention, Professor Herbert Hendin, reported in the *Medical Journal of Australia*:

No one should assume that experience as a consultant in euthanasia cases would make physicians knowledgeable about palliative care. My own experience with a few physicians in the Netherlands who had performed or been consultants in dozens of euthanasia cases was that they were surprisingly uninvolved in palliative care. They seemed to be facilitators of the process rather than independent evaluators of the patient's situation who might be able to relieve suffering so that euthanasia seemed less necessary to the patient.<sup>10</sup>

Unscrupulous, as revealed by official evidence from the Dutch Government's own confidential surveys. This data shows that, year after year, doctors euthanise around a thousand patients without any explicit request—even where, on the doctors' own admission, many of those patients were competent to give or withhold consent if asked.<sup>11</sup>

Senator Bob Brown asked me at the recent Senate Committee hearing into his *Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008*, to what extent there had been a reduction in what he called these “unpermitted killings” since the Dutch officially legalised euthanasia in 2002 (prior to 2002 euthanasia was illegal but tolerated if certain guidelines were followed).<sup>12</sup>

I assume Senator Brown thought that bringing euthanasia “out into the open” by legalising and regulating it would have reduced these underground practices. Not at all. The 2007 official Dutch report on euthanasia states that the numbers of patients killed “without explicit request” since legalisation in 2002 is “not significantly different from those in previous years.”<sup>13</sup>

And why would we expect a reduction in such unscrupulous behaviour? Doctors who were prepared to break the rules on mercy-killing when it was strictly illegal would be even more complacent about breaking the rules on mercy-killing once it is socially approved.

But even if they do not directly kill patients without their consent, unscrupulous doctors can influence a patient's decision in a way that makes a mockery of the patient's “autonomy.”

Professors of psychiatry in Brisbane, Frank Varghese and Brian Kelly, warn of the impossibility of protecting patients from such influence once doctors are allowed to be involved in a patient's suicide:

Much of the debate about euthanasia and physician-assisted suicide has as its underlying assumption that doctors will always act in the interests of their patients. This assumption fails to take into account the doctor's unconscious and indeed sometimes conscious wishes for the patient to die and thereby to relieve everyone, including the doctor, of distress.

Legislation to enable assisted suicide has been designed to provide a safeguard, through psychiatric assessment, that protects patients from themselves. What these laws do not do and cannot do is protect the patient against unconscious factors in the doctor.<sup>14</sup>

And it gets worse. Even the assertion that euthanasia laws "provide a safeguard, through psychiatric assessment, that protects patients from themselves"—that is, by detecting and treating any depression that might be marring the patient's judgement—is shown to be a false assertion, on the available evidence from the US State of Oregon and the Northern Territory.

In Oregon, of the 49 patients who died by physician-assisted suicide in 2007 not a single patient was referred for psychiatric assessment prior to taking their lethal drug. Not one.<sup>15</sup>

And why would we expect them to be? In Oregon most cases of assisted suicide are carried out by a handful of doctors overtly committed to the euthanasia cause. Their goal is to help their patients obtain assisted suicide and strike a blow for the "right to die"—not, as with all other doctors, to identify depression and prevent suicide. Likewise, in the Northern Territory during the brief era of legalised euthanasia, all the patients died under the one doctor, euthanasia activist Dr. Philip Nitschke.

We have detailed knowledge of the clinical circumstances of Dr. Nitschke's patients, as he co-authored an article in the *Lancet* journal entitled "Seven Deaths in Darwin," along with psychiatrist and palliative care specialist Professor David Kissane.<sup>16</sup>

Of the so-called "safeguard" of compulsory psychiatric assessment in the Northern Territory legislation, Kissane told the current Senate Inquiry:

This was the part of the certification schedule most feared by patients and Nitschke reported that all seven patients saw this step as a hurdle to be overcome... Indeed, four of the 'Seven deaths in Darwin' revealed prominent features of depression, highlighting its strong role in decision-making by those seeking euthanasia. Alarming, these patients went untreated by a system preoccupied with meeting the requirements of the Act's schedules rather than delivering competent medical care to depressed patients.<sup>17</sup>

Of the cases described, the most pitiful was an isolated English migrant with cancer who was suffering, in Kissane's assessment, "a demoralised mental state." The compulsory psychiatry assessment was not carried out until the very day the patient had selected to be put to death and was completed in less than twenty minutes.

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That, in my view, is a mockery of psychological assessment of a suicidal and lonely man. One Senator asked Dr. Nitschke if he believed such a brief assessment was “adequate and proper.” Dr. Nitschke replied. “I do . . . I had no concerns about it. In a sense we were going through the requirements of the legislation.”<sup>18</sup>

There is a troubling passage from Professor Kissane’s submission, describing Dr. Nitschke taking this lonely man home after the psychiatry assessment:

From the psychiatrist’s office, he was taken home to a musty house that had been shut up for several weeks. Nitschke had to hunt for sheets to cover the bare mattress. It rained heavily in Darwin that summer afternoon, and in administering euthanasia Nitschke felt sadness over the man’s loneliness and isolation.<sup>19</sup>

As I told the recent Senate Committee hearing in Darwin:

Does that not cry out to all of us that this man needed company? He needed social work intervention. He needed church groups to go and involve him in this society where he was so isolated. He needed anything else but a lethal injection.<sup>20</sup>

### “It’s a different world”

Doctors must not be asked to be their patients’ killers as well as healers. How then can doctors best respond to the sort of patients who presented to Dr. Nitschke asking for a lethal injection?

We must explain that we cannot “make them die”; we can only accompany them in their dying and ease it in every way possible.

When we look after such patients well, thoughts of euthanasia often fade. Then, in the words of one woman who had asked me for euthanasia only the day before, but was now pain-free: “It’s a different world.”

I would not, however, use the argument against euthanasia that “palliative care can ease all suffering.” As someone who works in this field, I know that we cannot ease all suffering in dying any more than we can ease all suffering in childbirth. But I do know that ours is the first generation which can reasonably expect a tolerable dying, unlike the raw pain and wretchedness of past generations. As the National Hospice and Palliative Care Organization in the US stated in 2007:

When symptoms or circumstances become intolerable to a patient, effective therapies are now available to assure relief from almost all forms of distress during the terminal phase of an illness without purposefully hastening death as a means to that end.<sup>21</sup>

But rejection of euthanasia is not dependent on perfecting palliative care for all patients. Its rejection stands on the rock-solid ground of justice, on the “one unifying principle” referred to by the Hon Kevin Andrews on presenting his *Euthanasia Laws Bill 1996*: “The people who are most at risk are the most vulnerable, and a law which fails to protect vulnerable people will always be a bad law.”

We must stand in opposition to the social vision so coldly stated by our former Governor-General—where, through euthanasia, future generations can be “disencumbered of some unproductive burdens.”

At present the frail old “unproductive burdens” in our hospitals or nursing homes

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are not troubled by such demoralising messages from the State. They accept their doctor's care as unquestioningly as we give it. But anyone who knows the psychological vulnerability of sick old people, their loneliness and low self-esteem, knows how readily they would internalise this sort of message within a culture of euthanasia. And anyone who knows what unscrupulous doctors are capable of doing knows that we cannot be trusted with the machinery of mercy-killing.

Euthanasia is an oppression of the vulnerable, and a profound corruption of the doctor-patient relationship, that we must not allow. We can only redouble our efforts to care, without killing.

## NOTES

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## APPENDIX B

*[Former presidential candidate Gary Bauer is president of American Values and chairman of Campaign for Working Families. Daniel Allott is senior writer at American Values and a former community support provider for persons with developmental disabilities. The following essay was published October 15, 2008 on National Review Online ([www.nationalreview.com](http://www.nationalreview.com)) and is reprinted with permission.]*

### **The Last Acceptable Prejudice**

*Gary Bauer and Daniel Allott*

Amid partisan wrangling over legislative solutions to the economic crisis, there was a rare moment of unanimity on Capitol Hill recently concerning the need to alleviate a much different, but equally serious, crisis.

Passed overwhelmingly by both houses of Congress in late September and signed into law by President Bush on October 10, the Prenatally and Postnatally Diagnosed Conditions Awareness Act provides expectant mothers whose unborn children receive a diagnosis of Down Syndrome or other genetic condition with up-to-date information about the nature of the condition and connection with support services. Co-sponsored by Senators Sam Brownback (R., Kan.) and Edward Kennedy (D., Mass.), the legislation also provides for the creation of a national registry of families willing to adopt children with pre-or post-natally diagnosed conditions.

This much-needed legislation has emerged at an auspicious time—in October, which is National Down Syndrome Awareness Month, and as Sarah Palin’s political ascendance has focused the nation’s attention on her youngest son, Trig, who has Down Syndrome. The new law also comes amid an epidemic of Down Syndrome abortions.

Down Syndrome, or trisomy 21, is a chromosomal disorder caused by the presence of an extra 21st chromosome. It is named after John Langdon Down, the English physician who first described the condition in 1862. According to the National Down Syndrome Society, one in every 733 live births is a child with Down Syndrome (the proper syntax, because the condition does not define the child), making it the most commonly occurring genetic condition, representing approximately 5,000 births per year in the United States.

Sophisticated prenatal genetic testing can now detect Down Syndrome in an unborn child as early as the first trimester. Earlier screening has led to an abortion rate of up to 90 percent for children with Down Syndrome. That rate helps explain the marked decrease in the population of Americans with the condition. According to a study published in the *American Journal of Obstetrics and Gynecology*, the number of Down Syndrome live births declined 7.8 percent between 1989 and 2001.

The number of children born with Down Syndrome could plummet even further if physicians begin to follow the advice of the American College of Obstetricians and Gynecologists (ACOG), which in 2007 recommended that all pregnant women,



regardless of age, be offered screening for Down Syndrome. (At the moment, all pregnant women over the age 35, who are more likely to conceive children with the condition, are offered prenatal testing.)

Many doctors welcome universal screening. Dr. Nancy Greer, medical director of the March of Dimes, an organization that promotes abortion of unborn children with disabilities, told the New York Times that the new ACOG guidelines allow more time for women to “make decisions” about whether to continue their pregnancies.

Other physicians are concerned about the negative effects of universal screening. Brian Skotko, a physician at Children’s Hospital Boston, Boston Medical, and co-author of the award-winning book *Common Threads: Celebrating Life with Down Syndrome*, wrote in a letter to the editor of *The Journal of Obstetrics and Gynecology* that, “in its support for prenatal screening for Down Syndrome, the American College of Obstetricians and Gynecologists has endorsed a climate in which disability discrimination could more easily flourish.” And indeed it could. By one estimate, the number of newborns with Down Syndrome could drop four-fold, to fewer than 1,200 a year, with universal prenatal screening.

Part of the reason why prenatal disability discrimination has thrived resides in a medical establishment with a decidedly pro-abortion prejudice against babies with disabilities. Parents informed that their unborn child will be born with a disability are often given only the negative aspects of raising a child with a disability.

In September, Dr. Andre Lalonde, executive vice president of the Society of Obstetricians and Gynecologists of Canada (SOGC), fretted to the *Globe and Daily Mail* newspapers that Sarah Palin’s decision not to abort “could have detrimental effects on women and their families.” Palin’s decision, Lalonde explained, “may inadvertently influence other women who may lack the necessary emotional and financial support to do the same. The worry is that this will have an implication for abortion issues in Canada.”

Studies from across North America show that women are often indirectly encouraged to end their pregnancies if screening reveals Down Syndrome. Skotko, who sits on the board of directors of the National Down Syndrome Society, conducted a 2005 study of 141 mothers who had received a definitive diagnosis of Down Syndrome before their child was born. Most, according to Skotko, said that “doctors did not tell them about the positive potential of people with Down Syndrome nor did they feel like they received enough up-to-date information or contact information for parent support groups.” Other studies have found many pregnant women feel pressured to undergo invasive prenatal testing, then, if the test comes back positive for Down Syndrome, to abort.

But physicians often receive inadequate training. In a survey of 2,500 medical school deans, students, and residency directors, 81 percent of medical students reported that they “are not getting any clinical training regarding individuals with intellectual disabilities,” and 58 percent of medical-school deans say such training is not a high priority. In a questionnaire completed by 532 ACOG fellows and

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junior fellows, 45 percent considered their residency training regarding prenatal diagnosis “barely adequate” or “nonexistent,” and only 28 percent felt “well qualified” in general prenatal genetic counseling. Skotko believes urgent guidelines are needed in how physicians should be trained and how the diagnosis should properly be given.

Persons with developmental disabilities do present extra challenges. But numerous studies have shown that children with Down Syndrome affect their families more positively than negatively, and help cultivate virtues like kindness, empathy, and respect for diversity. This helps explain why there are waiting lists of couples ready to adopt children with Down Syndrome. The recognition of these positive effects was evident in the Palin’s reaction to Trig’s diagnosis. The family released a statement after his birth in which the words “beautiful,” “adored,” “blessed,” “privileged,” “gift” and “unspeakable joy” were used to describe Trig and the effect he had already had on them.

Discussing recent events with Dr. Skotko, he said he was “pleased” and “delighted” with the Brownback-Kennedy bill because it will help “to ensure that parents receive up-to-date information so that they can make informed decisions.”

Skotko was also excited about Sarah Palin’s rise, which he believes marks “an unprecedented moment in American politics” because “She is someone who understands that there are lots of obstacles that parents of children with Down Syndrome face.”

As the brother of a woman with Down Syndrome, Skotko was encouraged by Palin’s assurance, upon accepting the Republican nomination for vice president, that in a McCain administration, families of children with special needs “will have a friend and advocate in the White House.”

In the same speech, Palin described her experience with Down Syndrome, saying, “Sometimes even the greatest joys bring challenge. And children with special needs inspire a very, very special love.” Indeed they do. But first we must let them.

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*[Robert P. George is McCormick Professor of Jurisprudence and Director of the James Madison Program in American Ideals and Institutions at Princeton University. He is a member of the President's Council on Bioethics and previously served on the United States Commission on Civil Rights. The following first appeared Oct. 14, 2008 on The Public Discourse (www.thepublicdiscourse.com), a website operated by the Witherspoon Institute. Copyright 2008 The Witherspoon Institute. All rights reserved.]*

### **Obama's Abortion Extremism**

*Robert P. George*

Sen. Barack Obama's views on life issues ranging from abortion to embryonic stem-cell research mark him as not merely a pro-choice politician, but rather as the most extreme pro-abortion candidate to have ever run on a major party ticket.

Barack Obama is the most extreme pro-abortion candidate ever to seek the office of President of the United States. He is the most extreme pro-abortion member of the United States Senate. Indeed, he is the most extreme pro-abortion legislator ever to serve in either house of the United States Congress.

Yet there are Catholics and Evangelicals—even self-identified pro-life Catholics and Evangelicals—who aggressively promote Obama's candidacy and even declare him the preferred candidate from the pro-life point of view.

What is going on here?

I have examined the arguments advanced by Obama's self-identified pro-life supporters, and they are spectacularly weak. It is nearly unfathomable to me that those advancing them can honestly believe what they are saying. But before proving my claims about Obama's abortion extremism, let me explain why I have described Obama as "pro-abortion" rather than "pro-choice."

According to the standard argument for the distinction between these labels, nobody is pro-abortion. Everybody would prefer a world without abortions. After all, what woman would deliberately get pregnant just to have an abortion? But given the world as it is, sometimes women find themselves with unplanned pregnancies at times in their lives when having a baby would present significant problems for them. So even if abortion is not medically required, it should be permitted, made as widely available as possible and, when necessary, paid for with taxpayers' money.

The defect in this argument can easily be brought into focus if we shift to the moral question that vexed an earlier generation of Americans: slavery. Many people at the time of the American founding would have preferred a world without slavery but nonetheless opposed abolition. Such people—Thomas Jefferson was one—reasoned that, given the world as it was, with slavery woven into the fabric of society just as it had often been throughout history, the economic consequences of abolition for society as a whole and for owners of plantations and other businesses that relied on slave labor would be dire. Many people who argued in this way were not monsters but honest and sincere, albeit profoundly mistaken. Some (though not

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Jefferson) showed their personal opposition to slavery by declining to own slaves themselves or freeing slaves whom they had purchased or inherited. They certainly didn't think anyone should be forced to own slaves. Still, they maintained that slavery should remain a legally permitted option and be given constitutional protection.

Would we describe such people, not as pro-slavery, but as "pro-choice"? Of course we would not. It wouldn't matter to us that they were "personally opposed" to slavery, or that they wished that slavery were "unnecessary," or that they wouldn't dream of forcing anyone to own slaves. We would hoot at the faux sophistication of a placard that said "Against slavery? Don't own one." We would observe that the fundamental divide is between people who believe that law and public power should permit slavery, and those who think that owning slaves is an unjust choice that should be prohibited.

Just for the sake of argument, though, let us assume that there could be a morally meaningful distinction between being "pro-abortion" and being "pro-choice." Who would qualify for the latter description? Barack Obama certainly would not. For, unlike his running mate Joe Biden, Obama does not think that abortion is a purely private choice that public authority should refrain from getting involved in. Now, Senator Biden is hardly pro-life. He believes that the killing of the unborn should be legally permitted and relatively unencumbered. But unlike Obama, at least Biden has sometimes opposed using taxpayer dollars to fund abortion, thereby leaving Americans free to choose not to implicate themselves in it. If we stretch things to create a meaningful category called "pro-choice," then Biden might be a plausible candidate for the label; at least on occasions when he respects your choice or mine not to facilitate deliberate feticide.

The same cannot be said for Barack Obama. For starters, he supports legislation that would repeal the Hyde Amendment, which protects pro-life citizens from having to pay for abortions that are not necessary to save the life of the mother and are not the result of rape or incest. The abortion industry laments that this longstanding federal law, according to the pro-abortion group NARAL, "forces about half the women who would otherwise have abortions to carry unintended pregnancies to term and bear children against their wishes instead." In other words, a whole lot of people who are alive today would have been exterminated in utero were it not for the Hyde Amendment. Obama has promised to reverse the situation so that abortions that the industry complains are not happening (because the federal government is not subsidizing them) would happen. That is why people who profit from abortion love Obama even more than they do his running mate.

But this barely scratches the surface of Obama's extremism. He has promised that "the first thing I'd do as President is sign the Freedom of Choice Act" (known as FOCA). This proposed legislation would create a federally guaranteed "fundamental right" to abortion through all nine months of pregnancy, including, as Cardinal Justin Rigali of Philadelphia has noted in a statement condemning the proposed Act, "a right to abort a fully developed child in the final weeks for undefined

‘health’ reasons.” In essence, FOCA would abolish virtually every existing state and federal limitation on abortion, including parental consent and notification laws for minors, state and federal funding restrictions on abortion, and conscience protections for pro-life citizens working in the health-care industry—protections against being forced to participate in the practice of abortion or else lose their jobs. The pro-abortion National Organization for Women has proclaimed with approval that FOCA would “sweep away hundreds of anti-abortion laws [and] policies.”

It gets worse. Obama, unlike even many “pro-choice” legislators, opposed the ban on partial-birth abortions when he served in the Illinois legislature and condemned the Supreme Court decision that upheld legislation banning this heinous practice. He has referred to a baby conceived inadvertently by a young woman as a “punishment” that she should not endure. He has stated that women’s equality requires access to abortion on demand. Appallingly, he wishes to strip federal funding from pro-life crisis pregnancy centers that provide alternatives to abortion for pregnant women in need. There is certainly nothing “pro-choice” about that.

But it gets even worse. Senator Obama, despite the urging of pro-life members of his own party, has not endorsed or offered support for the Pregnant Women Support Act, the signature bill of Democrats for Life, meant to reduce abortions by providing assistance for women facing crisis pregnancies. In fact, Obama has opposed key provisions of the Act, including providing coverage of unborn children in the State Children’s Health Insurance Program (S-CHIP), and informed consent for women about the effects of abortion and the gestational age of their child. This legislation would not make a single abortion illegal. It simply seeks to make it easier for pregnant women to make the choice not to abort their babies. Here is a concrete test of whether Obama is “pro-choice” rather than pro-abortion. He flunked. Even Senator Edward Kennedy voted to include coverage of unborn children in S-CHIP. But Barack Obama stood resolutely with the most stalwart abortion advocates in opposing it.

It gets worse yet. In an act of breathtaking injustice which the Obama campaign lied about until critics produced documentary proof of what he had done, as an Illinois state senator Obama opposed legislation to protect children who are born alive, either as a result of an abortionist’s unsuccessful effort to kill them in the womb, or by the deliberate delivery of the baby prior to viability. This legislation would not have banned any abortions. Indeed, it included a specific provision ensuring that it did not affect abortion laws. (This is one of the points Obama and his campaign lied about until they were caught.) The federal version of the bill passed unanimously in the United States Senate, winning the support of such ardent advocates of legal abortion as John Kerry and Barbara Boxer. But Barack Obama opposed it and worked to defeat it. For him, a child marked for abortion gets no protection—even ordinary medical or comfort care—even if she is born alive and entirely separated from her mother. So Obama has favored protecting what is literally a form of infanticide.

You may be thinking, it can’t get worse than that. But it does.

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For several years, Americans have been debating the use for biomedical research of embryos produced by in vitro fertilization (originally for reproductive purposes) but now left in a frozen condition in cryopreservation units. President Bush has restricted the use of federal funds for stem-cell research of the type that makes use of these embryos and destroys them in the process. I support the President's restriction, but some legislators with excellent pro-life records, including John McCain, argue that the use of federal money should be permitted where the embryos are going to be discarded or die anyway as the result of the parents' decision. Senator Obama, too, wants to lift the restriction.

But Obama would not stop there. He has co-sponsored a bill—strongly opposed by McCain—that would authorize the large-scale industrial production of human embryos for use in biomedical research in which they would be killed. In fact, the bill Obama co-sponsored would effectively require the killing of human beings in the embryonic stage that were produced by cloning. It would make it a federal crime for a woman to save an embryo by agreeing to have the tiny developing human being implanted in her womb so that he or she could be brought to term. This “clone and kill” bill would, if enacted, bring something to America that has heretofore existed only in China—the equivalent of legally mandated abortion. In an audacious act of deceit, Obama and his co-sponsors misleadingly call this an anti-cloning bill. But it is nothing of the kind. What it bans is not cloning, but allowing the embryonic children produced by cloning to survive.

Can it get still worse? Yes.

Decent people of every persuasion hold out the increasingly realistic hope of resolving the moral issue surrounding embryonic stem-cell research by developing methods to produce the exact equivalent of embryonic stem cells without using (or producing) embryos. But when a bill was introduced in the United States Senate to put a modest amount of federal money into research to develop these methods, Barack Obama was one of the few senators who opposed it. From any rational vantage point, this is unconscionable. Why would someone not wish to find a method of producing the pluripotent cells scientists want that all Americans could enthusiastically endorse? Why create and kill human embryos when there are alternatives that do not require the taking of nascent human lives? It is as if Obama is opposed to stem-cell research unless it involves killing human embryos.

This ultimate manifestation of Obama's extremism brings us back to the puzzle of his pro-life Catholic and Evangelical apologists.

They typically do not deny the facts I have reported. They could not; each one is a matter of public record. But despite Obama's injustices against the most vulnerable human beings, and despite the extraordinary support he receives from the industry that profits from killing the unborn (which should be a good indicator of where he stands), some Obama supporters insist that he is the better candidate from the pro-life point of view.

They say that his economic and social policies would so diminish the demand for abortion that the overall number would actually go down—despite the federal

subsidizing of abortion and the elimination of hundreds of pro-life laws. The way to save lots of unborn babies, they say, is to vote for the pro-abortion—oops! “pro-choice”—candidate. They tell us not to worry that Obama opposes the Hyde Amendment, the Mexico City Policy (against funding abortion abroad), parental consent and notification laws, conscience protections, and the funding of alternatives to embryo-destructive research. They ask us to look past his support for *Roe v. Wade*, the Freedom of Choice Act, partial-birth abortion, and human cloning and embryo-killing. An Obama presidency, they insist, means less killing of the unborn.

**T**his is delusional.

We know that the federal and state pro-life laws and policies that Obama has promised to sweep away (and that John McCain would protect) save thousands of lives every year. Studies conducted by Professor Michael New and other social scientists have removed any doubt. Often enough, the abortion lobby itself confirms the truth of what these scholars have determined. Tom McClusky has observed that Planned Parenthood’s own statistics show that in each of the seven states that have FOCA-type legislation on the books, “abortion rates have increased while the national rate has decreased.” In Maryland, where a bill similar to the one favored by Obama was enacted in 1991, he notes that “abortion rates have increased by 8 percent while the overall national abortion rate decreased by 9 percent.” No one is really surprised. After all, the message clearly conveyed by policies such as those Obama favors is that abortion is a legitimate solution to the problem of unwanted pregnancies—so clearly legitimate that taxpayers should be forced to pay for it.

But for a moment let’s suppose, against all the evidence, that Obama’s proposals would reduce the number of abortions, even while subsidizing the killing with taxpayer dollars. Even so, many more unborn human beings would likely be killed under Obama than under McCain. A Congress controlled by strong Democratic majorities under Harry Reid and Nancy Pelosi would enact the bill authorizing the mass industrial production of human embryos by cloning for research in which they are killed. As president, Obama would sign it. The number of tiny humans created and killed under this legislation (assuming that an efficient human cloning technique is soon perfected) could dwarf the number of lives saved as a result of the reduced demand for abortion—even if we take a delusionally optimistic view of what that number would be.

Barack Obama and John McCain differ on many important issues about which reasonable people of goodwill, including pro-life Americans of every faith, disagree: how best to fight international terrorism, how to restore economic growth and prosperity, how to distribute the tax burden and reduce poverty, etc.

But on abortion and the industrial creation of embryos for destructive research, there is a profound difference of moral principle, not just prudence. These questions reveal the character and judgment of each man. Barack Obama is deeply committed to the belief that members of an entire class of human beings have no

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rights that others must respect. Across the spectrum of pro-life concerns for the unborn, he would deny these small and vulnerable members of the human family the basic protection of the laws. Over the next four to eight years, as many as five or even six U.S. Supreme Court justices could retire. Obama enthusiastically supports *Roe v. Wade* and would appoint judges who would protect that morally and constitutionally disastrous decision and even expand its scope. Indeed, in an interview in *Glamour* magazine, he made it clear that he would apply a litmus test for Supreme Court nominations: jurists who do not support *Roe* will not be considered for appointment by Obama. John McCain, by contrast, opposes *Roe* and would appoint judges likely to overturn it. This would not make abortion illegal, but it would return the issue to the forums of democratic deliberation, where pro-life Americans could engage in a fair debate to persuade fellow citizens that killing the unborn is no way to address the problems of pregnant women in need.

What kind of America do we want our beloved nation to be? Barack Obama's America is one in which being human just isn't enough to warrant care and protection. It is an America where the unborn may legitimately be killed without legal restriction, even by the grisly practice of partial-birth abortion. It is an America where a baby who survives abortion is not even entitled to comfort care as she dies on a stainless steel table or in a soiled linen bin. It is a nation in which some members of the human family are regarded as inferior and others superior in fundamental dignity and rights. In Obama's America, public policy would make a mockery of the great constitutional principle of the equal protection of the law. In perhaps the most telling comment made by any candidate in either party in this election year, Senator Obama, when asked by Rick Warren when a baby gets human rights, replied: "that question is above my pay grade." It was a profoundly disingenuous answer: For even at a state senator's pay grade, Obama presumed to answer that question with blind certainty. His unspoken answer then, as now, is chilling: human beings have no rights until infancy—and if they are unwanted survivors of attempted abortions, not even then.

In the end, the efforts of Obama's apologists to depict their man as the true pro-life candidate that Catholics and Evangelicals may and even should vote for, doesn't even amount to a nice try. Voting for the most extreme pro-abortion political candidate in American history is not the way to save unborn babies.



## APPENDIX D

[*Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights and author of several books, including his current work, The War on the Bill of Rights and the Gathering Resistance. The following column is reprinted with Mr. Hentoff's permission (www.JewishWorldReview.com, November 19, 2008.)*]

### The abortion president

*Nat Hentoff*

During a July 17, 2007 speech before the Planned Parenthood Action Fund, then Sen. Barack Obama pledged: “The first thing I’d do as president is sign the Freedom of Choice Act.” That is a bizarre way “to bring us together,” another goal of his as president. When Sen. Barbara Boxer, D-Calif., reintroduced the FOCA in 2007, her press release triumphantly explained that this draconian definition of “Freedom of Choice” would mean:

“Women would have the absolute right to choose whether to continue or terminate their pregnancies before fetal viability, and that right would be protected by this legislation. The Freedom of Choice Act also supersedes any law, regulation or local ordinance that impinges on a woman’s right to choose.”

With regard to “fetal viability”—the ability to survive on his or her own—the ardent supporters of FOCA slide over the language in the surviving 2007 version of the FOCA bill that, as Douglas Johnson of the National Right to Life Committee points out: “Contains no objective criteria for ‘viability,’ but rather, requires that the judgment regarding ‘viability’ be left entirely in the hands of ‘the attending physician.’”

Guess who that would be? The abortionist!

There’s more. The restrictions on “the absolute right to choose” would also apply even after “viability” if a woman wanted to abort—what would undeniably be seen during pregnancy as a baby in ultrasound—for reasons of her health.

But the Supreme Court in 1973, the same year as *Roe v. Wade*, in *Doe v. Bolton* defined very broadly “health” as justification for aborting a viable human being, as “physical, emotional, psychological, familial and the woman’s age.” Nearly a blank check to dispose of that aborted person.

It’s no wonder that Obama opposed the Supreme Court decision that eventually ruled against the lawfulness of “partial-birth abortion” that the late Democratic Sen. Daniel Patrick Moynihan—who was pro-choice—said was infanticide.

The rabidly pro-abortion Freedom of Choice Act he supports, unless there is an unlikely successful filibuster in the Democratically controlled Senate, would invalidate parental-notification laws; any state’s requirement of full disclosure of the physical and emotional risks inherent in abortion; and—can you believe this?—all laws prohibiting medical personnel other than licensed physicians from performing abortions because such restrictions might “interfere” with access to this absolute right to abortion. This is respect for women?

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As of now, before our abortion president gets his wish, 26 states have informed-consent laws, 36 have parental-involvement laws and 34 states have restrictions on funding for abortions.

Also disposed of will be the “conscience rights” in many states. They include, Johnson reminds us, “all laws allowing doctors, nurses or other state-licensed professionals, and hospitals or other health care providers, to decline to provide or pay for abortions.”

What about religiously based hospitals and clinics that refuse to perform abortions? At presidential press conferences, can we depend on at least some members of the Washington press corps to ask Obama about that provision or the others I’ve cited?

Sen. Dianne Feinstein, D-Calif., heralded the election of Obama as “a new birth of freedom.” Not, however, for the early-stage human beings, each with his or her own distinct DNA, who, under this law, could never become citizens.

Matt Bowman, an attorney with pro-life Alliance Defense Fund, projects that if FOCA is passed into law (Lifenews.com, Sept. 24), there will be an increase in abortion “by 125,000 per year” in the United States because of the abolition of laws in states that have parental involvement, informed-consent laws and funding restrictions.

“Even with this minimum,” Bowman adds, “that’s 125,000 children that were not killed this year because we (still) have these laws, and 125,000 (added to the existing 1.3 million abortions) who will be killed in 2009” and beyond.

On Jan. 22, 2008—the 35th anniversary of *Roe v. Wade*, Obama said with pride: “Throughout my career, I’ve been a consistent and strong supporter of reproductive justice and have consistently had a 100 percent pro-choice rating with Planned Parenthood and NARAL Pro-Choice America . . .

“To truly honor (*Roe v. Wade*), we need to update the social contract so that women can free themselves and their children from violent relationships.” What, Mr. President, can be more violent than murder by abortion?

Alveda King, niece of Dr. Martin Luther King, said on Nov. 11 (lifenews.com) that “his dream of full equality remains just a dream as long as unborn children continue to be treated no better than property. . . . The elections are over. The pro-life battle begins anew.”

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